

**APPLICATION BY MS BARBARA TYRRELL
TO REGISTER LAND
AT MEADWAY AND ST CATHERINE'S ROAD, HODDESDON
AS A TOWN/VILLAGE GREEN**

SUMMARY REPORT

Introduction

1. I was instructed by Hertfordshire County Council ('the Council') to advise it in its capacity as registration authority, regarding determination of the application dated 28 November 2014 ('the Application') submitted by Ms Barbara Tyrrell ('the Applicant') seeking the registration of land at Meadway and St Catherine's Road¹, Hoddesdon ('the Land') as a town or village green pursuant to section 15 of the Commons Act 2006 ('the 2006 Act'). The Land comprised three distinct areas, namely 'Horses' Field', 'Gasworks Lane' and 'The Paddley'.
2. The Application was accepted as being duly made by the Council on 27 February 2015.
3. The Application was the subject of objection by Mr Antonio Forgione ('Mr Forgione').
4. I held a public inquiry ('the Inquiry') between 16 – 18 January 2017 at the Cheshunt Marriott Hotel, Broxbourne. On the final day of the Inquiry I conducted an accompanied visit which took place on 18 January, at which both the Applicant and Mr Forgione were represented.
5. I have prepared a report ('the Report') setting out my recommendation as to how the Council determine the Application, having had regard to the oral evidence given by witnesses who attended the Inquiry, the documentary evidence submitted to the Inquiry,

¹ This road is identified in the documents provided to me variously as 'St Catherine's Road' and 'St Catharine's Road'; indeed even those living on the road use different spellings on occasion. I use the term 'St Catherine's Road' throughout this Report for the sake of consistency, and apologise to all those who consider the alternate spelling to be correct.

and the legal submissions made to the Inquiry on behalf of the parties. This 'Summary Report' summarises my conclusions and recommendation as set out in the Report.

Requirements for Registration

6. The Application was made on the basis of sections 15(2) and (3) of the 2006 Act. So far is relevant, section 15 provides as follows:

(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

(2) This subsection applies where-

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
- (b) they continue to do so at the time of the application.*

(3) This subsection applies... where-

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;*
- (b) they ceased to do so before the time of the application but after the commencement of this section; and*
- (c) the application is made within the relevant period.*

7. Two '20 year periods' were relied upon by the Applicant; these being the 'First Relevant Period' (27 February 1995 – 27 February 2015), and in the alternative, the 'Second Relevant Period' (1 March 1994 – 1 March 2014). The Applicant relied upon the First Relevant Period, but in the event of it being held that a sign erected in March 2014 had the effect of rendering use of the land 'contentious', she relied instead on the Second Relevant Period.

8. In order for registration of the Land to be justified, it was necessary for the Applicant to demonstrate that the Land:

- was 'used for lawful sports and pastimes'
- throughout one or other of the 'Relevant Periods';
- such use having been carried on

- *'as of right'* , and
- with sufficient intensity,
- by a *'significant number'* ,
- of the inhabitants of *'a neighbourhood'* which satisfied the requirements of section 15 of the 2006 Act

9. It was the Applicant's case that the Land had been used in a way which satisfied these various criteria.

10. Mr Forgione disputed that the Land had been used in a way which satisfied the criteria set out above. His various grounds of objection can be summarised as follows:

- (i) First, that the neighbourhood relied upon by the Applicant did not satisfy the requirement of the 2006 Act, and that accordingly such use of the land for lawful sports and pastimes as had taken place, had not been carried on by the inhabitants of a 'qualifying unit'.
- (ii) Second, that to the extent there had been qualifying use of the Land for lawful sports and pastimes by the inhabitants of a qualifying neighbourhood, such use had not been carried on with sufficient intensity by a significant number of the inhabitants of that area;
- (iii) Third, that use of the Land by the inhabitants of the neighbourhood had not been carried on 'as of right', but had instead been carried on 'by force'.

Recommendation

11. On the basis of the evidence and submissions provided to me, as analysed in the Report, my conclusions are as follows, namely that:

- The Applicant has succeeded in demonstrating the existence of a neighbourhood for the purposes of section 15 of the 2006 Act;
- During both the Relevant Periods, there was use of the Land by inhabitants of the neighbourhood for the purposes of the 2006 Act;

- Such use of Gasworks Lane by Local People as took place during the Relevant Periods was not for lawful sports and pastimes for the purpose of the 2006 Act;
- Such use of Horses' Field by Local People for lawful sports and pastimes as took place during the Relevant Periods was not carried on with sufficient intensity and by sufficient numbers of Local People for the purposes of the 2006 Act;
- Local People used The Paddley for lawful sports and pastimes throughout the Relevant Periods, in sufficient numbers and with sufficient intensity, to justify registration of the land as town or village green pursuant to the 2006 Act;
- Such use of The Paddley was carried on as of right; in particular the user was not 'forcible'.

12. Accordingly, it is my recommendation to the Council that it accedes to the Application in part, and registers that part of the Land which forms part of The Paddley as town or village green. However, I recommend that insofar as the Application seeks the registration of the remainder of the Land, then it be rejected.

14 March 2017

Alexander Booth QC

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