

Northern Area Planning Committee

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 25 MAY 2022 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Howard Greenman (Vice-Chairman), Cllr Chuck Berry, Cllr David Bowler, Cllr Steve Bucknell, Cllr Gavin Grant, Cllr Jacqui Lay, Cllr Dr Brian Mathew, Cllr Nic Puntis, Cllr Martin Smith and Cllr Elizabeth Threlfall

34 **Apologies**

No apologies for absence were received.

35 **Minutes of the Previous Meeting**

The minutes of the meeting held on 27 April 2022 were presented for consideration, and it was;

Resolved:

To approve and sign as a true and correct record of the minutes of the meeting held on 27 April 2022.

36 **Declarations of Interest**

Councillor Greenman for information declared that as the divisional member for the area he had attended some events and had involvement at the initial stages of the application with the Stanton St Quintin Parish Council as the divisional member. Councillor Greenman stated that he had not pre-determined his view and would proceed with an open mind.

37 **Chairman's Announcements**

The Chairman informed those in attendance of the procedures in place if there was to be a fire alarm.

38 **Public Participation**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

39 **Planning Applications**

The Committee considered and determined the following Rights of Way applications:

40 **COMMONS ACT 2006 – SECTIONS 15(1) AND (2) APPLICATIONS TO REGISTER LAND AS TOWN OR VILLAGE GREEN – LAND OFF SEAGRY ROAD, LOWER STANTON ST QUINTIN**

Public Participation

Malcom Reeves spoke in objection to the applications.

Kathryn Reeves spoke in objection to the applications.

Elizabeth Cullen spoke in support of the applications.

Doreen Pattison spoke in support of the applications.

Councillor Roger Starling spoke on behalf of Stanton Parish Council.

Senior Definitive Map Officer, Janice Green presented a report which outlined two applications made under Sections 15(1) and (2) of the Commons Act 2006, to register land off Seagry Road, Lower Stanton St Quintin, as a Town or Village Green (TVG), in order to seek approval to appoint an independent Inspector to hold a non-statutory Public Inquiry and provide an advisory report for the Northern Area Planning Committee on the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG.

Details were provided by reference to the report regarding the site, the history of the applications, objections to the application, the dispute regarding the evidence and the legal tests to be applied when registering land as a town or village green.

The Senior Definitive Map Officer responded to questions raised in a representation from a member of the public and it was highlighted that the officer recommendation was to appoint an independent Inspector to undertake a non-statutory Public Inquiry to examine all of the evidence which would then be expected to resolve the matters raised.

Members of the Committee had the opportunity to ask technical questions regarding the application. Details were sought regarding the benches pictured on the application land and it was clarified that one was donated by the Jubilee Fund of 2020 and one was a family memorial bench. There was also a tree with a plaque in memory of a former Parish Council Member. In response to a query about the pond it was clarified that the pond was filled in in 1965 based on evidence contained in the Parish Council minutes at that time. In later Parish Council minutes dated 19th May 1988 and referred to in the report, reference was made to the proposals for a new noticeboard and the planting of trees and shrubs on the land. Although proposals to restore the village pond were rejected, the Parish Council sub-committee had indicated their willingness to improve the area. In response to a question regarding grass cutting the Officer

stated that there had been recent maintenance of the area by the Parish Council. It was also explained that currently the land is not designated in any way.

In response to questions on process the Principal Solicitor, Sarah Marshall, explained that there was a duty to be fair to all parties and any decision taken by the committee would be potentially subject to Judicial Review. If it was referred to an independent Inspector for a non-statutory inquiry the evidence would be reviewed and a recommendation along with reasons would be made to the committee, who would then take a decision on whether or not to register the land as TVG. It was queried whether the purpose of the inquiry was purely to reduce the risk of Judicial Review against the council decision. It was clarified that if the committee chose not to proceed with a Public Inquiry they would need to consider the evidence and to also allow parties to make representations before make a decision. This would be a quasi-judicial process to ensure fairness to all parties. However this would be potentially time consuming and may be better achieved by the appointment of an independent Inspector with a knowledge of the law on TVG's to consider the evidence and for the parties to have the opportunity to challenge the evidence through cross examination.

It was also questioned to what extent the members were reliant on the Inspector's recommendation. It was clarified that it a recommendation and that it was for the committee to decide, however, if they did not follow the recommendation evidential reasons would need to be provided, i.e. that the Inspector had made a clear error of fact or law. In response to concerns over the ability to detect any error of law as lay councillors it was explained that officers would thoroughly examine recommendations made by an Inspector. Any errors found would be brought to the Committee's attention in the report for the committee. In addition the Inspector's report would provide reasons for the recommendation, and if it was a lengthy report an executive summary would also be provided. The Inspector would be an expert on TVG law with experience in conducting non-statutory inquiries.

There was a question regarding ownership of the land. The Senior Definitive Map Officer outlined that when the proposal was advertised they carried out a land registry search but did not contact the Crown where there was no registered owner. In response to further questions it was clarified that if the land were to be registered as a TVG no responsibility for the land would be placed on Wiltshire Council. The local Parish Council would be likely to take on the maintenance of the land although there was no obligation for them to do so. The Officer also clarified that Wiltshire Council would meet the costs of the public inquiry, with the costs outlined in the report.

Members of the public then had the opportunity to present their views to the Committee where references were made to access of services to land owned, the status of the land, the dispute with the Parish Council about title of the land, the use of the notice board and wall, the location and planting of trees and plants, maintenance of the land by the Parish Council, the lack of photographs and use of the land by walkers, cyclists, dogs walkers and children and to attend communal events.

A Parish Councillor spoke briefly on behalf of the Parish Council regarding community events, the location of the land being known throughout the Parish, the use of the land and the importance of maintaining rural spaces.

The Local Unitary Member, Councillor Howard Greenman did not comment on the application.

The Senior Definitive Map Officer concluded by noting the concerns of members of the public regarding the impact on services provided to their property and confirming that all of the evidence would be considered by the independent Inspector, parties would have the opportunity to give evidence and be cross examined which would allow the evidence to be tested and a greater weight to be given to the oral evidence provided to the inspector.

At the start of the debate a motion to accept the officer's recommendation was moved by Councillor Steve Bucknell and seconded by Councillor Gavin Grant. The reason for this being that due to the dispute of evidence the members would have been unable to make an informed decision without much greater examination than would have been possible within the meeting.

During the debate, issues were raised regarding the difficulty in being unable to ask questions of those giving statements. Responsibility for maintenance for the land was raised as a potential issue as a parish council is not required to maintain TVG land. It was also suggested that the committee make a decision on the application to sidestep the costs of the public inquiry but the time constraints and the rules preventing cross examination of the parties at this meeting (time limits on public speaking) did not allow for this. Reference was made to the dispute between the parties and the costs of a non- statutory inquiry falling to the Council.

Mr and Mrs Reeves were addressed with sympathy and the hope that a public Inquiry might allow the issues between the parties to be teased out and a conclusion reached on this issue and for some healing within their community.

Members thanked the Senior Definitive Map Officer for her detailed report and presentation.

At the conclusion of the debate, it was,

Resolved:

To approve the appointment of an independent Inspector to hold a non-statutory Public Inquiry and provide an advisory report for the Northern Area Planning Committee on the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG.

Members considered that due to the serious dispute of facts they would be unable to make a decision to approve or deny the application without further examination of the evidence.

41 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.30 pm)

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