

Northern Area Planning Committee

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 1 MARCH 2023 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Howard Greenman (Vice-Chairman), Cllr David Bowler, Cllr Steve Bucknell, Cllr Gavin Grant, Cllr Nic Puntis, Cllr Martin Smith, Cllr Elizabeth Threlfall and Cllr Peter Hutton (Substitute)

11 **Apologies**

Apologies for absence were received from the following:

- Councillor Chuck Berry, who was substituted by Councillor Peter Hutton
- Councillor Dr Brian Mathew
- Councillor Jacqui Lay.

12 **Minutes of the Previous Meeting**

Resolved:

To confirm the minutes of the meeting held on 1 February 2023 as a true and correct record.

13 **Declarations of Interest**

Councillor Howard Greenman declared he was the Local Divisional Member for the applications and had been supporting the Parish Council. He explained that he would speak only as the Local Divisional Member and not vote.

14 **Chairman's Announcements**

The Chairman explained the venue's fire safety protocol.

15 **Public Participation**

The Chairman detailed the procedure for the meeting and the procedures for public participation which were set out at item 5 of the agenda.

16 **Rights of Way and Village Green Applications**

The Committee then considered the following Right of Way and Village Green applications.

Commons act 2006 - sections 15(1) and (2) Applications to register land as town or village green - land adjacent to Seagry road, Lower Stanton St Quintin

Public participation:

- Mr Malcolm Reeves spoke in objection of the applications.
- Mrs Kathryn Reeves spoke in objection of the applications.
- Mrs Elizabeth Cullen spoke in support of the applications.
- Councillor Roger Starling of Stanton St. Quintin Parish Council spoke in support of the applications.
- Councillor Howard Greenman, the Local Divisional Member for Kington, spoke in support of the applications. He drew attention to the contentious nature of the applications and encouraged the Committee to listen to what the public had to say.

Senior Definitive Map Officer Janice Green presented an Officer Report on the site in question adjacent to Seagry Road in Lower Stanton St Quintin. The report outlined the details of the site and the nature of the Committee's role as the Commons Registration Authority (CRA). The report also highlighted the relevant Advisory Report, dated 9 January 2023, submitted by the independent Inspector, Mr William Webster, and the non-statutory public inquiry held on 8-9 November 2022 over which Mr Webster presided. The report's final recommendation to the Committee was that Wiltshire Council accepted the Inspector's own recommendation that the applications be rejected on the grounds that the criteria for registration laid out in Section 15(2) of the Commons Act 2006 had not been satisfied.

Councillor Gavin Grant asked about whether there was any further guidance on the law on what qualified as "significant use" of the area in question. The Officer identified the locality, as identified by the applicant, as the whole parish of Stanton St Quintin, rather than just Lower Stanton St Quintin, and that even then, use was liable to be low because of the road dividing the parish. Even in just Lower Stanton St Quintin, there were approximately 79 houses, of which there would be even fewer recreational walkers and children. Councillor Grant pressed for a qualification of "significant use" and indeed of "frequency of use", to which Legal Advisor Trevor Slack referred to the question of evidence, citing a lack of evidence indicating significant or frequent use. Councillor Grant posited that informal and infrequent usage was likely to be less documented and so more founded on anecdotal evidence. The Legal Advisor referred to the thoroughness of the Inspector's Advisory Report and the investigations that preceded it, suggesting that such anecdotal evidence would have been considered.

Councillor Hutton asked when this matter could be revisited were the recommendation upheld. The Officer referred to a Judicial Review of the process within three months with permission of the court. She also stated that the Parish Council could reapply immediately provided they did so with substantially more evidence.

Councillor Steve Bucknell and Councillor Nic Puntis discussed with the Legal Advisor whether coming to a different conclusion to the Inspector based on the same evidence was sufficient. Councillor Bucknell referred to the lack of investigative powers at the Council's disposal, asking whether this equated to a reliance on evidence being provided by an external source. The Legal Advisor reiterated that the Committee was acting in a quasi-judicial capacity and was therefore required to follow the rules of natural justice. He advised that if significant new evidence was brought before the Committee, then the Committee's decision on the Inspector's recommendation should be deferred to allow for consideration of that new evidence.

Councillors Bucknell and Hutton sought clarity on whether it was viable to go against the Inspector's recommendation based on an alternative interpretation of the same evidence. Councillor Grant, meanwhile, sought guidance as to what constituted "significant" new evidence. The Legal Advisor replied that the significance of any new evidence brought before the Committee was for the Committee itself to determine.

Members of the public were then invited to present their views, as detailed above.

To open the debate, the Chairman proposed that the Committee accept the Inspector's recommendation to reject the applications. Councillor Nic Puntis seconded the motion, noting a lack of significant new evidence while also sharing sympathies for both the supporters and objectors of such a contentious and emotionally fraught applications.

Councillor Bucknell concurred that in the light of no new evidence, he was in no position to go against the Inspector's recommendation. He also asked the Chairman if they might go about advising Mr and Mrs Reeves on how they might pursue their desire for the land to be designated as highway, to which the Chairman agreed.

Councillor Grant drew attention to the fact that in the Inspector's report, the supporter's case was largely founded on the desirability of registration, which was labelled statutorily irrelevant. He reiterated the view that since he had heard no significant new evidence to contradict the Inspector's report, he would support the Chairman's proposal.

Councillor Puntis asserted that the proposal did not mean the land could not continue to be used as it had been for the time being. Officers noted that there was no recorded landowner, nor any recorded rights over the land.

Resolved:

That Wiltshire Council, as the CRA, accepts the Inspector's recommendation and that the applications to register land adjacent to Seagry Road, Lower Stanton St Quintin, as a TVG, (proceeding under application number 2018/01 and application 2019/01), should be rejected on the ground that the criteria for registration laid down in section 15(2) of the Commons Act 2006 have not been satisfied, for the reasons set out in the Inspector's Advisory Report dated 9 January 2023.

18 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.10 pm)

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