

**MINUTES OF THE ANNUAL MEETING OF THE
PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE
HELD ON 16TH JUNE 2011 AT 4.00 P.M.**

P Councillor Abraham
A Councillor Blythe
P Councillor Davies
P Councillor Harrison
P Councillor Main
P Councillor Jackson
P Councillor Pickup
P Councillor Quartley
P Councillor Woodman

**PROWG
1.6/11**

ELECTION OF CHAIR - MUNICIPAL YEAR 2011/12

**RESOLVED - that Councillor Abraham be elected
Chair of the Public Rights of Way and
Greens Committee for the 2011/12
municipal year.**

**PROWG
2.6/11**

ELECTION OF VICE-CHAIR - MUNICIPAL YEAR 2011/12

**RESOLVED - that Councillor Pickup be elected
Vice-Chair of the Public Rights of Way
and Greens Committee for the 2011/12
municipal year.**

**PROWG
3.6/11**

MEMBERSHIP OF THE COMMITTEE

**RESOLVED - that membership of the Public Rights of
Way and Greens Committee for the
2011/12 municipal year be as follows:-**

**Councillor Abraham
Councillor Blythe
Councillor Davies
Councillor Harrison
Councillor Main
Councillor Jackson
Councillor Pickup
Councillor Quartley**

PROWG

4.6/11

APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Blythe.
Councillor Woodman attended as substitute.

PROWG

5.6/11

DECLARATIONS OF INTEREST

There were no declarations of interest.

PROWG

6.6/11

TERMS OF REFERENCE

RESOLVED - that the terms of reference of the Public Rights of Way and Greens Committee for the 2011/12 municipal year (attached as appendix A to the agenda) and as agreed by Full Council on 17th May 2011, be noted.

PROWG

7.6/11

DATES AND TIMES OF MEETINGS 2011/12

RESOLVED - (1) That the following meeting dates be agreed for the 2011/12 municipal year:-

2.00 pm on Monday 3rd October 2011

2.00 pm on Monday 5th December 2011

2.00 pm on Monday 20th February 2012

2.00 pm on Monday 2nd April 2012

(2) that an alternative date for the next meeting (18th July) be sought as the 18th July was not convenient for all members.

PROWG

8.6/11

MINUTES - PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE - 18th APRIL 2011

RESOLVED - that the minutes of the meeting of the Public Rights of Way and Greens Committee held on 18th April 2011 be

confirmed as a correct record and signed by the Chair.

**PROWG
9.6/11**

PUBLIC PARTICIPATION - QUESTIONS, STATEMENTS AND PETITIONS

Public Forum business was circulated to the committee in advance of the meeting and a copy placed in the minute book.

**PROWG
10.6/11**

APPLICATION TO REGISTER LAND AT ASHTON VALE AS A VILLAGE GREEN

The Committee considered a report of the Chief Executive (agenda item no. 10) relating to the application to register land at Ashton Vale as a village green.

By way of introduction, the Chief Executive gave the committee an overview of the issues affecting the application and the principle considerations to be taken into account in reaching a decision. It was noted that the exploration of a mutually acceptable solution through mediation had proved unsuccessful.

It was emphasised that the historical use of the land was key, not its future development, and that the following options were available to the committee:-

- **Refer the case back to the Inspector, to consider the application in the light of additional evidence.** This would cause an additional and significant delay to the determination of the application.
- **Accept the Inspector's recommendation to register the entire 42-acre site as a Green.** However this would not take into account the additional evidence.
- **Reject the application outright.**
- **Only register part of the site.** This decision could only be taken if there is sufficient evidence that part of the site does not meet the necessary statutory test to be registered a Town or Village Green.

Acting in his capacity as the registration officer, the Strategic Director Corporate Services reported that it was his responsibility

to ensure the authority made a decision in the full light of all the evidence. Having considered the Inspector's report of the 26th August 2010 alongside the further evidence submitted by the applicants and the landowners, he had reached the view that the applicants had demonstrated, on the balance of probabilities, that the requisite statutory test has been met for part of the application.

This conclusion was reached for the following reasons:-

- The Director was not persuaded on the basis of the new evidence, that the area to the north part of the site had been used as a right for lawful games and pastimes in the last 20 years.
- There was significant evidence that this land was used for landfill purposes within the 20 year statutory period.

In summary, the Chief Executive confirmed that that the remaining southern part of the site, (to the south of and excluding the proposed BRT route) did meet the necessary criteria, and should be registered a Town or Village Green.

The following key points were noted in the ensuing discussion:-

- The future use of the site was not a relevant consideration.
- The additional evidence demonstrated that the northern part of the site had been used as a landfill site within the statutory 20 year period.
- The authority was required to determine the application as soon as reasonably practicable.
- The burden of proof rested with the applicant who was required to show on balance that the statutory test had been met.
- It was clarified that the role of the Inspector was not a decision-making role. The report made a recommendation to the authority and BCC was now required to put its mind to the relevant statutory test and not look forward.
- The report before members was a recommendation by the Director based on the new evidence.
- There were no statutory rules to direct how the decision should be taken, but in reaching a decision, all relevant evidence must be considered.
- The additional evidence had been made available to both sides. Officers were unable to comment on why this was not available from the outset.

Further discussion followed. It was suggested that the report needed more detail and that the committee could not make a fair and reasonable decision based on the Public Forum submissions and the officer summary of the additional evidence. It was

suggested the appropriate way forward would be to refer the matter back to the Inspector for further consideration.

Other members indicated they were satisfied that the registration officer had considered the additional evidence very thoroughly and would therefore welcome the opportunity to make a decision based on the information before the committee.

In conclusion, it was moved by the Chair, seconded by Councillor Quartley and on being put to the vote (6 voting in favour and 2 against):-

RESOLVED - that the recommendation of the delegated responsible officer to approve a partial registration of the Ashton Vale site as a Town and Village Green be agreed.

PROWG

11.6/11

UPDATE REPORT - RIGHTS OF WAY

The Committee considered a report of the Director of City Development (agenda item no. 11) reporting for information on the present position with regard to Wildlife and Countryside Act applications; town or village green applications; public inquiries and miscellaneous rights of way orders, agreements and legal proceedings.

RESOLVED - that the report be noted.

PROWG

12.6/11

DATE OF THE NEXT MEETING

RESOLVED - that the next meeting of the Public Rights of Way and Greens Committee take place at 2.00 pm in July 2011 on a date to be agreed.

(The meeting ended at 5.30pm)

CHAIR