

BRISTOL CITY COUNCIL

**MINUTES OF A MEETING OF THE
PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE
HELD ON 2ND APRIL 2012 AT 2PM**

P Councillor Abraham (in the Chair)
P Councillor Blythe
P Councillor Davies
P Councillor Harrison
P Councillor Jackson
A Councillor Main
P Councillor Pickup
A Councillor Quartley

**PROWG
40.4/12**

APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence.

**PROWG
41.4/12**

DECLARATIONS OF INTEREST

Councillor Abraham declared a non-disclosable pecuniary interest in relation to agenda item no. 5 (The Green, Bracey Drive, Downend) because he had been a member of the Leisure Services Committee and present at the meeting that took place on 10th September 1987 when Members had been advised that the land in question had been transferred as public open space.

**PROWG
42.4/12**

**MINUTES – PUBLIC RIGHTS OF WAY AND GREENS
COMMITTEE – 20TH FEBRUARY 2012**

The minutes were agreed to be a correct record and signed by the chairmain.

**PROWG
43.4/12**

**MINUTES – PUBLIC RIGHTS OF WAY AND GREENS
COMMITTEE – 15TH MARCH 2012**

The minutes were agreed to be a correct record and signed by the chairman.

**PROWG
44.4/12**

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
45.4/12**

APPLICATION TO REGISTER LAND KNOWN AS ELDERBERRY WALK, SOUTHMEAD, BRISTOL AS A TOWN AND VILLAGE GREEN PURSUANT TO SECTION 15(1) OF THE COMMONS ACT 2006

The Committee considered a report of the Strategic Director, Corporate Services (agenda item no. 6) regarding the recommendation that an independent inspector be appointed to consider representations on the preliminary issue concerning whether or not the land known as Elderberry Walk has been used 'as of right.'

The report was introduced by the representative of the Strategic Director, Corporate Services during which the Committee was advised that officers had assessed the strength of the Town and Village Green (TVG) application and concluded that the TVG test had not been met because there was sufficient evidence to show that the land had been used 'by right.' However, as the land was owned by the City Council, and in order to ensure an absence of bias, the Commons Registration Authority was recommending that the matter be referred to an independent inspector to consider representations on the interpretation and legal effect of the objectors' evidence.

Members went on to consider the information provided and asked for additional clarification in a number of areas. The salient points that arose during the ensuing discussion could be summarised as follows;

- The process of referral to the independent inspector should be relatively straightforward and would not delay the process unduly.
- The evidence appeared to clearly demonstrate that the land had been appropriated as open space in 1987, but it was correct to seek the view of an independent inspector in order to ensure the absence of bias.
- Southmead, Henbury and Brentry Neighbourhood Partnership had agreed that the land should remain as open space, but that decision could potentially be overturned in the future. TVG

status was unique because it resulted in the land being held as open space in perpetuity.

- Paragraph 36 (b) of the accompanying report (see page 34) referring to capital implications could be taken to imply that the land was at risk of development in the future, but that had not been the intention of the report author. Nevertheless, future use of the land was not a relevant consideration for TVG applications.

There was unanimous support for the officers' recommendation that the matter be referred to the independent inspector for consideration. It was therefore;

RESOLVED - (1) That an independent inspector be appointed to consider representations on the preliminary issue of whether or not any use of the land known as Elderberry Walk, Southmead had been 'as of right.'

**PROWG
46.4/12**

APPLICATION FOR LAND KNOWN AS THE GREEN, BRACEY DRIVE, DOWNEND TO BE REGISTERED AS A TOWN AND VILLAGE GREEN BRISTOL UNDER THE COMMONS ACT 2006

The Committee considered a report of the Strategic Director, Corporate Services (agenda item no. 7) considering the appointment of an independent inspector to hear representations on the interpretation and legal effect of the objector's evidence.

Following a brief introduction from the representative of the Strategic Director, Corporate Services, Members went on to consider the information provided. They noted that the circumstances were very similar to those outlined in the previous report (agenda item no. 6) and unanimously agreed to support the officers' recommendation to appoint an independent inspector. They also commented that if the future of the land as open space had already been robustly secured following the decision of the Neighbourhood Partnership to retain it as open space, it would be desirable to see if the TVG applicant would be willing to withdraw their application, which would avoid unnecessary time and expenditure. Councillor Harrison requested that future TVG reports include details of the relevant financial implications and any proposals for future disposal of the site.

RESOLVED - (1) That before arriving at a final determination of the application to

register the land known as The Green, Bracey Drive, Downend as a town and village green, an independent inspector be appointed to consider representations on the interpretation and legal effect of the objector's evidence.

**PROWG
47.4/12**

CURRENT CLAIMS, INQUIRIES AND MISCELLANEOUS RIGHTS OF WAY

The Committee noted the update report of the Director of City Development (agenda item no. 8) reporting for information on the present position with regard to Wildlife and Countryside Act applications; public inquiries; and miscellaneous rights of way orders, agreements and legal proceedings.

RESOLVED - that the report be noted.

**PROWG
48.4/12**

CURRENT APPLICATIONS FOR REGISTRATION OF LAND AS TOWN OR VILLAGE GREENS

The Committee considered a report of the Commons Registration Authority (agenda item no. 8) noting the present position with regard to Town or Village Green applications.

Members agreed that the Committee should request that the Cabinet give assurances to the relevant applicants in cases where Neighbourhood Partnerships had agreed not to dispose of land that was subject to the TVG application. The legal advisor to the Committee advised Members that if the intention was to encourage TVG applications to be withdrawn caution must be exercised if there was other public support. It would depend on the circumstances whether it was reasonable not to proceed with the application.

RESOLVED -

- 1) That the present position with regard to TVG applications be noted; and**
- 2) That where TVG applications were pending in relation to land that the Neighbourhood Partnership had agreed to retain as public open space, assurances be given to the**

**applicant to determine if the TVG was
no longer necessary.**

**PROWG
49.4/12 URGENT BUSINESS**

There was no urgent business.

**PROWG
50.4/12 DATE OF THE NEXT MEETING**

**RESOLVED - that the next meeting of the Public
Rights of Way and Greens Committee
be held on 25th June 2012 at 2pm.**

(The meeting ended at 2.35pm)

CHAIR