

Bristol City Council
Minutes of the Public Rights of Way and Greens
Committee



25 June 2018 at 2.00 pm

Members Present:-

Councillors: Peter Abraham, Donald Alexander, Tim Kent, Mike Langley, Jon Wellington and Lucy Whittle

Officers in Attendance:-

Anne Nugent (Legal Officer) and Duncan Venison (Network Operations Manager)

1. Election of Chair for 2018/19

Resolved – that Councillor Mike Langley be elected Chair of the Committee for the Municipal Year 2018/19.

2. Election of Vice Chair 2018/19

Resolved – that Councillor Peter Abraham be elected Vice-Chair of the Committee for the Municipal Year 2018/19.

3. Welcome, Introductions and Safety Information

4. Committee Membership 2018/19

Resolved – that the Committee Membership be noted.

5. Committee Terms of Reference 2018/19

Resolved – that the Terms of Reference be noted.

6. Dates of Meetings 2018/19



Resolved – that the proposed dates be agreed.

7. Apologies for Absence and Substitutions

Apologies were received from Councillor Fi Hance.

8. Minutes of Previous Meeting

Resolved – that the Minutes of the Meeting held on 17th July 2017 be agreed as a correct record and signed by the Chair.

9. Declarations of Interest

None were received.

10 Public Forum

Members of the Committee received Public Forum Statements in advance of the meeting.

The Statements were heard before the application they related to – Agenda Item No. 11 Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006, Section 15(2) - and were taken fully into consideration prior to reaching a decision.

11 Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006, Section 15(2)

The Team Leader, Legal Services introduced the report and summarised it for everyone. She drew Members attention to paragraphs 52 and 55 on pages 128 and 129, the Legal Implications as well as paragraph 337 on page 83.

She then answered questions from Members highlighting the following:

- In relation to Taylor in the Inspector's report, on page 128 paragraph 52 the Judge made it clear that Taylor was binding
- In relation to the application of the Winterburn case to the facts of this case, there was a 9 day Public Inquiry and the Inspector made his views clear in paragraph 384 page 93 following the Winterburn case



- In relation to the application of the Taylor case, the Inspector may not have been aware of the Taylor judgement when he produced his original report; however Taylor and Winterburn are similar in judgement and binding on the judge.
- In relation to the position of the signage, the Judge was mindful of the two judgements as a test
- The judge (who reviewed the Council's December 2016 decision) agreed with the Inspector's findings and has applied the law properly

Councillor Abraham stated that the Committee needed to be clear what it was being asked to do. They were being asked to reconsider the decision taken previously following the High Court judgement. Councillor Abraham had reviewed what the committee had before them and came with an open mind. He noted that several members of the public did not agree with the Judge's decision and suggested obtaining different legal advice. The Judge had not ordered the Committee to not register the land. He felt that the decision could be reconsidered and that the Committee could come to the same decision as it made in December 2016 – to register the land.

The Team Leader, Legal Services reminded the Committee that the Judge had made it clear where the Committee had gone wrong when making the decision in December 2016.

Councillor Alexander stated that he lives near the site and has used the land for a number of years. He noted the Inspector's report and reminded everyone that the Conservative, Green and Lib Dem Representatives had voted in favour of registration in December 2016. He noted the High Court judgement and the money spent on the issue. He considered that this should be the end of the matter.

The Team Leader, Legal Services reminded the Committee that financial considerations are not part of the Statutory Test.

Councillor Wellington stated that the signage issue is very clear.

Councillor Kent stated that he had considered the High court judgement. He felt that the Committee had previously spent a lot of time considering the issue of signage. The Winterburn judgement had changed the Inspector's mind. He did not consider that the Inspector had taken enough notice of Taylor and suggested that a letter be sent to him asking him to clarify issues about Taylor.

The Team Leader, Legal Services stated that the Inspector had made consideration of the principles in both Taylor and Winterburn clear. The Committee now needs to consider the matter afresh following the High court judgement. The Officer's recommendation is to refuse the application for the reasons set out in the Inspector's report.

Councillor Langley moved the Officer's recommendation. Councillor Alexander seconded this motion.

On being put to the Vote it was



Resolved –

(Voting 3 for, 3 against; the Chair using his second or casting vote for the Motion) that the Committee accepts the recommendation of the Independent Inspector set out in his Report dated 14th October 2016 for the reasons set out therein and as confirmed by the High Court in *R(Cotham School) v Bristol City Council* [2018] EWHC 1022 and rejects the application to register.

12 Current applications for registration of land as town or village greens

The Team Leader, Legal Services introduced the report and summarised it.

Resolved – that the report be noted.

13 Current Claims, Inquiries and Miscellaneous Rights of Way Matters

The Network Operations Manager, Transport introduced the report and summarised it for everyone. There has been a slight increase in the resources of his Team so the backlog is being addressed and he hopes to bring a report to Committee shortly. He confirmed that this report will include timescales.

Councillor Alexander raised the issue of the footpath from Sea Mills Harbour on which a car port has been erected and stated that enforcement action is required.

Resolved – that the report be noted.

Meeting ended at Time Not Specified

CHAIR _____

