



minutes

Meeting	RIGHTS OF WAY COMMITTEE
Date	Wednesday 9 May 2012 (commencing at 10.00 am)

membership

Persons absent are marked with 'A'

COUNCILLORS

Bruce Laughton (Chairman)
A Stephen Garner (Vice Chair)

Allen Clarke
John Cottee
Sybil Fielding
Rachel Madden
Mrs Carol Pepper

A Darrell Pulk
A Sue Saddington
Andy Stewart
A Jason Zadrozny

OFFICERS IN ATTENDANCE

David Forster	- Governance Officer
Steven Eastwood, Snr	- Principal Legal Officer, Legal Services
Neil Lewis	- Team Manager Countryside Access
Angus Trundle	- Definitive Map Officer/Commons and Village Greens Officer
Eddie Brennan	- Definitive Map Officer/Commons and Village Greens Officer

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Stephen Garner (Other), Darrell Pulk (Other), Sue Saddington (Other) and Jason Zadrozny (Other County Council Business)

DECLARATIONS OF LOBBYING BY MEMBERS

There were no declarations of lobbying.

DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Sybil Fielding declared a personal interest in agenda Item 4 Town and Village Green Application – Wigwam Lane Playing Field, Wigwam Lane, Hucknall. This was because she was the Chair of the Planning and Licensing Committee at the time of the original application in 2008.

TOWN AND VILLAGE GREEN APPLICATION – WIGWAM LANE PLAYING FIELD, WIGWAM LANE, HUCKNALL

Mr Brennan introduced the report and informed members that he had received correspondence from the Solicitors acting for the consortium and circulated a copy. The correspondence referred to paragraph 14 of the Committee report and it not reflecting the wording of the Inspector regarding issue estoppel rather than cause of action of estoppel. Mr Brennan informed members that he had taken legal advice from Legal Services within the County Council and he circulated an amended paragraph 14, which better reflected the Inspector's conclusions. Mr Brennan drew members' attention to paragraph 23 of the report and members were given time to read the amendment which was as follows:-

14. The Inspector's report contains a detailed analysis of submissions in respect of the res judicata/ issue estoppel/ abuse of process arguments and concludes that the relevant criteria for issue estoppel have been met for the following reasons;
 - The RA exercised a quasi-judicial role in determining the first Application.
 - The decision in respect of the first Application was pronounced by notice in writing.
 - That the RA had jurisdiction to consider the first Application.
 - The decision in respect of the first Application was final and on the merits.
 - The decision in respect of the first Application determined a question raised in the later litigation.
 - The parties in respect of both applications are the same and the earlier decision was 'in rem' i.e. directed towards property rather than a person(s).

Councillor Madden commented that the local community has been involved in the application for Village Green status and that the Liberal Democrats Group is against this decision and supports the application to register the land.

On a motion by the Chair and seconded by Councillor Stewart it was:-

RESOLVED 2012/0010

That the Inspectors report be noted and that the Town and Village Green application for Wigwam Lane Playing Field, Wigwam Lane, Hucknall be rejected for the reasons set out in the Inspector's report dated 20 April 2012 (attached to the report as an appendix).

In accordance with the Councils standing orders which relate to Committees and Sub-Committees (S.O. 7.3) Councillor Rachel Maddens vote against the recommendation was noted.

The meeting closed at 10.25 am

CHAIR