

# SHEFFIELD CITY COUNCIL

## Licensing Sub-Committee

### Meeting held 28 November 2017

**PRESENT:** Councillors David Barker (Chair), Andy Bainbridge and Josie Paszek

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#### **1. APOLOGIES FOR ABSENCE**

1.1 There were no apologies for absence. Councillor Adam Hurst attended the meeting as a reserve Member, but was not required to stay.

#### **2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

#### **3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

#### **4. COMMONS ACT 2006 - APPLICATION TO REGISTER LAND KNOWN AS "LOWER WALKLEY GREEN", SHEFFIELD, AS A TOWN OR VILLAGE GREEN**

4.1 The Chief Licensing Officer submitted a report to consider an application, made under Section 15 of the Commons Act 2006, to register land known as "Lower Walkley Green", Sheffield, as a Town or Village Green (Ref. No. 148/17).

4.2 Present at the meeting were Kate Jeeves (Applicant/Witness), Linda Charlton, Daniela Walker and Phil Walker (Witnesses), Shimla Finch (Clerk to the Registration Authority), Louise Bate (Legal Adviser to the Sub-Committee (Commons Registration), and John Turner (Democratic Services).

4.3 The Chair outlined the procedure which would be followed during the hearing.

4.4 Shimla Finch presented the report to the Sub-Committee, indicating that the application had included the submission of 52 evidence questionnaires, which were referenced in the report, and which had been circulated to Members of the Sub-Committee, at its meeting held on 4<sup>th</sup> July 2017, with the purposes of deciding whether the application should be determined either with or without a non-statutory public inquiry. In terms of formal directions compliance, Ms Finch confirmed that the directions had been publicised as detailed in the formal Directions, and stated that the clarification documents had been submitted by the applicant on 3<sup>rd</sup> October 2017, with all the relevant documentation, including the legal argument, having been circulated to Members prior to this meeting. In addition, a site visit had also been arranged on 20<sup>th</sup> November 2017, attended by Councillors Andy Bainbridge and Josie Paszek, the Legal Adviser to the Sub-Committee and the applicant and her representatives.

#### 4.5 Application

- 4.5.1 Kate Jeeves stated that, as the application for Village Green status was made in 2008, a number of the older residents who had been asked to provide witness statements had either passed away, or were no longer in a fit state to attend the meeting to give evidence. The Residents' Association, which had been established to steer the application process, had also been depleted and, as a result of this, and on the basis that the application had to focus on the use of the land before 2008, this had made the process more difficult. A number of the older residents had referred to the land as 'the spare land' as they believed it was a little piece of land that was owned by the Council, and left for the use by local residents. The land had been maintained by the Council up until the early 1990's. In terms of its use, Ms Jeeves stated that some of the older residents remembered poultry being kept there during the Second World War, children had always played on the land, a bonfire had been held on 5th November, each year, when the neighbourhood all came together, and several residents used to sledge on the land when it had snowed.
- 4.5.2 Sometime around 2004, a fence had been erected on the land, but this had not deterred locals from accessing the land, which they did through gaps in the fence. Ms Jeeves reported that in 2008, some men appeared with chainsaws, and started cutting some of the trees down, and following news that they had been working for a local estate agent, and that the estate agents had declared that the land belonged to one of their clients, concerned local residents arranged a public meeting in a local public house on Walkley Bank Road. The locals arranged for signs to be erected on the land, warning the workmen to stop cutting down the trees, and indicating that the land was available for use by the local community. These were removed by the workmen, but replaced by local residents straightaway. Around 100 people attended the public meeting, all sharing stories of how they and their predecessors had played on, and used, the land for a variety of recreational purposes, and expressing concerns over the possible loss of the green space. A considerable amount of money was raised, which was used to hire a Solicitor, to assist with the application to register the land as a Town or Village Green. The meeting had been viewed as a very productive and heart-warming experience, and which had kick-started the application process.
- 4.5.3 Sometime after the meeting, notices were erected on the land, indicating 'Private Property', and CCTV cameras were set up at the top end of the site. However, this made people even more determined to use the green space, which resulted in the estate agent calling the police. Discussions and meetings were held, and the estate agent's client was asked to provide proof of ownership, with the client claiming that he could, but it would be very expensive to do so, involving the transfer of the relevant documentation, which was held on the Isle of Man. During the discussions, the Residents' Association made a successful application for a right of way across the land to be recognised. Nothing further was heard from the estate agent and their client, and local residents removed the fencing, and started mowing the grass, and generally tidying up the land. Ms Jeeves stated that, in the light of potential claims for ownership of the land in the future, and following discussions with the Solicitor and local Councillors, the community decided that the best way of protecting the land was to apply for Village Green status. Following

extensive research, which included visits to Sheffield Archives, no proof of ownership was discovered and, as the land had never been sold or built on, the residents believed it had been left as a common land for the use by local people.

#### 4.6 Witness Statements

4.6.1 Daniela Walker stated that she had moved to live in the area, on Gresham Road, in 2001, and during the time she had lived there, as well as using the area herself, she had noticed that it was very popular with dog walkers, children playing there, and people gathering in the evenings to socialise and simply enjoy the views. She stated that, in 2003, flats had been constructed on land adjacent to the land, which had resulted in some areas being tarmacked over. There were a number of paths running through the land, which were well used by people either undertaking activities on the land, or as a walking route through the land. Ms Walker stated that the land was used by people of all ages, as it had been for a number of years, and there had never been any safety concerns as a number of houses in the surrounding area overlooked the land. In terms of personal use, Ms Walker stated that she used it for walking her dog, and generally enjoying the wildlife and greenery which the area provided. Lots of the houses in the surrounding area either had no gardens at all or very small gardens, therefore people would use the area as a substitute. Ms Walker stated that, in 2008, she heard the sound of chainsaws on the land, and immediately contacted the Council in an attempt to find out if anyone owned the land. As she had witnessed the Council tending to the land on occasions during the year, she believed that it was Council-owned. After a number of attempts to find out who owned the land, she was informed by officers in Parks and Countryside that whoever was cutting down the trees should not be doing so if there were nesting birds in them, and appropriate notices were put up to stop this action. The tree-cutting had generated interest within the local community, and a meeting was arranged, in a local public house, to discuss what action should be taken. At the meeting, people of all ages came together and discussed how they and their predecessors had used the land for all kinds of recreational purposes. Almost £1,000 was raised during the meeting, which would be used by the local community to fund legal representation, as part of the application for Town or Village Green status.

4.6.2 Linda Charlton stated that she had moved to her home, on Elliottville Street, in 1970, and that her children, who were born there, used to play and socialise on the land when growing up. She stated that she never had any concerns regarding their safety as their home overlooked the land. She stated that children of all ages used to use the land for various activities, which included making dens and grass sledging during the summer, and sledging on snow during the winter. Ms Charlton stated that her daughter used to like flower arranging when she was younger, and used to find all sorts of flowers and leaves on the land for this purpose. There was also a fire on bonfire night, when all the children used to go round the neighbourhood, asking people for spare wood, and people would build a large fire on the land. She stated that both her children, who had now grown up, were both in creative professions, which she believed, was due in part to them having such adventurous childhoods, where they were free to explore, and undertake a number of activities on the land.

- 4.6.3 Phil Walker stated that he had moved to the area in 2001, and during the time he lived there, he had noticed numerous people using the land as of right, including dog walkers and children of all ages. He had personally used the land for walking his dog, and he also enjoyed the wildlife on the land, which included bats and different species of birds, including owls and waxwings. Mr Walker stated that the only time questions were raised with regard to the use of the land was when residents witnessed workers had erected fencing, and were cutting down trees, which he believed was linked to an article on the internet with regard to claiming ownership of pieces of land having no known owner. He was aware of other incidents, in other areas of the City, where similar practices were going ahead. Using the money raised at the community meeting, the residents hired a Solicitor and sought advice from an organisation specialising in open green spaces, and were subsequently advised to remove the fencing which had been erected on the land. The residents were also advised to apply to the Council for the right of way in terms of the path passing through the area, which they did, successfully. This was subsequently approved, which forced the prospective developers to stop their plans. Mr Walker stated that, since the community meeting, he had talked to a number of older residents living in the area, who all had stories in terms of how they and their children used the land for recreational purposes. He stated that, although the process had taken a considerable length of time, the residents could all be assured that they had followed the correct, legal route in terms of applying for Town or Village Green status, and that, in their opinion, all the relevant criteria had been met.
- 4.6.4 Kate Jeeves, acting as a witness as well as the applicant, stated that she had moved to the area in 2007, and used the land regularly to walk her dogs, as well as generally unwinding after a hard day's work, and enjoying the brilliant views. She stated that children of all ages used the land for various different activities, such as using the rope swing, building dens, climbing trees and sledging during the winter months. Ms Jeeves, as well as other local residents, also enjoyed watching and listening to the wildlife, which included foxes, birds, bats and badgers. Ms Jeeves referred to the annual bonfire which had been held on the land for a number of years, which she believed had stopped sometime in the mid 1990's as a result of a growth in the trees and shrubbery, making it dangerous. Ms Jeeves made specific reference to a recent visit to the land by a group of ladies and children, who were identified as a Garden Group, who undertook various nature activities on green and open spaces.
- 4.7 In response to questions from Members of the Sub-Committee, it was confirmed that the annual bonfire no longer took place on the land as there was no longer a large enough clearing for a fire, due to the trees and shrubbery becoming overgrown. There were no other annual festivities or community activities held on the land, but it was used extensively by local residents for a wide range of recreational activities. The 52 evidence questionnaires, which had been submitted as part of the application, had been sent by local residents who all lived within the local neighbourhood. It was deemed a neighbourhood on the basis of the facilities and services within the locality, which included schools, shops, public houses and a GP surgery. From all the stories of local residents, particularly the elderly residents, there was a considerable amount of evidence to show that local residents had used the land, as of right, for a very long time, and for a number of

different recreational purposes.

- 4.8 Kate Jeeves summarised her case, referring to a number of stories of how local residents used the land in the past, with a specific story of someone's relative who played there as a child in 1878.
- 4.9 Shimla Finch presented the options available to the Sub-Committee.
- 4.10 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.11 Louise Bate reported orally, giving legal advice on various aspects of the application.
- 4.12 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.13 RESOLVED: That, in the light of the information contained in the report now submitted, the information circulated to Members prior to the meeting, specifically the witness statements, and the representations now made, the land known as "Lower Walkley Green", Sheffield, be registered as a Town or Village Green on the basis that all the statutory criteria has been met (Ref No. 148/17).

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination.)