



Minutes

Name of meeting	APPEALS SUB COMMITTEE
Date and time	MONDAY, 30 MARCH 2015 COMMENCING AT 10.00 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Colin Richards (Chairman), John Howe, Stuart Hutchinson
Also present (non-voting)	Cllr Paul Fuller
Officers present	Jon Baker, Kayleigh Bowers, Catherine Chalkley, Justin Thorne, Jerry Willis

1. [Minutes](#)

RESOLVED :

THAT the Minutes of the meeting held on [10 February 2014](#) be confirmed.

2. [Declarations of Interest](#)

There were no declarations received at this stage.

3. **Report of the Head of Planning and Regulatory Services**

[Proposed registration of Land at Northwood Park, Cowes, as a Town or Village Green](#)

Prior to the officers' presentation, members were advised that paragraph 34 of the report was to be disregarded as it had been included by accident.

Officers advised members that the application for the land at Northwood Park, Cowes, had been submitted in 2011. There had been 30 evidence questionnaires submitted in support of the application, and 128 forms submitted from a user survey undertaken in the park in 2010. However, 134 pieces of evidence had been submitted by residents living outside of the area and could not be considered.

The location and site characteristics of the land subject of the application were explained, and it was noted that the land was owned and maintained by Northwood House Charitable Trust. Evidence was evaluated from both

supporters and objectors in relation to all four statutory conditions and the officers' recommendation to refuse the application was restated.

Following the delivery of the officers' presentation, the Legal Advisor raised a question concerning which legislation the Local Authority had previously managed the land under. The Committee was advised that the Local Authority had managed the land as a trustee up until 2002, but that it had no statutory obligation to manage it.

Members were not satisfied that the burden of proof required to register a town or village green had been discharged by the applicant, and therefore rejected the registration of the land shown at Appendix B of the report (attached to and forming part of these minutes) under Section 15 of the Commons Act 2006.

Members carefully considered that the intent of the original gift was clear and had been managed in accordance with that intention since. Members considered that it was difficult to regard the recreational users of the recreation ground who had enjoyed the use of the land using it as of right, where land had been devised and held for the purposes of public recreation by the local authority.

The Local Authority and its predecessors had held the land for recreational purposes and it was relevant that it may not simply cease to use it for that purpose for which it was held unless it was able to justify its decision to do so on public law grounds. It was therefore members' view that the land had been used 'by right' and not 'as of right' and on this basis the application failed to meet the statutory test.

In addition to the formal decision, members requested an informative to be attached to read as follows:

To avoid the 'misunderstanding' in future, members recommended that Northwood House Charitable Trust's board of directors develop and publicise a consultation document which explains how they will engage members of the wider public when making decisions that might significantly affect the recreational space.

Upon receiving the report from officers, evidence from the applicant and land owner(s), and having regard to the decided case law and the Commons Act 2006 (as amended), the sub-committee

RESOLVED:

THAT the proposed registration of the land at Northwood Park, Cowes, as a town or village green be rejected under Section 15 of the Commons Act 2006.