

IN RE AN APPLICATION TO REGISTER LAND KNOWN AS STOKE LODGE
PLAYING FIELD, SHIREHAMPTON ROAD BRISTOL, AS A NEW TOWN OR
VILLAGE GREEN

APPLICATION NUMBER 24

DRAFT DIRECTIONS

1. This matter concerns an application by David Mayer on behalf of Save Stoke Lodge Parkland ("the Applicant") received by Bristol City Council, the commons registration authority, on 7 March 2011 to register land at Stoke Lodge Playing Field/Parkland, Shirehampton, Bristol as a town or village green. Objections to the application have been received from Bristol City Council in its capacity as landowner (the First Objector), the University of Bristol (the Second Objector), Rockleaze Rangers Football Club (the Third Objector) and Cotham School (the Fourth Objector). I have been appointed by Bristol City Council, the registration authority under the Commons Act 2006, as an independent inspector to hold a non-statutory public inquiry into whether the land should be registered and to a report back to it with my recommendations.
2. The reason for holding a non-statutory inquiry is that there appears to be some dispute as to the facts of the matter; more generally, so that the registration authority may have a complete understanding of what the facts of the matter are. This said, having read the application, the objections, and the Applicant's Response to the objections, it seems to me that the extent of the issues in dispute is limited and that many of the relevant facts

are uncontroversial. It is, of course, important that the issues in dispute are fully and properly considered. Nonetheless, it will not assist me in reporting to the registration authority as decision maker to hear evidence on matters which are not relevant to the registration authority's decision, or to hear much evidence (if any) on matters which are peripheral to that decision. It is in nobody's interests that the inquiry goes on for longer than it needs to do. It will assist the case of neither the applicant nor the objector; and the longer the inquiry goes on the more it will cost the public purse.

3. What will assist me (and, in course, through the medium of my report, the registration authority) is for the evidence to focus on the important matters in issue. Having read the objections, it seems to me that, subject to one matter, it is accepted that the land has been used for lawful sports and pastimes, that that use has been for a period of twenty years or more and has been by the inhabitants of a neighbourhood within a locality. It is however argued that the use has not been as of right because three signs have been erected on the land making use contentious¹. The further point arises that the use of the sports field for organised sports has been exclusive to those so using it raising questions of deference and interruption (as considered in *R (Lewis) v Redcar and Cleveland Borough Council*²). These issues in large measure raise points of law i.e. as to the true construction of the notices and as to the compatibility of use of land for lawful sports and pastimes with the playing field use by Cotham School and others. This said, it seems to me to be relevant to the decision whether or not to register the land to know whether those who used the land were aware of the existence of the signs (and more generally how they accessed the land); and to understand the way in which the land was used for organised sport in the relevant twenty year period. Against this

¹ See *Betterment Properties (Weymouth) Limited v Dorset County Council* [2012] 2 P & CR 3.

² [2010] AC 70 (SC).

background I would expect the statements to be exchanged before the inquiry to focus upon the issues I have identified.

4. It may be that the Applicant and/or the Objectors consider that there are other issues of fact that are relevant to the registration authority's decision which I have not identified. It is for this reason that I have issued these directions in draft. I would be grateful if within [28] days the parties could make representations as to any further factual issues that they think might be relevant; and as to my detailed directions set out below. It is possible that it could be helpful that there is a pre-inquiry meeting, but at this stage I hope that it may be possible to finalise these directions without the need for one.
5. The other thing that occurs to me is that it may be possible for the Objectors to present a joint case, or for some of them to do so. If this could be organised I think that it is likely to assist the efficient running of the inquiry.
6. **The hearing**
7. The inquiry is currently programmed for X days, namely [INSERT] . The inquiry venue is [INSERT].
8. I would propose sitting from 9.30 am to 1pm and 2pm to about 5.30pm, with short mid-morning and afternoon breaks. If any party wants there to be an evening session or sessions, I will organise this. This is to enable those who could not conveniently attend the inquiry during "work" hours to do so in the evening. It will be helpful if anyone who wants to speak at an evening session could indicate this in good time before the inquiry begins, and in any event before 4 pm on [INSERT]. On a day when there is an evening session, the day session may be shorter.

9. After formally opening the inquiry and “taking the appearances” (checking who is present and wants to participate), I shall ask the Applicant shortly to open his case. It would be helpful if that opening could be in writing. I will then ask him to call his witnesses, who will then be cross-examined. At the conclusion of the Applicant’s case, I shall ask each of the Objectors (to the extent that they are not acting jointly) to call their witnesses, who will similarly be subject to cross-examination. If each Objector wants to make a short opening statement, I shall allow each of them to do so; if they do want to make such statements, it will be helpful if they are in writing. If anyone wants to give evidence who is not a party to the proceedings or called by such a party, I shall be happy to hear them – ideally at the end, but I would try “slot in” such witnesses at times to suit their convenience, subject to stage the inquiry had reached. At the end, I will hear closing speeches – the Objectors first and the Applicant at the very end.

10. I will allow cross-examination of the Applicant’s witnesses by each of the objectors, but I will not be assisted by repetitious cross-examination. I shall expect whoever is representing the First Objector to go first.

11. Registration authority file

12. The registration authority shall prepare 8 copies³ of lever arch file containing a copy of the application and supporting documents and the objections and supporting evidence.

The file shall be paginated. The files shall be black coloured. The 8 copies are

- for the Inspector
- the Applicant
- the Objectors

see 16 ?

³ There is scope for the number of copies to be reduced if the Objectors are presenting a joint case.

- the witness table
- the registration authority.

13. Copies shall be supplied to the parties by 4pm on [INSERT].

14. Obviously there will be no need for any of the material contained in these files further to be duplicated in the material submitted to the inquiry by the parties. The reason for specifying a colour for the files is that this facilitates reference to them at the inquiry.

15. Evidence

16. Each party should supply to the registration authority eight copies of their evidence no later than 4pm on [INSERT]. The Applicant shall supply the Objectors with the appropriate number of copies of his evidence and similarly the each Objector should supply the Applicant with copies of their evidence by that date. The evidence should be in a ring or lever arch file(s) and be divided into two parts – the first part containing the statements of those whom it is intended to call as witnesses, the second part the statements of those whom it is not intended to call as witnesses. If there are any public documents to be produced (eg Council minutes, extracts from local histories etc) these should form a third part of the file or files. The file(s) should be paginated. The Applicant's files should be red; I would be grateful if the Objectors could sort out appropriate colours for their files between themselves.

17. Map of site and surrounding area

18. It is of great assistance to everybody at an inquiry of this kind to have a large scale map of the application site and the surrounding area, which can then be used by me, all

the parties and the witness. It is helpful if the map indicates the places where access to the land has been taken. If by 4 pm on [INSERT], the Applicant and the Objectors can agree such a map and supply the registration authority with two copies, so much the better. If agreement does not prove possible, the Applicant and the Objectors should by 4 pm on [INSERT] supply the registration authority with three copies and the other parties with a single copy of what they consider to be a helpful map along the lines that I have indicated.

19. Position statements

20. The Applicant and the Objectors should supply the registration authority with three copies and each other with a single copy of a position statement by 4pm on [INSERT]. The position statement shall set out in summary the position of the relevant party as at that date by reference to the facts and law as understood by that party. Each party should, if requested, supply any other party with a copy of any legal case relied upon.

21. Site inspection

22. I shall carry out a site inspection at a convenient time during the Inquiry. That view will be accompanied by appropriate representatives of the Applicant and of each Objector if they wish to attend. Further directions as to the timing and manner of this view will be given at the Inquiry.

23. Closings

24. It will be helpful if closing speeches could be in writing. I would not expect any party to close without having overnight to prepare that closing (unless there were a very limited amount of evidence to be heard on the final day).

25. Further directions

26. If anyone needs a specific direction about anything, or wants to vary these directions, they should apply to me via the registration authority, with copies to the other parties.

The relevant person at the registration authority is Mr Tom Dunsdon [INSERT CONTACT DETAILS].

PHILP PETCHEY

Francis Taylor
August 2012 *Burton*
chamber