

# Minutes of a Meeting of the Miscellaneous Licences Panel held on Thursday 18 October 2012 at City Hall, Bradford

Commenced 1110  
Concluded 1200

## PRESENT – Councillors

LABOUR	LIBERAL DEMOCRAT
Abid Hussain	C Reid
Khadim Hussain	
Ikram	
Swallow	

Apologies: Councillors Mallinson and Walls

## Councillor Abid Hussain in the Chair

### 1. DISCLOSURES OF INTEREST

Councillor Mallinson disclosed a personal and prejudicial interest as he was a Member of the Panel and requested to speak on the item relating to land off Thornhill Road, Steeton (Minute 4) in a personal capacity only and then withdraw from the meeting during the consideration of this item in accordance with the requirements of the Members' Code of Conduct (Part 4A of the Constitution).

**ACTION:** *City Solicitor*

### 2. MINUTES

Resolved -

**That the minutes of the meeting held on 14 March 2012 be signed as a correct record.**

### 3. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.



4. **APPLICATION FOR THE REGISTRATION OF LAND AS A TOWN OR VILLAGE GREEN AT LAND OFF THORNHILL ROAD, STEETON** Craven

The City Solicitor presented a report (**Document "A"**) which explained that an application had been received for the registration of land off Thornhill Road, Steeton as a village green. Members were informed that the Council as the Registration Authority was responsible for the determination of the application.

Members were advised that a Barrister had been appointed to act as the Inspector in determining the application and a Public Inquiry had been held on 18 September 2012 in order to hear evidence from the applicant and objector. The Inspector had concluded that there was not an arguable case that a significant number or spread of residents had used the land for lawful sports and pastimes and had recommended that the application be rejected. The City Solicitor's recommendation concurred with that.

A Member questioned whether the Panel could depart from the recommendation. In response the City Solicitor confirmed that the Panel could make a different recommendation, however, a Public Inquiry had been undertaken and the evidence tested. A decision contrary to the recommendation would need reasons and have to be based on issues of fact and law.

Another Member then asked whether input had been received from the Parish Council. The City Solicitor explained that there was no formal input from the Parish Council and they had not made a representation in this case. He informed Members that sometimes parish boundaries were used but Parish Councils had no formal part in the process unless they were presenting evidence.

The Chair then explained that a Ward Councillor, who was also a Member of the Panel, wished to speak on the item. As this was a prejudicial interest, the Chair agreed that the Ward Councillor could speak for a maximum of five minutes in the capacity of a member of the public and would then have to leave the meeting.

The Ward Councillor raised the following points:

- Members of the Parish Council lived in the area and they thought their view may have been seen as prejudiced.
- The Parish Council viewed the area as the centre of Steeton and Eastburn.
- The Parish Council were constructing a Community Centre in the vicinity.
- The site was important to the area.
- He believed that the Inspector had changed the rules part way through the Inquiry.
- He resided in and knew the area.
- It was unlikely that the residents of Eastburn would use the area.
- The evidence questionnaires had been sent to 600 properties in the area and they viewed the site as the heart of the community.
- The communities of Steeton and Eastburn were divided by a main road.
- He challenged the point that the evidence questionnaires only mentioned personal use and did not state that other people used the land.
- The land had been used for livestock for over 20 years.
- There had always been an agreement that local people could use the land.
- The Panel should consider the Inspectors comments and the view of the residents.

In response to a comment made the City Solicitor confirmed that the Inspector had considered the area as described by the applicant.

Representatives of the objector were present at the meeting and informed the Panel of the following:

- The Ward Councillor had presented evidence at the Public Inquiry and had not challenged anything.
- The Inspector's report should be considered as presented.
- If the applicant was not satisfied then they could take the matter to Court.
- The legal tests were covered by the Act.
- The area was identified by the applicant as Steeton and this included Eastburn, but no one from the area had provided evidence.
- The Parish Council was building its centre on an established play area, which was not near the site in question.

At this point in the proceedings the Panel passed the following resolution in order to facilitate consideration of evidence.

**Resolved -**

**That the public be excluded from the meeting during discussion of the item relating to land off Thornhill Road, Steeton village green application, on the grounds that it is likely, in view of the nature of the proceedings, that if they were present, exempt information within Paragraph 5 (Legal Privilege) of Schedule 12A of the Local Government Act 1972 (as amended) would be disclosed and it is considered that, in all the circumstances, the public interest in allowing the public to remain is outweighed by the public interest in excluding public access to the relevant part of the proceeding for the following reason:**

**It is in the overriding interests of proper administration that Members are made fully aware of the legal implications of any decision without the risk of prejudice to the Council's case in any future legal proceedings that may be initiated.**

At this point, 11.40 hours, the meeting resumed in a public session.

**Resolved –**

**That Members reject the application to register the land off Thornhill Road, Steeton as a town or village green for the reasons as set out in Document "A".**

***ACTION: City Solicitor***

**5. APPLICATION FOR THE REGISTRATION OF LAND AS A TOWN Wharfedale  
OR VILLAGE GREEN AT LAND AT DERRY HILL, MENSTON**

The City Solicitor presented a report (**Document "B"**) which explained that an application had been received for the registration of land at Derry Hill, Menston as a village green. Members were informed that the Council as the Registration Authority was responsible for the determination of the application.

The City Solicitor informed Members that a Barrister had been appointed to act as the Inspector in determining the application and a Public Inquiry had been held on 13 to 17 August 2012 in order to hear evidence from the applicant and objector. The Inspector had concluded that no more than occasional and sporadic use had been revealed and this did not reflect the use by a significant number of the residents. Evidence had been provided

of intensive agricultural and limited public use, therefore the Inspector had recommended that the application be rejected. The City Solicitor's recommendation concurred with that.

The applicant was present at the meeting and made the following comments:

- He was representing the local community.
- He was not satisfied with the result.
- The Inspector had believed the evidence of the objector.
- There were significant areas where the Inspector had challenged the evidence of the whole community.
- The report summary suggested that the majority of the photographs submitted had been fabricated.
- If the Panel decided that the application was not viable, the village would be devastated.
- A great deal of time and money had been spent.
- He believed that at least a part of the land should be saved for a village green.

In response to Members' questions, the applicant confirmed that:

- They had been informed that continuous use was 20 years or more and a great deal of the witnesses had gone beyond 20 years. The solicitor for the objector was very accomplished and he accepted that it had been an error of judgement to provide evidence beyond 20 years. He also accepted that insufficient evidence had been provided.
- It had not been proved that the land had been closed for four months during the foot and mouth epidemic.
- Not all the people in the photographs presented were aware that they had been photographed, so he was not happy about the Inspector's comment.

A representative of the objector was present at the meeting and stated the following points:

- The Public Inquiry had lasted four days.
- The Inspector had heard a great deal of evidence.
- The Inspector had been appointed to advise the Council and after considering the evidence he had rejected the application.
- It would be perverse for the Panel to go against the Inspector's recommendation.
- If the Panel accepted the application then it would be a unique case as agricultural land had never been registered as a village green before.

In response to further questions from Members, the applicant stated that:

- Sometimes Inspectors ruled that part of the land applied for could be registered as a village green.
- The field with the footpath had been used by residents, though the footpath was not designated so people just wandered across the field.
- The majority of people in the photographs were not on the footpath.

In response to the comments made by the applicant, the objector's representative informed the Panel that the applicant had been represented by a solicitor at the Public Inquiry, therefore, mistakes could have been rectified when they arose.

At this point in the proceedings the Panel passed the following resolution in order to facilitate consideration of evidence.

**Resolved -**

**That the public be excluded from the meeting during discussion of the item relating to land at Derry Hill, Menston village green application, on the grounds that it is likely, in view of the nature of the proceedings, that if they were present, exempt information within Paragraph 5 (Legal Privilege) of Schedule 12A of the Local Government Act 1972 (as amended) would be disclosed and it is considered that, in all the circumstances, the public interest in allowing the public to remain is outweighed by the public interest in excluding public access to the relevant part of the proceeding for the following reason:**

**It is in the overriding interests of proper administration that Members are made fully aware of the legal implications of any decision without the risk of prejudice to the Council's case in any future legal proceedings that may be initiated.**

At this point, 11.55 hours, the meeting resumed in a public session.

**Resolved –**

**That Members reject the application to register the land at Derry Hill, Menston as a town or village green for the reasons as set out in Document B”.**

***ACTION: City Solicitor***

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the Panel.**

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THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER