

Public Questions – Planning and Environment Committee – 13 February 2014

Question Number	Item No	Raised By	Question Raised	Answer
1	13	Mr Keith Martin	<p>Agenda item 13 concerns the application for registration as a Village Green of the land adjacent to the library. The recommendation is that the application be rejected “on the basis that the qualifying criteria laid down by the Act...are not satisfied.”</p> <p>Happily the P and E Committee is composed of local councillors whose criteria are the public interest, and who are free to use their common sense and judgment to determine these best interests. They are not bound by the criteria laid down by the Act or the advice of the Inspector. This being the case, the views of the two local residents associations are significant in determining what is “Putting the Community First.”</p> <p>My question is:</p> <p>Will the Council withdraw its opposition to the application, which is widely regarded as misguided?</p>	<p>An independent planning Inspector was appointed to look at this matter in detail. Both the applicants and the objectors were provided an opportunity to make full representations not only in writing but also in person at the Public Inquiry. The Inquiry dealt with key legal arguments and historical events in relation to the land. In particular, it dealt with how the land was appropriated and used by members of the public. These issues have been weighed up and analysed in detail in the Inspector’s report.</p> <p>The Inspector’s view therefore holds significant weight as he was able to look at this independently of the Council.</p> <p>The Council is legally required to consider whether the application fulfils the requirements of section 15(2) of the Commons Act 2006, in this case in particular whether it can be proved that members of the public have been using the land without permission of the Council. The Council is the landowner. For the reasons detailed in the Inspector’s report it is determined that the Council has provided the members of the public to use the land for recreational activities since the 1950s. Unless the Council receives any persuasive legal arguments which outweigh the Inspector’s finding, it is advised that it should be following his recommendation.</p> <p>It is of note that the Inspector’s decision has been made available to both parties and to date no further legal representations have been received.</p> <p>The Councillors can of course refuse to follow the inspector’s recommendation and this is not only confirmed in the report to the committee but also in the Inspector’s recommendation, however, if Members wish to take such action, their reasons would need to be strongly justified (based on legal or evidential information) to rebut any possible challenge of judicial review in the future.</p>