

Medway Council
Meeting of Licensing and Safety Committee
Tuesday, 29 August 2017
6.30pm to 7.15pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: Bhutia, Bowler, Carr (Vice-Chairman),
Mrs Diane Chambers (Chairman), Godwin, Griffin, Hicks and
Kemp

Substitutes: Councillors:
Purdy (Substitute for Etheridge)
Stamp (Substitute for McDonald)

In Attendance: Franco De Fazio, Licensing and Enforcement Officer
Vicky Nutley, Planning and Licensing Lawyer
Stephen Platt, Democratic Services Officer
Alison Poulson, Licensing and Local Land Charges Manager

244 Apologies for absence

Apologies for absence were received from Councillors Etheridge, Fearn,
McDonald and Pendergast.

245 Record of meeting

The record of the meeting held on 4 July was agreed and signed by the Chairman
as correct.

246 Urgent matters by reason of special circumstances

There were none.

247 Declarations of disclosable pecuniary interests and other interests

Disclosable pecuniary interests

There were none.

Other interests

There were none.

248 Application for the Registration of Land as a Village Green - Hook Meadow, Off Walderslade Road, Chatham

Discussion:

The Committee considered a report seeking the Committee's determination of an application for a village green submitted by Vivienne Parker in respect of Hook Meadow, off Walderslade Road, Chatham.

The applicant was in attendance and made the following points in support of her application:

- The judgement in the case of R (on the application of Barkas) v North Yorkshire County Council (the Barkas case) should not apply in the case of Hook Meadow because there had been a right of free access to the site for recreational use for many years before the land had been purchased by the local authority. This right should not be extinguished simply because the land had moved into public ownership.
- Medway Council had a record of protecting historic sites and Hook Meadow was an important and historic site.
- If the Barkas case applied to Hook Meadow, it should also apply to other applications in the area, such as Hall Wood and Hook Wood, neither of which were included on a list of Chatham open spaces dating back to 1970.

The Licensing and Local Land Charges Manager confirmed that the application had been correctly made, and officers had placed notices on the boundary of the land for the required period. The application was also advertised in the local paper and on the Council's website in line with the requirements of the legislation.

Confirmation of ownership of the land had been obtained from the Land Registry and the land owner, Medway Council (Greenspaces) had been informed of the application. An objection to the application had been received from the land owner and had been sent to the applicant who had responded to the objection. Members were referred to the relevant documents appended to the committee report.

The report examined the evidence for and against whether the application met the legislative requirement for registration as a town or village green. The Licensing and Local Land Charges Manager highlighted the difference between use of land by the public "by right" and "as of right". She advised that, according to guidance issued by the Department for Environment, Food and Rural Affairs (Defra), the meaning of "as of right" was very important because if the land was made available by the local authority under a law then the application for a village green would probably fail the "as of right" test because the use of the land was likely to have been "by right".

The main grounds of the objection was that the land had been used "by right" and not "as of right" as the legislation required.

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Members were requested to consider the documentation containing arguments for and against the registration of the land known as Hook Meadow as a town or village Green and to determine the application. It was noted that the conclusion of the committee report was that the application should be refused as it did not satisfy all of the legislative criteria for registration.

The Committee discussed the application and Members questioned the applicant and sought clarification on the relevance of the Barkas case. The Assistant Head of Legal Services advised that a landowner could erect signage granting permission for the use of land. This would replace any historic right to use the land and the use would therefore be 'by right' (where the landowner's permission was required) rather than 'as of right' (where the user could use the land as if it was their own). She advised that Hook Meadow had been acquired by the local authority in 1954 and reiterated that the Barkas case and Defra guidance made it clear that where land was allocated for the purpose of public recreation, its use was with the landowner's permission and was not, therefore, 'as of right'. Members noted that this meant the land would not be available for registration as a town or village green.

Decision:

That Hook Meadow, off Walderslade Road, Chatham, not be registered as a town or village green because the criteria for registration had not been met.

249 Licensing Compliance and Enforcement Annual Report

Discussion:

The Licensing and Local Land Charges Manager introduced the annual report on licensing compliance and enforcement covering the period April 2016 to March 2017. The report provided information on the areas that the Licensing Team were responsible for licensing and those where the team were responsible for compliance and enforcement. Included within the report was a breakdown of the percentage of time spent on the various areas and the types of compliance during 2016/17.

It was noted that the volume of applications continues to increase and that the enforcement team had achieved some positive results over the year. It was further noted that, looking ahead, the Digital Transformation Team would review the services provided by the Licensing Team to seek new ways for working using IT solutions to achieve improved service delivery and access to information for customers.

Members noted that during 2016/17 taxi related matters accounted for 52% of the Licensing Team's time. With regard to Uber taxis operating within Medway, the Committee was advised that the use of the Uber app was very high and the company had briefed the Licensing Team. Drivers were registered by Transport for London (TfL) although, where Uber had an operator's licence, they encouraged drivers who operated in a local authority area to apply to that authority for a driver's licence. Members discussed whether Uber was operating within

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Medway because there was demand that was not being met by local operators. It was suggested that some drivers may be reluctant to work later into the evening or at night. The difficulty in making a booking for journeys in rural areas was also discussed.

It was suggested that future reports include comparable statistics for previous years so that trends can be identified. The Licensing and Local Land Charges Manager agreed that this would be possible for future reports when the Council's Taxi Policy had been in place for two years.

Decision:

The Committee considered and noted the licensing compliance and enforcement annual report 2016/17, prepared and presented by the Licensing Authority.

Chairman

Date:

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