

**IN THE MATTER OF
AN APPLICATION FOR VILLAGE GREEN STATUS
OF LAND AT MILLFIELD ROAD, MARKET DEEPING**

WITNESS STATEMENT OF MANDY JAYNE WOOD

1. My name is Mandy Jayne Wood. I have been employed by Lincolnshire County Council ("the Council") since 01 August 2007 as a Senior Solicitor in the Highways and Planning team of Legal Services Lincolnshire. Part of my role involves the interpretation of evidence that accompanies village green and public rights of way applications, including the carrying out of additional research including archival research, the supervision and managerial duties for other members of the team. I make this statement to support the County Councils case. This statement is true and accurate and compiled from my own knowledge or from research that I have carried out and documents that I have seen.
2. I have listed below the enclosures attached to this statement:-
 1. Land Registry LL29065
 2. Conveyance dated 6/04/1920
 3. Plan showing extent of Holding
 4. Summary of user evidence
 5. Locality summary
 6. Foot and Mouth Disease (FMD) report
 7. FM Closure Signage
 8. MAFF Order
 9. FM open Signage
 10. Letter to landowners re FMD
 11. Market Deeping Town Council Minutes
 12. Lincolnshire County Council Temporary Footpath closures
 13. Peterborough Telegraph
 14. Stamford Mercury
 15. You tube Stills
 16. Aerial Photographs

17. Google aerial photos and street view
18. Plan showing dog walking route 2006
19. Site visit photographs 19.12.17
20. Plan showing location and direction of photos

Background

3. Lincolnshire County Council is the freehold owners of the application site, which is registered at Land Registry under title number LL 290651(Enclosure1). The land was purchased by Kesteven County Council (the former County Council prior to the 1972 re-organisation) on 6 April 1920 from Mr Thomson Bell using its powers under the Smallholdings and Allotments Act 1908 (Enclosure 2) as the Council wanted to rent out the land as small holdings. Since its purchase the land has been tenanted on short agricultural tenancy agreements and has been used for agricultural purposes, which include growing of sugar beet, wheat and barley and the grazing of cattle. The extent of the land holding, including the relevant title and agricultural holding numbers, is shown on the attached plan (Enclosure 3).
4. The title to the land falling within the application, and also the agricultural holding number have been altered over the years as the land has been subject to amalgamation and change especially since the By pass was built. I have not set out the previous title or holding numbers in order to avoid confusion. The numbers currently used represent the position since the Market Deeping By pass was constructed and opened in 1998 and reflect the current position.
5. During the period of claimed use, the land has been tenanted by two people, Mr Allen acting as the Chairman to the Deeping Agricultural show from 1997 until 2015 and Mr B Hallam who is the current tenant. The reference to "locality " in the Council's evidence and submission is to the area described by the Applicant.

Application for village green status

6. Upon the receipt of the application and accompanying evidence I studied the documentation provided. This involved the assessment of the user evidence forms where I considered the claimed use, the period of time over which the claimed use occurred, and where the claimant lived in relation to the claimed village green, where and how the users accessed the site. I summarised my finding in the attached table (Enclosure 4). In addition I plotted the addresses of where the users lived in relation to the claimed site on a plan (Enclosure 5) and used this information to determine if they lived within the claimed locality.
7. From the documents, I found that 3 of the users (P Smith, L Gledhill, B Simpson) lived outside of the locality, P Smith states that he lived in the locality until 2006 before moving to Deeping St James, B. Simpson lived within the locality but does not state when she moved to her current property which lies outside of the locality. L Gledhill lives outside of the locality. Three additional users (C Romaine, J and N Colbrough and R Pishhorn) claim to have lived outside of the locality for part of the time period before moving into the village and the locality. As these users do not or have not lived within the locality for the full time period, their evidence should be disregarded.
8. When considering an application for a village green status the applicant has to satisfy all of the statutory requirements of section 15 (2) of the Commons Act 2006, these include;-
 - Has the land been used as of right
 - Has the use been for the twenty year period
 - Is the use still continuing
9. The user evidence indicates that the majority of the use has been where the use has originated or terminated on the public right of way, Public Footpath 2 Market Deeping as such this use would be determined as being "by right" as the public have a legal right to use the public right of way and not "as of right".

10. An assessment of the user evidence supplied with the application appears to reveal that only six of the users can claim to have used the land over the required twenty year period. That evidence appears to indicate that there was some limited use of the land in the past, which supports the Chairman of the Shows recollection that in the early years which he tenanted the land that he met an occasional user, but that the use has grown from about 2006. Since 2006 there is evidence supporting an increase in the use of the land which is also consistent with the recollection expressed by the Chairman of the Show who was the then tenant of the land.

Administrative Activity

11. On 23 February 2001, the whole of the country was declared a controlled area under the Foot and Mouth Disease Order 1983. The Council implemented numerous control measures to prevent the spread of Foot and Mouth disease within the county; this included the closure of all public rights of way within the County. (Enclosure 6). Signage was erected at the entrances of all rights of way informing the public of the closure, an example of the signage used is exhibited at (Enclosure 7). The public rights of way remained closed until 27 July 2001 when the Minister for Agriculture Fisheries and Food removed the restrictions (Enclosure 8). The signage was removed and erected new signage (Enclosure 9) informing the public that the right of way was open and available to use subject to the ongoing limitations and advice indicated on the notice. The Council wrote to all landowners asking them to remove the old signage and erect the new signage (Enclosure 10). As the public have been prevented from using the land, any usage of the land during this period would be contrary to the Foot and Mouth Disease Order 1983 and the closure of the route would be deemed to a break in use of the land and a break in the 20 year usage period claimed.
12. I have been informed by the Chairman of the Show that it took time to set up the Show and several days after it was held to take it down again. I am informed that in total the show would have occupied the land for about 10

days prior to the actual event and then afterwards which together would have occupied about 14 days overall.

13. I am aware from conversations with the Chairman of the Show, as well as from the publicity available information and photographic evidence that the majority of the application site was used as the location for an agricultural show ("the Show"), which ran from 1952 until its closure in 2015. It was after all for that reason that the Chairman of the Show took the tenancy agreement for the land in 1997 to ensure that the Show could continue in the same location that it had been used for since the 1950's. The land was used for a variety of purposes with some areas for parking whereas other locations contained marquees or fenced areas for showing animals or a fenced main show ring. There was also a variety of parades around the land consisting of both animals and equipment. During the period it operated the Council authorised the tenant to hold the Show on the express condition that a financial payment was made. As the showground site has a Public Footpath 2 Market Deeping through the centre of the site it was necessary to close the public right of way temporarily to allow the Show to take place. From my research on the internet, I have discovered documents from the Market Deeping Town Council Planning and Highways Committee records that show that the footpath was closed during 2013 and 2014 (Enclosure 11). From the records held by the Council I have produced the tables at (Enclosure 12) which show that the footpath was closed in 2004, 2005, 2006, 2007, 2008, 2009 and 2012 for a 2 day period which coincides with the dates that the Show was held. I have been unable find any further documentation for additional dates but it is presumed that the correct procedures were followed.

The Deeping Show

14. As part of my investigations I have also carried out research to seek to identify and determine the full extent of the Show and the area it occupied on the ground. The Peterborough Telegraph states that the show was a major attraction in the area where the public had to pay an entrance fee of £6 per adult £4 concessions and a family ticket cost £16 (Enclosure 13). The Stamford Mercury also published photographs of the Show where it can be

seen in photograph 1 that the main show ring was located in the northern field and the photograph is taken facing Millfield Road. Photograph 2 shows a gymkhana event set up in the southern section of the site (Enclosure 14).

15. I have also watched various You Tube videos showing the events at the show. I have been prevented from copying of the videos but they are capable of being viewed in their entirety at the following locations :-

- <https://www.youtube.com/watch?v=YTZbSCUPipc&index=3&list=WL>
- https://www.youtube.com/watch?v=F_ZGKnHeRyc&list=WL&index=5
- <https://www.youtube.com/watch?v=g9ZpBJtbEWA&index=6&list=WL>
- <https://www.youtube.com/watch?v=MaFQDrWOcfM&index=8&list=WL>
- <https://www.youtube.com/watch?v=6On9R13putI>
- <https://www.youtube.com/watch?v=2eJXjykOiBo>
- <https://www.youtube.com/watch?v=LrDR39pdAIU>

Fortunately it is possible to copy stills from those videos and I have set them out in the enclosures (Enclosure 15) and I make reference to them below:-

- Still 3 taken in 1957 shows the main ring was located in the southern field as the properties on Millfield Road are visible in the distance.
- Still 4 also from 1957 shows that the public used the lower section to park in.
- Still 6 taken in 2009 shows that the northern field was used as gymkhana ring and that the public parked their vehicles within this location as well as marques being set up in that location.
- Still 7 from 2009 show that a bouncy castle had been erected on the site, I believe that this is in the location of the public footpath with the trees in the distance being the trees adjacent to the A15.
- Still 8 taken in 2009 shows that cattle were shown at the show and that they were housed within cattle pens.
- Still 10 and 11 taken in 2011 show agricultural equipment placed on the northern field adjacent to Millfield Road with the access to Gate B being shown in the background, and the surfaced section of the footpath is used for car parking with the public's access to the northern field being prevented with a temporary picket posted fence.

- Still 12 taken in 2011 shows tractors parked on the northern field facing towards the A15 as the post and rail fence are visible in the background.
- Still 13 taken in 2011 shows tractors parked in the northern field taken facing the southern field as the trees currently on Stamford Road are visible in the background.
- Still 14 taken in 2011 shows the southern field set up with cattle pens, and cars parked near to Gate C
- Still 15 taken in 2011 shows a tractor parked near to Gate B with Millfield Road behind the vehicle.
- Still 16 taken in 2012 shows the main event ring in the northern field and marques and bouncy slide set up on the eastern boundary adjacent to the A15
- Still 17 taken in 2012 shows the setting up of agricultural machinery in the northern field.
- Still 18, 19 and 20 are taken in 2008 and show that the southern field was used as a gymkhana ring with car parking to the west of the site near to Gate C. the post and rail fencing around the site can be clearly seen.

These stills show that the Show was a large event which used both the north and south field. The public footpath clearly had to be closed for the period of the Show as the land upon which it run was used for the event itself. It is clear that the public could not have continued to use the land as a village green whilst the Show was being set up nor whilst the Show was being run nor whilst the Show was disassembled as public usage would have been prevented by the temporary fencing which is visible on some of the stills, marques and agricultural machinery would have blocked their path.

Other Photographic Evidence - Aerial Photos

16. I have also researched the Council records. I have discovered various aerial photographs which are attached at Enclosure 16. :-

- Aerial 1 is circa 1971 it shows a few properties on the western side of Millfield Road with no developments to the north. It shows that the southern field is laid to grass. The northern field is clearly shown as being cropped, with the ditch between the two fields being barely visible.
- Aerial 2 was taken in 1999 it shows the recently constructed by-pass which was opened in 1998, a new fence line surrounding the site and a soil bund surrounding the fence line. It shows that the line of the fence is unbroken and extends to the southern boundary on Stamford Road. In addition it shows that there is no access from Stamford Road into the Site where claimed access point D is located. Cattle pens are shown in the southern field with Gate C having a hard surfaced access. The Northern field is laid to grass and shows tracks within the field but these are consistent with the tracks made by grazing cattle and not public usage. Gate A shows that it is not accessible and access is prevented by hedge.
- Aerial 3 was taken in 2003 it shows that the site is laid to grass. The fence line around the site is visible and appears to be complete. The bunded area on Stamford Road has now been planted and there is no visible access from Stamford Road. There does not appear to be any tracks on the ground which would be consistent with use by the public.
- Aerial 4 was taken in 2005, it shows that the site is laid to grass. The fence line around the site is still intact, the vegetation at the Stamford Road is very well grown and there does not appear to be any access through at this point. The only tracks evident in the field are around the edge of the field and are consistent with agricultural vehicular use.
- Aerial 5 was taken in 2006/07; it shows that site is now edged by vegetation on the eastern boundary adjacent to the A15. The vegetation at Stamford Road is very thick and there does not appear to be any access into the site at this location. The only tracks visible are around the edge of both fields and are consistent with agricultural vehicle use as two tyre tracks are visible.

- Aerial 6 I took from google on 17 November 2017. The aerial shot clearly shows tracks bisecting both fields north to south and well defined tracks around the edge of the fields which may be consistent with use by the public. I am not aware of the date the shots were taken.

From the aerial photos it is clear that the public usage became more predominant since 2006 which would correspond with the time period in which the tenant informed the Council of people accessing the land and trespassing across it which led to the signs which I describe below being purchased and erected.

Other Photographic Evidence - Google

17. As part of my research I consulted Google street view on 24 October 2017 to establish what was present in June 2009 and March 2010. They are exhibited at Enclosure 17.

- Entrance A- this shows that the entrance was gated with a double gate. At the gate is a green sign which upon closer inspection states "private farm". Adjacent to the gate there is a post. On the right hand side of the gate in the adjacent field and by the side of the ditch there is palisade fencing.
- Entrance B- this shows the entrance to the public right of way, a finger is located within the highway. The entrance is gated by a pair of gates which have a gap by the left side for the public right of way. The entrance way is hard surfaced and this extends into the field.
- Entrance C- this shows that it is gated with a pair of gates, and has a sign at the left side which states "No Trespassers". The entrance way is hard surfaced and this extends into the field.
- Entrance D- this shows that the area is wooded and no visible access way through. Upon closer inspection it appears that behind the street sign are the remains of a wrought iron gate or fence.
- Entrance E- this shows that the route of the public right of way from the A15 is overgrown and would indicate little public usage.

From these documents it appears in 2010 the public were not able to access the site from Gate D as they claim. Signage was still present at Gate A and Gate C informing the public that the land was regarded as private. It is noted that when the site is viewed from Millfield Road Street view shows the northern land is fenced with a palisade fence along its entire length adjacent to the hedge and the ditched boundary.

Other Matters - Use of Signage

18. I am aware that in 2006, that the tenant at that time reported an increase in illegal usage by the public who appeared to be using the top section of the site as a circular dog walking route. I am aware that legal advice was provided which resulted in the erection of signage warning the public that they should remain on the footpath and not deviate from it. I attach a plan from the legal file showing the route that the dog walkers used at that time. (Enclosure 18).

19. I am aware in June 2017 that travellers entered onto the site and Legal Services were instructed to seek an injunction and to seek the re-possession of the land.

Site Visit 19.12.17

20. On 19 December 2017, I went to visit the application site and I took a number of photos which I exhibit at (Enclosure 19) and I have marked the location and direction of the photos on a plan (Enclosure 20). I would like to make comments about the photographs:-

- Photograph 1- shows Gate A and the post that is shown on Google Entrance A photo. It also illustrates a palisade fence that appears to have been erected to prevent access from the adjacent land.
- Photograph 2- shows a series of gates that secure the entrance to the land. It also shows the notices erected to publish the application. It shows a new embankment that has been erected by the current tenant and a worn track through. The track goes adjacent to a tree and over a ditch.

- Photograph 3 and photograph 4 shows the gate and a wire fence that has been erected by the tenant to prevent unauthorised access to the left hand side of the gate. The photo also shows that access is now gained by walking under low branches and scrambling through the mud over the ditch.
- Photograph 5- shows a track through the grass to an opening in the hedge to a layby on Millfield Road.
- Photograph 6- shows the reverse view from Millfield Road where green waste has been deposited in the ditch.
- Photograph 7, 8 and 9 – show the additional security the tenant has placed on the gates at Gate B to prevent unauthorised access. It is noted that the gates are locked and a slam bar has been erected.
- Photograph 10 and 11- show the waste and rubbish left by the travellers
- Photograph 12- shows Gate C with the new earth bund that the tenant has erected and the sign informing the public of the application for village green status. The gates are locked.
- Photograph 13- show the new ditch dug to the rear of the gate at Gate C.
- Photograph 14- shows the defaced sign at Gate C which clearly states "no trespassing".
- Photograph 15- this is taken looking toward Stamford Road behind the street name plate for Millfield Road. It shows two posts which had a barbed wire attached to them.
- Photograph 16 – 20- show the barbed wire on the fence posts above and show that the wire has been cut.
- Photograph 21- show that trees planted by the Council as part of the mitigation measure for the by-pass have been cut down.
- Photograph 22- shows the boundary post and rail fence erected as part of the mitigation measure for the by-pass by the Council in 1997/8. A path can be seen to go through the fence. The fence has been cut and broken to allow access into the site.

- Photograph 23- shows where the fence has been sawn and where the wood has been damaged.
- Photograph 24- shows the sawn of piece of wood lying next to the fence on the field side.
- Photograph 25- this is a view on the public footpath looking towards to exit onto the A15. It is evident that it is not very well used by the public.
- Photograph 26 and 28- show the broken down style, number 26 is the wood side and 28 is on the field side.
- Photograph 27- shows the route of the public footpath from the A15 and shows that a piece of wood has been placed in the entrance to the field in the location of where the style would be.
- Photograph 29- taken from near to the public right of way looking in a northern direction towards the north field. A track can be clearly seen going into the distance. In the distance dog walkers can be seen using the land.
- Photograph 30- shows the southern field and a clearly defined track around the edge.
- Photograph 31- shows the southern field looking southerly direction.

Comments from the Chairman of the Deeping Show

21. On 22 December 2017, I received a call from the former Chairman of the Deeping Show he informed me that he was happy to provide me with information but he has refused to allow me to use his name on the documents. In order to comply with his request I have anonymised documentation. He informed me that when he took over the site the northern field was ploughed as it was planted with arable crop usually wheat or barley. He was not aware of use of the land as a village green at that time. He informed me that he often visited the land when he visited to Stamford as it was on his way, during these visits he checked the signage and the land. When asked about the cutting of the grass for hay, he informed me that the land would be mowed in April to June in readiness for the Show, the process would take approximately three-quarters of a day and he used one machine.

22. He informed me that the grass was left on the ground to dry in rows, he never witnessed the grass being kicked over the land. He said that it was then baled.
23. In 2006 after the erection of the signage he attended the site and noticed that some of the signage has been removed, he did not report this to the Council as he considered that it was an additional expense for the Council.
24. He has been the Chairman of the Show for 25 years; the public were charged a fee of £6 to enter the Show with some of the proceeds being given to local charities.
25. He informed me that the Show took a number of days to set up, as the cattle pens were erected 10 days before the Show and they took a few nights to erect. Gate C was used on Show days by the agricultural vehicles, sheep, cattle boxes and horse boxes and was used for parking of these vehicles. The northern field was used a car park for the public parking, the main show ring and marques were erected. They would often have 6 marques that were erected by Snowden's who took 3- 4 days to erect them around both sides of the main ring. In order to allow the Show to operate the public right of way was temporarily closed by applying to the Council, he was not aware of the details as it was the responsibility of the Secretary.
26. He informed me that when he took over the tenancy he erected a post and wire fence around the southern section of the site adjacent to Stamford Road. He never saw any members of the public entering the site via Stamford Road. He recalls when his tenancy ended the wooden fence was still intact and complete.

Summary

27. In order for the applicant to succeed they must satisfy the requirements of section s15(2) Commons Act 2006 in that "a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have

indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and they continue to do so at the time of the application."

28. From the available evidence, it appears that the use of the land as village green has been predominantly since 2006. Aerial photos do not support the applicant's contention that the use was before this date. The majority of the use has been via the public right of way and therefore is not "as of right". Only 5 users have used the land for the full 20 year period. However evidence shows that a full 20 year could not have been possible due to number of reasons including the Foot and mouth outbreak in 2001 where the land was closed for public access for a number of months, the temporary closures of the public footpath each year to allow the Show to operate, the Show being held on the land where the public had to pay entry to attend. In addition, the Council took steps to prevent access to the site in 2006 by the erection of signage informing the public that the land was private and the locking of gates. In more recent times the traveller incursion in 2017 has meant that the tenant on behalf of the Council has taken additional security measures by the erection of bunding and securing the gates. In addition in 1998 following the construction and opening of the By pass the new boundaries of the fields were formed and fenced as part of the highway proposals.

This statement is true and accurate and compiled from my own knowledge or from research that I have carried out and documents that I have seen.

Signed



Dated

11 January 2018