

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

WITNESS STATEMENT OF JONATHAN WOOD

1. My name is Jonathan Charles Wood, I am a director of Savills (UK) Limited ("Savills") and I work in the rural estate management team. I have been employed by Savills since 2007. I am Chartered Surveyor, RICS registered valuer, and Fellow of the Central Association of Agricultural Valuers.
2. My responsibilities include the day to day management of Lincolnshire County Council owned farm land. I make this statement to support the County Council's objection to the application to register County Council owned farmland as a village green. This statement is true and accurate, and the information contained within it is from my own knowledge or from information supplied to me as part of my employment.
3. The plan "Plan 1" (Enclosure 21) shows the application site edged in red. Plan 1 shows the location of the access gates to the application site, also showing the boundary fences and hedges, and furthermore showing the position of the photographs and other images referred to elsewhere in this statement.

Background

4. From my records, I am aware that the application site formed part of OS parcel no. 0005 which totalled 25.93 acres/ 10.493 hectares and was known by its holding number 204F. Together with OS parcel no. 8434 which totalled 23.62 acres / 9.538 hectares and was known by its holding number 204B as shown on the plan dated January 1978 (Enclosure 22), Plot OS0005 is the Southern section and plot 8434 is the northern section of the application site. My involvement with the application site commenced in 2007 and I undertook inspection of the site in 2008, 2010, 2012 and 2014 (as recorded in the Holding Inspection Reports (Enclosure 23)).

5. From the records Mr H N Smith took over the tenancy in 1991 of plot 8434 which is described as being arable land of 23.620 acres and being set to sugar beet and potatoes. The Tenancy agreement dated 18 December 1991 and 31 May 1997 confirms that the land was arable (Enclosure 24). The arable use of this land is also corroborated by the re-letting of the balance of the field in 1998 (see letter dated 17th August 1998 (Enclosure 25) which confirms that the balance of field 8434 (to the west of the new bypass) was also in arable use.
6. I consider that the arable use of the land makes any claimed use by the public highly unlikely at this time. The reason that I believe that such arable use would be incompatible with the claimed usage is that normal arable farming practices on the land would in all likelihood have prevented the ability to use the land as claimed. The land would have been ploughed and cultivated which would have made the terrain unsuitable for the claimed uses. Following the establishment of a crop it would have been normal for agrichemicals to have been sprayed on the land to prevent weeds, pests and fungi. Once established the growing crops would have restricted access, if not prevented it altogether. In my experience the public has a respect for growing crops and will not readily destroy them. I am sure that if such incidents had occurred the tenant would have immediately brought this to the attention of the management agents. We have no such records of any reports. On this basis I see it as most unlikely that the claimed use would have occurred whilst arable crops were being grown on the land.
7. In addition to plot 8434 Mr Smith also tenanted parcel 0005, in a letter dated 21 October 1991 (Enclosure 26) confirms that the land was permanent pasture and it indicates that he had the right to permit the Deepings Show Committee to use the 25 acre pasture field for a period of no more than 2 weeks in June each year. In 1997, the land was sub-tenanted by K J Adams and was permanent pasture. Prior to the creation of the Bypass in 1997/98 the Deepings Agricultural Show was held on field parcel 0005, including land which is now both east and west of the Deepings Bypass.

8. I am aware that the grass pasture plot 0005 had been grazed by cattle and sheep. The Holding Inspection Report dated 23rd July 1999 (Enclosure 23) records that sheep were grazing at the time of inspection. I am also aware that the Deeping Show Committee arranged for local farmers to graze sheep or bullocks on the land in other years, and the reports from 2000, 2001, 2002, and 2004 make reference to the land sometimes being used for sheep grazing. I understand that in order for the land to be grazed an electric fence was erected to the south of the dyke running parallel with the footpath, to enclose the northern boundary of field 0005 and thereby make this field "stock-proof" to prevent livestock straying outside of field 0005.

Available evidence

Market Deeping By Pass

9. In 1997-1998, the County Council constructed a new by pass around Market Deeping, the new bypass went through parcel 8434 and 0005. The plan attached to the letter dated 22nd July 1957 and the letter and notice from M.A.F.F. dated 26th February 1992 together with the accompanying plan, (Enclosure 27 and 28) show the layout of the land prior to the construction of the new bypass. The present situation is shown on Plan 1 (Enclosure 21). As part of the construction of the bypass which was completed in 1998 new field shapes were created, and new wooden post and rail fencing was erected inside the new noise bunds which formed part of the construction, as referred to in the facsimile transmission dated 14th July 1997 (Enclosure 29). During site visits undertaken by me on 6th December 2017 and 19th December 2017 I noted that parts of this boundary fence have been vandalised and damaged and in particular in the vicinity of point D the fence has been broken in an apparent attempt to create an access route to the land.
10. It was normal practice for regular inspections to take place of the Site with a written record kept of visit, (Enclosure 23). The purpose of the inspection reports were to visit and inspect the holding prior to the expiry of each tenancy in order to ensure that the condition of the holding was being maintained and that the tenant was complying with the terms of the tenancy, in order that a

decision could be taken in respect of the future of the property. The inspection would also be intended to identify any management issues requiring action.

10.1 I have briefly summarised the salient relevant points from the various Holding Inspection Reports below in chronological order:-

Report dated 23/02/98: Cropping recorded as permanent grassland. Use for "Deeping Agricultural Show" noted. New bypass noted as under construction with a recommendation to "ensure roadworks are adequately fenced and hedged".

Report dated 23/07/99: Cropping recorded as permanent grassland. Use for "Annual Deepings Agricultural Show" noted. Sheep grazing recorded at time of inspection. "New hedging, earth bund and fencing to the bypass as accommodation works" noted. The report notes that "some occupiers on Millfield Road dump their grass cuttings on the roadside verge". Also notes "Bypass now open".

Report dated 14/07/2000: Cropping noted as permanent grassland "sometimes used for sheep grazing and once a year for the Deepings Agricultural Show". The report notes "New hedging and earth bund and fencing to the bypass side as accommodation work". The report also notes "the usual continual problem from the occupiers of houses opposite who dump their grass cuttings on the roadside verge and some prunings."

Report dated 12/07/2001: Notes the crop as permanent grassland. Also notes "sometimes used for sheep grazing and with permission once a year for the Deepings Agricultural Show". The report notes that the holding is "Bordered by the earth bond (sic) to the Deeping Bypass now becoming nicely grown up and by a mature hedgerow and trees to Millfield Road". It is noted that the Deeping Show was cancelled that year due to foot and mouth disease outbreak. The report records "...an ongoing problem unfortunately with householders opposite dumping the garden clippings in the roadside boundary dyke". It also

notes that the "permanent grassland appears to have been grazed up until recently".

Report dated 20th March 2002: Cropping recorded same as 12/07/2001 with same note regarding the Show. Notes "Features by the earth bund to the Deepings Bypass, now becoming nicely grown up and with tree planting. Mature hedgerows and trees to Millfield Road". The report comments ".....from time to time we have problems with householders dumping their domestic grass cuttings etc on the dyke bank – appears okay at present".

Report dated 6th January 2004: Cropping recorded same as 12/07/2001 with same note regarding the Show. The report notes "earth bund to the Deepings Bypass, now established with tree planting. Mature hedgerow and trees to Millfield Road". The report notes an approach from a member of the public requesting permission to undertake dog training on the land with a blank firing gun at weekends (see also the attached email message from Rob Butler to David Barron dated 24th December 2003 (Enclosure 30)). The report also notes "...occasional problems with householders from time to time dumping their domestic grass cuttings on the dyke bank – appears okay at present".

Report dated 5th April 2006: Cropping recorded as "permanent grassland which holds the Deeping Agricultural Show once a year". The report notes "the earth bund to Deepings (sic) bypass with tree planting. Mature hedgerow and trees to Millfield Road". It also states that "The Chairman of the Deeping Show Society confirmed that they were now struggling to find a grazier to take the land on due to the decline in the number of stock farmers and increase in the amount of grassland available. It was almost getting to the stage where they would have to pay someone to graze the land and clear the hay from it". This report makes the first mention of any unauthorised access to the land as follows:- "It was also reported there continues to be an issue with people walking dogs all over the Showground site and are not sticking to the actual right of way present over at the far corner of the land. I confirmed we would look into the erection of signs to prevent a right of way by prescription being obtained over the fields, particularly bearing in mind their potential development

value". This ties in with the action taken to secure the site and erect signage as referred to below in paragraphs 12 and 13.

Report dated 4th April 2008: Cropping recorded as "permanent grassland which holds the Deeping Agricultural Show once a year for two days". The report notes "The earth bund to Deepings Bypass with tree planting, mature hedgerows and trees to Millfield Road". It is stated that "The Chairman of the Deepings Show Society confirmed that they were topping the grassland and no grazing or mowing". The report notes "It was also reported that there continues to be an issue with people walking dogs all over the Showground site and not sticking to the actual right of way present over the far corner of the land. This is despite the erection of signs, some of which have been damaged. Measures need to be taken to prevent a right of way by prescription being obtained over the fields, particularly bearing in mind their potential development value".

Report dated 30 June 2010: The pertinent comments within the report are identical to those referred to with the report dated 4 April 2008.

Report dated 12 June 2012: The pertinent comments within the report are identical to those referred to with the reports dated 4 April 2008 and 30 June 2010.

Report dated 3 June 2014: Cropping is recorded identically to the previous three reports. The report notes "The earth bund to Deepings Bypass with tree planting. Mature hedgerow and trees to Millfield Road". The report states "Grass topped off, but no grazing or mowing is undertaken". It is noted that "Land is used regularly by dog walkers, etc who are not adhering to the routes of Rights of Way," and "DSS now trying to resurrect Show, which was held in 2013."

Report dated 20 June 2017: The cropping is recorded identically to the previous four reports. The report notes "The earth bund to Deepings Bypass with tree planting. Mature hedgerow and trees to Millfield Road". It is noted that there was "Long grass, but no grazing or mowing is undertaken". It is

further noted "Land used regularly by dog walkers, etc who are not adhering to the routes of Rights of Way" and "Problems with gypsies – 3 caravans, 2 vehicles and fly tipping in corner of middle fields". This particular matter (traveller incursion) is referred to at paragraph 17 below.

I note that unauthorised public access was first referred to in the 2006 report, following which action was taken to erect signs and secure the site. None of the earlier reports make any reference to such unauthorised public access.

11. I recall that during my inspections I saw dog walkers on the land walking around the edge of the fields, but I do not recall seeing any other use of the land by members of the public. I remember being surprised by the proportion of dog walkers who arrived at the site by motor vehicle, usually parking at the footpath entry (point B). This would suggest to me that these users were likely to originate from outside of the immediately local area.

Unauthorised usage in 2006

12. In April 2006, the tenant informed Savills that they had become aware of unauthorised access onto the two grass fields they held under their tenancy agreement. They were concerned that residents of the estate were using the fields as a recreational area to walk their dogs and that they were walking around the edges of the field. Legal advice was obtained and the tenant was informed in a letter dated 22 May 2006 (Enclosure 31), that he should lock all gates which are not directly on the public footpath so as to act as a deterrent to unauthorised entry and that the County Council were arranging for signage to be erected. This action secured all the boundaries of the site with the exception of the footpath accesses and the northern boundary with the third party land, as the other boundaries are fences, dykes or established hedges (see also Plan Enclosure 32). I am aware that at a later date a section of chestnut paling fence was erected along the first stretch of the boundary with the third party neighbour to the north to prevent access being taken by cutting across the corner to the third party field, as people had diverted around the gate at point A (~~Enclosure 32~~). The erection of the chestnut paling fence appears to coincide with the measures to improve the security at point A and appears to be a response to

trespass across the third party land by persons diverting around the improved security at point A. More recently people appear to have created a new route through the dyke to the left (south) of the gate at point A, presumably in response to the erection of the chestnut paling fence. As referred to in paragraph 13 below a "Private Farm" sign was erected at point A as shown in the Google "street view" image from 2009 (Enclosure 17)

13. Signage was purchased in 2006, which stated "please keep to the public footpath", "No trespassing" and "private farm". I attach a copy of the invoice for the signage and invoice for the erection of the notices (Enclosures 33). The signage stating "please keep to the public footpath" and "no trespassing" were erected adjacent to the gates at the Show site (point B) and other signage erected in November 2006 along the accessible boundary, specifically a sign marked "Private Farm" was fixed at point A and a sign reading "No trespassing" erected at point C. Photographs taken on 23 June 2017 (Enclosure 34) show that one is still in place adjacent to the southern gate on Millfield Road but it has been vandalised. From my inspections I recall that at the southern gateway "C" a sign was erected stating "no trespassing" that is still evident today but has been vandalised, and at the northern gateway a sign was erected stating "private farm". These are also evidenced on the google street view (Enclosure 17) with images dated as year 2009.

The Deeping Agricultural Show

14. I am aware that the tenancy to the Show Committee included a reference to the permission to hold the show. I am aware that this was an event at which the general public were charged for access and that the general public were excluded from the land for the duration for the Show (a two day event) unless they paid an entry fee. The Show was held annually traditionally on the first weekend in June up until the year 2013. The Show was held over a Saturday and Sunday of a weekend each year and included animal showing and judging, trade stands, equestrian show jumping, animal displays, vintage machinery, marquees and stalls, and other similar activity typical of a traditional country show. The Show was laid out such that the car parking was located in the northern field known as parcel 8434 with the ring, stands, and other Show

activity located in the southern parcel known as parcel 0005. So, not only were the general public barred from the property unless they paid an entrance fee, there were also areas of the land such as show rings and animal enclosures which were not accessible to the paying public. The Show required a temporary closure of the public footpath, for which applications were made by the Show Society and for which consent was given. This prevented any unauthorised public access by non paying public during the period of the Show. There were no permanent installations on site in relation to the Show other than some stoned track areas adjacent to the accesses to aid the access and egress of show traffic and therefore during the week prior to the Show weekend there would have been a great deal of activity on site to set up in preparation for the Show weekend (including the erection of stands, tents, marquees, and rings, etc.), and also there would have been activity in the week following the Show in order to close down the site and restore it to the prior condition. During the Show the entrances would have been stewarded and entrance would not have been possible to the land by the general public without an entrance fee being paid.

15. In March 2015, the Deeping Agricultural Show Society gave notice to leave the tenancy (Enclosure 35).

Development potential

16. I am aware that the County Council have highlighted the site as a potential development opportunity for residential purposes. The Council has attended meetings with South Kesteven District Council to discuss the development potential of the site along with other sites. The District Council allocated the site on its draft local plan on 5 July 2017 with reference SKLP300. I am aware that public consultation took place over the summer of 2017 with the deadline for comments being 11 August 2017. I believe that the inclusion of the site on the draft local plan has prompted the village green application. I am also aware that the Council have held pre-application meetings with the District Council for this site with proposals being submitted on 24 January 2017 and given the planning reference s16/2632.

Recent Events

17. In June 2017 Savills were made aware that travellers had moved onto the site, the tenant was informed that they should instruct their own bailiff to remove the travellers, which they did do. The travellers then re-entered the site a few days later, Lincolnshire County Council took legal action and sought an injunction to prevent them from returning onto the land. The tenant has secured the site with the erection of new gates at points A and C, he has placed an earth bund in front of the gates and has dug a ditch to the rear of the gate to prevent unauthorised access on to the site. At gate A he has erected wire and a post to prevent access by the side of the gate, but a recent site inspection has revealed that the public have made another access adjacent to this (Enclosure 19). At gate B the tenant has erected a new gate and a slam post.
18. The condition of the land and any consequent evidence of activity corroborating the claimed use are evidenced by way of the attached aerial photographs (Enclosure 16), being images taken in the years 1999, 2003, 2005, 2006/07 and further by reference to the Google aerial images dated 2017. The aerial photographs from 1999 to 2006/07 show fairly typical agricultural grassland with some evidence of vehicular access which would reasonably be explained by agricultural activity or vehicular access in relation to the Deeping Agricultural Show. The Google maps image dated 2017 shows some well trodden paths on the ground, which are presently evident and could be noted at our site inspections undertaken in late 2017. It does appear that the unauthorised public use of the site has proliferated very recently. This may in part be explained by the ceasing of the Deeping Agricultural Show following the 2013 Show, given that the Show use was incompatible with public access.

Summary

19. From the information that I have seen and from my own knowledge of farming practices it is unlikely that the public have used the land as stated in their application for the periods claimed. The main usage of the land has occurred after 2006 when the County Council erected the notices warning the public that the land was private.

I believe that the facts stated in this witness statement are true.

Signed

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Dated

11th January 2018