

## **CASE STUDY NO. 1**

### **VG APPLICATION 202 – Highbury Mission Land Meanwood**

On 21 April 2005 an application was submitted to the Council as Registration Authority by Mr. G Mann of 8 Sandfield Garth Leeds LS6 4JL and Ian Oldroyd of 5 Highbury Close Leeds LS6 4HA. for the registration of Land off Highbury Mount, Leeds, 6 as a Town or Village Green

A site visit revealed that the site was an open area of open overgrown and unkempt grass land at the rear of St. Oswald's Mission Church, Highbury Mount Leeds, 6. It was triangular in shape, sloping from the south-west of the site adjoining the church down to the north-east corner of the site. A cobbled unadopted road formed the boundary of the eastern side of the site. A track which appeared to be an access road to redundant farm buildings forms the northern boundary of the site. A path forming part of Leeds Definitive Footpath No79 ran along the western boundary of the site, but is overgrown and indistinguishable from the remainder of the application site.

There were two well trodden paths running across the site from the north-east to the south-west corner which did have any status as public rights of way.

The majority of the land which is the subject of the application as shown edged black on the attached plan lay the ownership of Ripon and Leeds Diocesan Board of Finance ("the Church"). The Council was the owner of a small area, being vested in the Council for Educational purposes. Part of the site also formed Leeds Definitive Footpath No 79.

On the 10th May 2005 notice of the application was sent to Education Leeds and the Director of Development having an interest in the matter and to the Ripon and Leeds Diocesan Board of Finance.

On the 13th May 2005 notices were duly affixed to various lighting columns in the immediate locality. On the same date notice was duly published in the Yorkshire Post

No objection was received on behalf of the Council but a formal letter of objection from the Church dated 23<sup>rd</sup> June 2005 was submitted to the Council. As a consequence of the advertising process 57 letters of objection were received from members of the public and the vicar of St. Chad's.

The parties were given the opportunity to comment on each others representations and in October 2005 confirmation was received that neither party had nothing further to add.

The Church objected to the application on the basis of those who used the land did so in the knowledge that it was owned by the Church and that the Church was content to allow local people to walk on the land and for children to play. The suggestion made in letters of objection is that the extent of the use made of the land was said to be exaggerated. The Church also indicated that from time to time it had

authorised the use of the land by certain individuals and/or organisations for specific purposes. Additionally the Church provided evidence of a response for permission made by the local residents association to hold an event on the 8<sup>th</sup> August 2004 which the Church refused on public liability, health and safety issues.

A Report was presented by the Assistant Chief Executive (Corporate Governance) to Plans Panel (West) on 17 May 2007 recommending that members agree that in view of the circumstances outlined a non statutory public hearing be called with a view to undertaking a further and more detailed examination of the issues raised and that following the receipt of the Inspector's report a further report be submitted to members with a view to a determination being made in respect of the application.

This recommendation was accepted and a barrister, Alun Alesbury was appointed as an independent Inspector. A pre-hearing meeting to settle the procedure for the hearing was held on 11 July 2007. The hearing was held on 16 and 17 October 2007 at Meanwood Working Mens Club

Following the hearing the Inspector submitted a Report to the Registration authority on 6 February 2008, which concluded as follows

1. Accordingly my conclusion is that the Applicants have not, on the balance of probabilities, made out a case that the application site, or any part of it, has been used for not less than 20 years (ending on 28<sup>th</sup> April 2005) by a significant number of the inhabitants of the neighbourhood I have identified, to indulge in lawful sports and pastimes as of right.
2. Without prejudice to the generality of that conclusion I also specifically find that in respect of what I shall briefly call the church's land, any claim of use of that land 'as of right' for the requisite period would (on the evidence) as a matter of law be defeated by the express refusals of permission to use that land which were clearly conveyed to the local inhabitants in 2004.
3. It follows that my recommendation to the City Council as Registration Authority must be that the application should be rejected, and no part of the application site added to the register of town or village greens maintained by the Council.

On 15 May 2008 a Report was presented by to Plans Panel West recommending that the application be rejected on the basis of the Inspector's Findings. This recommendation was followed by Members

The total costs of the application were £31,535.70 (disbursements £25626.80 and Officer Time of Registration Authority (£5908.90)

## **Background Documents**

Report to Plans Panel West 17 May 2007

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