

INSTRUCTIONS TO COUNSEL TO ADVISE

IN THE MATTER OF A PROPOSED SKATEPARK AT THE VILLAGE GREEN RINGMER EAST SUSSEX

Counsel has herewith:

1	Background paper by Clerk to the Parish Council	
2	Skatepark suitability report	20.2.2020
3	Minutes of committee	16.7.2020
4	Extract of village green registration	(provisional 1968)
5	Official copy of leasehold title register ESX152423	11.8.2020
6	Official copy of leasehold title plan ESX152423	11.8.2020
7	Copy of lease	14.9.1988
8	Draft lease	2016
9	Mapsearch	11.8.2020
10	Request for advice	22.7.2020
11	First advice	11.8.2020
12	Second request for advice and second advice	12.11.2020

Counsel is instructed by Ian Davison of Surrey Hills Solicitors LLP on behalf of Ringmer Parish Council (the Parish Council).

Background

1. The Parish Council has conceived the need for a replacement skatepark in the village of Ringmer and has undertaken a suitability study, scoring each of the sites identified (Document 2).
2. The matter has been the subject of prolonged consideration and Counsel will see the minutes of the relevant committee of 16 July 2020 (Document 3).
3. The favoured site is on the village green but the proposal has stirred up local controversy.

The potential for challenge

4. The Parish Council is nervous about proceeding to commit public money to the project if the proposed siting could be challenged. The Parish Council has twice sought Instructing Solicitor's advice: on the issues (a) of the lease or rather proposed lease of the land in question (it has not been clear to Instructing Solicitor whether the document dated 2016 (Document 8) constituted a draft of a new lease or actually reflected the text of new lease) and (b) the village green aspects - Documents 10 and 12.

Instructing Solicitor's advice

5. Instructing Solicitor investigated the title to the village green (copies of the Land Registry mapsearch and title register and plan are appended (Documents 5-6 and 9), as is the lease of

14 September 1988 which appears to be the only extant lease (Document 7). Instructing Solicitor has not been furnished with evidence that the document dated 2016 was agreed and/or executed and, if completed, it has not been registered at the Land Registry. The 2016 document does not provide for the surrender of the existing lease and errors in the attestation would suggest that legal advice on the draft has not been taken and the document remains a draft.

6. Instructing Solicitor's advice was sought first on 22 July 2020 (Document 10).
7. Instructing Solicitor gave advice on two occasions, the first about the lease(s) and the village green status and the constraints (Document 11) and, second, specifically on the village green aspects in the light of confirmation about the registration of the land as a village green (see Documents 4 and 12).

The current issues

8. It is the Instructing Solicitor's view that there at least two hurdles as a precursor to any design, costing and planning application: first, the issue of the lease, its terms and the attitude of the lessor which is generally favourable but will not commit itself if there is local opposition, and the reasonableness in public law terms of the Parish Council's seeking to provide a facility on land where it has, at best, the protection of the Landlord and Tenant Act 1954 (if the 1988 lease remains valid) and a short term unexpired if the 2016 lease were actually completed and, second, the problems inherent in providing the skatepark facility on a village green in terms both of use but also in the building of a structure.
9. So far as the lease is concerned, it is Instructing Solicitor's view that the lease should be amended or renewed to permit the erection of the facility to extend beyond the expected life of the facility and specifically to permit the proposed use and structure either within the lease itself or by means of a licence for alterations.
10. So far the use and building of a structure is concerned, while the use of the village green for a skatepark could arguable be regarded as for public recreation, there must be doubt whether in principle (leaving matters of design and scale) it would satisfy the tests in the 1857 and 1876 Acts. Instructing Solicitors is not aware of any design, scale or siting of the proposed facility.
11. Counsel has the Parish Council's requests for advice in Document 1.

Counsel's advice

12. Counsel is advised to advise:

- 1 whether a skatepark could as a matter of principle be constructed on the village green;

- 2 what changes the Parish Council should seek in its leasehold arrangements to ensure the acceptability in the terms of the lease and its length properly to justify the provision of the skatepark.

If Instructing Solicitor can assist further, would counsel please contact him.

Ian Davison
Surrey Hills Solicitors LLP
296 High Street
Dorking
Surrey
RH4 1QT
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