

Comments by Peter Lovett dated 5 March 2016

“Thank you for sending me details received from Peter Grubb, which was a complete surprise. As the Applicant, I believe any changes should have gone through me?”

When I applied for Village Green status, the main area I was looking to use was the land on the North side of Shoebury Common Road. This area of land has been neglected over the years, with no attempt by the Council to encourage any use what so ever. In fact it seemed the Council was deliberately allowing the hedges / grass to grow in order to discourage any leisure facility. This was not the intended use of this land.

Having already spent over £5,000 of the Village Green Fund to apply for this application, I was not prepared to seek further support to proceed with a Judicial Review.

Peter Grubb attended the enquiry for the Council, as the owner of Uncle Tom's Cabin and was always opposed to the inclusion of the North Car Park, which according to the inspector was the only section of land described under law as being "As of Right", but she felt the usage was not enough to comply with the conditions governing Village Greens.

I have been trying to include the above piece of land into the Shoebury Coastal Team meetings, as part of the Shoebury Park Development, presently taking place with Giles Penfold & other interested parties. I attach a brief resume of our suggestions for improving this land, for the benefit of the local community. We are losing green space at an alarming rate, so it would be appreciated if this committee would consider supporting my aim, either as a Village Green or Country Park.

When you consider I invited the Council to meet with me to discuss compromises to the Village Green application as presented, 12 months before the enquiry. I was gutted that this caring Council should refuse this request and would rather spend over £30,000 on legal fees, than invest tax payers money more wisely, on the attached suggestions, with the obvious benefits to the local community this would achieve.

I will attend the meeting on Wednesday 23rd March 2016 at 6.00pm and would welcome the committee's support.”

Response by Peter Tremayne dated 17 March 2016, on behalf of the Council as land owner/objector to application

“Thank you for providing me with me copies of the report to the general purposes committee on which Mr Lovett’s commented on the 5th March 2016. You have asked me for my comments which I limit to the Council’s reasons for holding the public inquiry.

The Council in its capacity as landowner has objected to registration of Shoebury Common as Village Green whether in whole or in part. Whilst the applicants have put forward various proposals for improving the Common I do not consider there is any room for compromise on this fundamental point and for this reason it was also necessary to hold a public inquiry. I would comment:

- 1. The application to register the common as a village does not meet the criteria for registration as set out in the Commons Act 2006. The evidence was fully tested by the holding of the public inquiry before an independent inspector.*
- 2. Shoebury Common provides mixed leisure and tourism facilities adjoining the promenade and the beach. Registration as a village green could fetter and act as deterrent to any potential works even including works that may nevertheless be sympathetic to the use of the greensward areas.*
- 3. The ability to carry out works on a village green is fettered by legislation unless Secretary of State's approval is obtained, and often, only after a special parliamentary procedure has been undertaken. For example, the proposal by Mr Lovett to provide a restaurant would have been subject to these requirements. Registration as a Village Green would therefore deny the Council the flexibility to manage the Common as it sees fit.*
- 4. As is pointed out in the report to the general purposes committee Shoebury Common is already designated as Public Open Space which carries its own additional legal protections.*

Mr Lovett comments that the cost of an inquiry could have been avoided if the parties had met previously and I am assuming he is referring to his letter to John Williams of the 10th November 2014. Whilst you replied to him at the time, primarily his concerns related to ensuring a sea defence scheme that ensured the long term preservation of the common. As the Council subsequently decided to review the sea defence scheme such a meeting would have been premature and no decision has yet been made in this respect. Subsequently the applicants applied to amend their scheme as set out in the report to committee. Whilst this ultimately required the direction of the Inspector at the public inquiry the Council continued to oppose the amended application at the public inquiry for the reasons stated above."

Supplementary comments by Peter Lovett dated 19 March 2016

"May I thank you for commenting on the issues raised. Although I accept the points made, I do not necessary agree with the contents & plan to make a further "Village Green" application in the near future, particularly relating to the North Common, where I feel the inspector did not consider all the legal issues on the table & we were unable to secure sufficient witnesses, who were unfortunately working members of our society and unable to attend the enquiry during the working day.

My main point was that there were compromises on the table and if the Council were willing to spend £50,000 of Tax Payers money on agreed improvements to the Common, rather than on an enquiry, then who knows where it would have taken us? The Council refused even to talk to me and seems content on wasting further money, just to cut the hedges, rather than improve what is on offer & open up the Common to encourage better use. I am forced to seek funding through the Shoebury Coastal Team review.

I will be attending your meeting, to listen to the outcome, so I can inform all our 2,000+ members, just what their Councillors & Officers think of their concerns. I have also listed in red, my comments below.

1. *The application to register the common as a village does not meet the criteria for registration as set out in the Commons Act 2006. The evidence was fully tested by the holding of the public inquiry before an independent inspector. **There is no doubt that evidence was provided to support that the North Common was used consistently by local residents, but she was unwilling to accept our written evidence, through questionnaires, was sufficient. We were unable to encourage all 92 evidence based residents to attend the enquiry, because all were working for a living. In contrast the Council offered only "Oral" evidence and this was accepted, without giving these facts in person.***

2. *Shoebury Common provides mixed leisure and tourism facilities adjoining the promenade and the beach. Registration as a village green could fetter and act as deterrent to any potential works even including works that may nevertheless be sympathetic to the use of the greensward areas. **The Act will allow you to add anything that would improve the land and its agreed use.***

3. *The ability to carry out works on a village green is fettered by legislation unless Secretary of State's approval is obtained, and often, only after a special parliamentary procedure has been undertaken. For example, the proposal by Mr Lovett to provide a restaurant would have been subject to these requirements. Registration as a Village Green would therefore deny the Council the flexibility to manage the Common as it sees fit. **The idea of a single storey restaurant was only considered after the failure to obtain a "Village Green" status, because any investment needs a return. I could not see the Council spending money on this Common, without some financial benefit. There is already evidence to support this view, with very little financial return from the small car park in Thorpe Bay, but they receive increased financial input to the Thorpe Esplanade "Green Space" which is open to encourage use & is full of lovely flower beds & clean cut grassed picnic areas.***

4. *As is pointed out in the report to the general purposes committee Shoebury Common is already designated as Public Open Space which carries its own additional legal protections. **As a public "Open Space", we have no protection and with the Council unwilling to open up the space or create any improvements or volunteer support, it was obvious to local residents that the Council was only interested in Southend & Thorpe Bay. You accepted the South Common, because at least this achieved a revenue of over £50,000 without any investment, from its car***

park. You had very little revenue from the Thorpe Bay Common, but you still spent money to improve the outlook.

Mr Lovett comments that the cost of an inquiry could have been avoided if the parties had met previously and I am assuming he is referring to his letter to John Williams of the 10th November 2014. Whilst you replied to him at the time, primarily his concerns related to ensuring a sea defence scheme that ensured the long term preservation of the common. As the Council subsequently decided to review the sea defence scheme such a meeting would have been premature and no decision has yet been made in this respect. Subsequently the applicants applied to amend their scheme as set out in the report to committee. Whilst this ultimately required the direction of the Inspector at the public inquiry the Council continued to oppose the amended application at the public inquiry for the reasons stated above. I was the Applicant for this Village Green application & the legal fees came out of my pocket. The Sea Wall was a separate fight, the Village Green application was designed to save our 100 year old Common from destruction. If it became a "Residents" Village Green", we would have had the opportunity to improve the area. Our views then are the same as they are today. In Southend, local families that visit the beach, have Southchurch Park to retreat, offering children's playgrounds & picnic areas. If our Officers would take a ride along our seafront from Chalkwell to Thorpe Bay, they would have the evidence to support the fact that views change, once you pass Maplin Way."