

Commons Commissioner's decisions may well support this artificial differentiation we are not aware of any decisions reached in court which would do so. Children and teenagers are clearly inhabitants of the locality and therefore use by them of land for the purpose of village green should be acceptable within the intent of the legislation. Although I am not familiar with the specific instances which Mr Ryan is presumably referring to it will be necessary to look at these more closely and to ask whether applications were rejected on the grounds that the use was by children and teenagers or whether it was the nature of the use of the land which was actually the grounds for rejecting those applications.

As far as the case of R v. Suffolk County Council is concerned these Associations continue to hold the view that the correct interpretation of the law is that where land was not registered before 1970 then any evidence of use which was in itself sufficient to justify registration on that date is no longer eligible to support any future claim for registration. However use prior to 1970 which was not by itself sufficient to support registration or use since 1970 should be treated as a separate matter. There is certainly a significant possibility that the appeal in this case will produce a different interpretation and it would therefore be rash of North Yorkshire County Council to make a decision based on that case before the appeal is heard and a judgment given.

In summary these Associations consider that the County Council would be unwise to rely on the present opinion given by Mr Ryan as he appears to have not been provided with comprehensive information on which to base his views and that a principal which has an important effect on this case is subject to appeal and therefore any decision to reject the application on those grounds would be premature. A site visit by the committee would certainly be a positive step and would at least demonstrate on the part of North Yorkshire County Council to ensure that the committee do clearly understand the nature of the land and the circumstances in which the application is being made. Without such a step these Associations would consider that the matters which are likely to be put to the committee are flawed and would therefore call into question any refusal of the application at this time.

Yours sincerely



JOHN JUCKES
Assistant Secretary



YORKSHIRE LOCAL COUNCILS ASSOCIATIONS

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JJ/ALW

29 May 1996

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Dear Mrs Sergeant

SELSIDE VILLAGE GREEN

Thank you for your letter of 24 May 1996 regarding the above.

Having read carefully through the opinion provided by North Yorkshire County Council these Associations are of the view that the conclusions reached by G Ryan QC are based either on an unduly harsh interpretation of the law or upon evidence provided by Mr Morphet which is at best misleading.

It is quite clear that Mr Ryan is under the impression that the physical nature of the land has prevented lawful sports and pastimes being exercised over the whole area for the extent for which such use is being claimed. There is certainly substantial evidence from the local residents that this view is incorrect and therefore this is not a valid ground for rejecting the application to register the land as village green. It is disturbing that North Yorkshire County Council are prepared to accept counsel's opinion based on evidence provided by an objector to the application without checking the situation on the ground themselves and advising counsel accordingly. Mr Morphet is perfectly entitled to produce evidence which casts doubt on whether the land can have been used in the way which is claimed but for the County Council to apparently accept this without considering whether it forms a proper basis on which to seek legal opinion seems contrary to natural justice and failure to properly consider this when deciding the application could well leave the County Council open to further legal proceedings regarding the validity of any refusal they may make based on Mr Ryan's opinion and the evidence on which that opinion is based.

The second point which surprises these Associations is that Mr Ryan differentiates between children and teenagers' activities and those of adults. Whilst some of the