

HERTFORDSHIRE COUNTY COUNCIL

**DEVELOPMENT CONTROL COMMITTEE
THURSDAY, 20 JULY 2017 AT 10.00AM**

Agenda No.

1

WELWYN HATFIELD DISTRICT

**APPLICATION FOR THE REGISTRATION OF LAND AT BUNCHLEYS
(NEW BARNFIELD) TO THE SOUTH OF HATFIELD AS A TOWN OR
VILLAGE GREEN**

Report of the Chief Executive and Director of Environment

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Local Member: Paul Zukowskyj

1. Purpose of the Report

- 1.1 To inform members of the committee of an application to register land at Bunchleys (New Barnfield) in the parish of North Mymms to the south of Hatfield, as a town or village green.
- 1.2 To inform members of the findings and recommendations of an independent inspector following a non-statutory public inquiry.
- 1.3 To ask members to decide whether to grant or refuse the registration.

2. Summary

- 2.1 On 4 March 2013 Mr Mark Lampert made an application to register land (“the Application Land”) to the south of Hatfield as a town or village green. (See Plan of Application Land attached at Appendix 1 and Location Plan – Appendix 4).
- 2.2 The application has been processed by the Access & Rights of Way Team on behalf of the County Council as Commons Registration Authority, in accordance with the Commons Act 2006 (“the 2006 Act”).
- 2.3 The Application Land is owned by the Homes and Communities Agency (“HCA”), Hertfordshire County Council (“HCC”) and the Mrs C Horton 1974 Discretionary Settlement Part (“the Horton Settlement”). Following the advertising of the application on 29 April 2015 objections were received from Pinsent Masons LLP acting for the HCA and Strutt & Parker acting for the Horton Settlement.

- 2.4 Following the necessary gathering and exchange of information, it was decided that the evidence should be considered at a non-statutory public inquiry. The County Council instructed Mr Alexander Booth QC of Francis Taylor Building, London, a barrister experienced in village green law, to hold the public inquiry, assess all of the available evidence and make recommendations as to whether or not the land should be registered. The inquiry was scheduled for 9-11 May 2017.
- 2.5 However, HCA withdrew their objection on 9 March 2017 and the Hortons Settlement did the same on 31 March 2017 – leaving no objections to the application. In these circumstances, the inquiry was cancelled and instead the Inspector was asked to assess all the documentary evidence and provide a report with his recommendation as to whether or not the land should be registered as a town or village green. The Inspector did make a site visit on 11 May 2017, accompanied by the applicant and County Council Case Officer.
- 2.6 The Inspector provided his Report dated 8 June 2017. It concludes *“it is my recommendation to the Council that it register the Land as a Town or Village Green pursuant to section 15(2) of the 2006 Act.”* (Appendix 3, paragraph 64). The Inspector described this land as bounded by fencing on the north, east and south sides and he further clarified in his Report (Appendix 2, paragraph 8) the western boundary as *“the edge of the tree line, as it fronts onto grazing pasture”* and in the south west, to the west of the pond *“the boundary is intended to be a line which runs 3m from the edge of the treeline, and/or the bank which descends down to the pond edge.”*

3. Recommendations

- 3.1 The Inspector recommends that all the Application Land should be registered as town or village green as shown on the Application Plan (Appendix 1).

4. Background

- 4.1 The land subject to this application is located to the south of Hatfield. It lies immediately to the south of the A1001, to the west of Travellers Lane and abuts the former Southfield School site. It comprises a central area of open grass land, surrounded by scrub and woodland with a large pond in the south west corner. It covers approximately 6 acres. There is a public footpath (North Mymms 85) which runs from Travellers Lane eastwards through woodland and then turns south to run through the central grass area to reach the pond in the south west corner. There are also some informal paths through the area. There are three points of access: in the north east corner close to the southern point of the footbridge over the A1001, near the north west corner through a break in the treeline and in the south west corner via a kissing gate located just to the north of the pond.

5. The Process

- 5.1 Applications to register town or village greens are made to Hertfordshire County Council as the Commons Registration Authority for Hertfordshire. The procedure for dealing with such applications is laid down in the *Commons Registration (England) Regulations 2014*.
- 5.2 An application for registration of land as a town or village green can be made under section 15(1) of the Commons Act 2006 in one of the following circumstances:
- 15(2) where:
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in sports and pastimes on the land for a period of at least 20 years; and
 - (b) they continue to do so at the time of the application.
- 15(3) where:
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in sports and pastimes on the land for a period of at least 20 years; and
 - (b) they ceased to do so before the time of the application but after the commencement of this section; and
 - (c) the application is made within the period of one year beginning with the cessation referred to in paragraph (b)
- 5.3 If the County Council decides that the requirements set out in paragraph 5.2 above have been met, it must register the land. The determination of the application must be based on whether there is sufficient evidence to show that a town or village green has come into existence.
- 5.4 To assist in determining applications where objections have been received the Registration Authority may appoint an independent inspector to hold a non-statutory public inquiry. The purpose of the inquiry is to hear the evidence for and against the application and allow the Inspector to make recommendations based on that evidence and relevant case law.
- 5.5 There is no statutory right of appeal to the County Council's decision. The only way to challenge a decision made by this Committee would be through the process of a judicial review.

6. The Application

- 6.1 This application was made on 4 March 2013 pursuant to section 15(2) of the Commons Act 2006. It was deemed to be duly made on 5 April 2013. The claimed neighbourhood was amended during the course of the processing of the application. This is detailed further in paragraph 6.6.
- 6.2 The application was originally submitted with 28 user evidence forms from mainly local people describing the recreational activities they have enjoyed over the land and the periods of time those activities have taken place. The applicant later submitted a considerable amount of further evidence: photographs, newspaper articles, letters of support and further user evidence forms, resulting in a total of 84 user evidence forms.
- 6.3 The appropriate procedures were followed by the applicant for making the application and by the County Council for the notification of interested parties and advertising the application.
- 6.4 Objections to the application were received in June 2015 from firms acting for two of the landowners: from Pinsent Masons LLP acting for the HCA and from Strutt & Parker acting for the Hortons Settlement. The County Council also owns land within the application area but did not make an objection. Following consideration of the objections, the County Council decided that a non-statutory public inquiry should be held and Mr Alexander Booth QC was appointed as an independent inspector.
- 6.5 However, in March 2017 both objections were withdrawn, leaving no outstanding objections. The public inquiry was cancelled and it was decided that the Inspector should be asked to assess the documentary evidence in accordance with the statutory criteria and to provide a report with his recommendation as to whether or not the Application Land should be registered as a town or village green.
- 6.6 During the process a request was made by the applicant to amend their application with regard to the 'neighbourhood'. Originally the applicant relied on the parish of North Mymms but later he amended his case in this regard, relying on a new neighbourhood as depicted on the plan entitled 'the neighbourhood of South Hatfield' (Appendix 2), and on the ecclesiastical parish of St Johns as the relevant locality. The Inspector confirmed that he accepted this request.

7. Conclusion

The Inspector's Report is attached at Appendix 3. He concludes at paragraph 63 that:

- The Applicant has demonstrated that the Land has been used for lawful sports and pastimes.
- The Applicant has demonstrated that both the Neighbourhood and the Locality satisfy the statutory requirements of the 2006 Act.
- The Applicant has demonstrated that the user of the Land for lawful sports and pastimes was carried on by a significant number of the inhabitants of the Neighbourhood.
- The Applicant has demonstrated that the user of the Land was carried on 'as of right' during the Relevant Period.
- The Applicant has demonstrated that the user of the Land was carried on continuously throughout the Relevant Period.

7.1 The Inspector's Report recommends that the County Council should register all of the land known as 'Bunchleys' (as shown on the Application Plan) as a town or village green pursuant to section 15(2) of the 2006 Act.

8. Financial Implications

8.1 The finance for processing this application has been sourced from existing County Council budgets.

8.2 However, should any party seek a judicial review of the procedures that have been used by the Registration Authority the County Council could incur costs which may not be covered by existing budgets.

Appendices:

- Appendix 1: Application plan showing the extent of the Application Land
- Appendix 2: Plan showing 'the neighbourhood of South Hatfield'
- Appendix 3: Report of Inspector Mr Alexander Booth QC, dated 8 June 2017
- Appendix 4: Location Plan

Background information used by the author in compiling this report

- Commons Act 2006*
- The Commons Registration (England) Regulations 2014*
- Report of Mr Alexander Booth QC, dated 8 June 2017*

If you require any further information on the items referred to in this report, please telephone Andrea Trendler on 01992 555280.