

TELFORD & WREKIN COUNCIL

LICENSING COMMITTEE – 23 MARCH 2016

VILLAGE GREEN APPLICATION AT PRIORSLEE

REPORT OF ASSISTANT DIRECTOR: LEGAL, PROCUREMENT & COMMISSIONING

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

To request members to determine the application made by St George’s and Priorslee Parish Council to register land between Priorslee Avenue and Derwent Drive as a Village Green.

2. RECOMMENDATIONS

The evidence is submitted for Members to determine whether or not the case has been proved for registration of the land as a Village Green.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-operative Council priorities?	
	Yes	Put our children and young people first Improve the health and wellbeing of our communities and address health inequalities However this is a report which seeks a determination based on evidence submitted and Members’ consideration is thus defined.
	Will the proposals impact on specific groups of people?	
	Yes/No	<i>If yes, briefly summarise any impact(s) – see separate guidance note for groups to consider</i>

TARGET COMPLETION/DELIVERY DATE	<i>Insert date and if more than 6 months after the date of the Cabinet report, list key milestones</i>	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	<p>If Telford and Wrekin Council owns the unregistered land, registration as Village Green will have an impact on the potential value of any future capital receipt associated with the land if it was sold, due to the restriction on usage mentioned above. There are currently no known schemes which will be impacted by this proposal and the Council as a potential landowner has not objected to the application.</p> <p>Costs associated with the application have been met from within existing resources. A public inquiry is not anticipated and no further costs are likely to be incurred.</p> <p>AEM/PH – 10/3/2016</p>
LEGAL ISSUES	Yes	<p>A valid application has been made by St Georges and Priorslee Parish Council to register land in Priorslee as a Village Green. Registration as a Village Green will mean that, generally, the land can only be used for purposes which are not inconsistent with use of the Village Green for lawful sports and pastimes.</p> <p>Other legal comments are contained within this report as it has been prepared by Legal Services.</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	<p>This report deals with the processes to be followed to fulfil the Council's statutory duty. The opportunities and risks associated with this decision have been identified and assessed during the statutory process and will be appropriately managed.</p>
IMPACT ON SPECIFIC WARDS	Yes	Priorslee Ward

4. ADDITIONAL INFORMATION

4.1 Summary

As the Commons Registration Authority, the Council has a statutory duty to hold and maintain the Register of Common Land and Village Greens – it is also responsible for determining applications for the registration of land as a Village Green. An application was received from St George's and Priorslee Parish Council on 1 February 2010 to have an area of land between Priorslee Avenue and Derwent Drive (known as "the Green") registered as a Village Green under the Commons Act 2006. The application pre-dates the Growth and Infrastructure Act 2013 and therefore the new rules in connection with Village Green applications do not apply. The application meets the requirements of The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007; it is submitted on statutory form 44, signed by a duly authorised officer of the Parish Council, is accompanied by every document relating to the matter which the applicant had in their possession or under their control and is supported by a statutory declaration. The application papers are attached at Appendix 1.

The Parish Council originally submitted the plan marked "Map A" (see Appendix 1) as a map of the land claimed as being a village green. The Parish Council decided to alter the boundary of the land being claimed as a village green and supplied "Map B" to illustrate the site to be considered. "Map B" together with a Statement from the Parish Council relating to the reduced application site area is attached at Appendix 2.

There has been a delay in processing the application, partly due to locating the owner of the application site. The majority of the application site is unregistered at HM Land Registry; it is believed to be owned by either the Home and Communities Agency ("HCA") or Telford and Wrekin Council. There is a small area of land within the application site boundary which is registered to HCA (coloured blue on the Land Registry Index Map plan (Appendix 3)).

Consultation was carried out with various parties including both the HCA and Telford and Wrekin Council as potential land owners. Notices regarding the village green application have been erected on the Site and publicised.

No objections to the application to register the land as a Village Green have been received. Therefore, this application is being considered as an uncontested application.

The Council may hold a local hearing before a barrister as part of its decision making process in determining a village green application. The evidence in support of the application has not been contested therefore it was not considered necessary to hold a "non-statutory inquiry" before presenting the application to Members. Members are asked to consider the evidence that has been submitted and determine on the balance of probabilities, whether

the case has been proven for registration of the land shown on Map B (“the Site”) as a Village Green.

4.2 Background

Any person may make an application to the Council for an area of land to be registered as a Town or Village Green.

The Council may register land as a Town or Village Green if it is satisfied, on the balance of probabilities, that a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and they continue to do so at the time of the application.

A copy of St George’s and Priorslee Parish Council application form, statutory declaration and covering letter have been received (Appendix 1). Completed Evidence Questionnaires in Support of Registration as a New Green, photographs of “the Green” and additional correspondence in support have been received (Appendix 4). The relevant period of 20 years use for the purposes of this application is the 20 years immediately preceding the application date (26 January 2010). Consideration must also be made as to whether the use was continuing at the time of the application.

Members should consider all available evidence before making their determination.

4.3 The Process

The Council has been required to process the application in accordance with the following steps:-

Allot a number to it – this application has been allotted number 01/2010.

Send a notice to every person whom the authority has reason to believe to be an owner, lessee, tenant or occupier of any part of the land affected by the application or to be likely to wish to object to it. This has been done.

Publish in the concerned area a similar notice – the notice was advertised in the Shropshire Star and the Telford Journal on 5th November 2015.

Affix the notice to a conspicuous object on any part of the land – copies of the notice were affixed to various objects around the site as illustrated on the plan attached at Appendix 5. These notices were put up the week commencing 2 November 2015.

Allow a period of six weeks for objections or representation to be made about the application. This period has passed.

Letters were sent to all interested parties, including the owners and prospective owners of the Site (HCA and Telford & Wrekin Council as discussed above).

No objections were received. Comments from local Councillors were invited and responses received (Appendix 6).

4.4 The Determination

This application has been made with reference to the qualifying elements set out in Section 15(2) of the Commons Act 2006. Therefore, Members should consider the following when making their determination:-

20 Years

Members should be satisfied that this area has been used for a continuous period of 20 years ending on the date of the application (i.e. between 26 January 1990 and 26 January 2010) and that this use was continuing at the time of the application.

Local Inhabitants

There is no clear legal definition of the term “local inhabitant”. However, case law suggests that inhabitants of a Parish should be considered as “local inhabitants”, as well as other people who live in the locality, for example where the land lies close to the Parish boundary. The neighbourhood relied upon by the Applicant is Priorslee Ward in the Parish of St Georges and Priorslee Parish Council.

It is considered that the area of the locality for the purposes of the application is the Priorslee Ward in the Parish of St Georges and Priorslee Parish as described in box 6 Form 44 (Appendix 1).

The Parish Council have provided “Map B” or “Map B1” (Appendix 2) as showing the area of the locality. However these maps do not include the whole of the Priorslee Ward area. This confusion does not however detract from the clear statement that the relevant area of the locality is the Priorslee Ward. “Map B1” does however demonstrate the close proximity of some of the people who have completed user evidence questionnaire. The addresses of all of the persons who have completed a user evidence questionnaire have been checked and it appears that they all reside within the Priorslee Ward. Legal Services has included a map of the Priorslee Ward area at Appendix 7 to assist the Committee with determining the issue of local inhabitants.

Lawful Sports and Pastimes

Again, there is no clear legal definition of this term, however, sports and pastimes has traditionally included flying kites, playing football, picnicking, walking a dog, kicking a ball and bird watching. Events such as Village Fetes and carnivals would also fall under the definition of sports and pastimes.

Generally

The application must be determined on its own merits by applying the law in relation to the registration of village greens. Members must only consider whether it has been shown, on the balance of probability, that all of the qualifying elements of Section 15(2) have been met. Members should consider the evidence in Appendices 1, 2, 4, 6 and 7 and form a view as to whether the case for registering this land as a Village Green has been proved on a balance of probabilities.

Other Comments

In connection with the completed evidence questionnaires in support of registration as a new green (Appendix 4) it is acknowledged that witnesses gave an incorrect answer to 3b. This is believed to be due to witnesses' misunderstanding what the questionnaire required of them but it is not of any concern as it does not alter the area of the locality.

Witnesses gave answers in the user evidence questionnaires stating they used the whole of the area shaded yellow in "Map A" as opposed to "Map B". Because "Map B" is a reduced area of "Map A" it is considered the evidence provided is still valid.

Objections

No objections have been received in connection with this application.

5. PREVIOUS MINUTES

n/a

6. BACKGROUND PAPERS

- Completed Form 44 Application for the registration of land as a Town or Village Green and covering letter
- Statutory Declaration in Support
- Map A
- 1 March 2016 Letter from St George's & Priorslee Parish Council
- Map B
- Map B1
- Land Registry Index Map Plan
- Evidence Questionnaires in Support of Registration as a New Green
- Correspondence in support of Registration
- Photographs of the application site
- Plan illustrating location of site notices
- Priorslee Ward Map

Most of the background papers are already included as Appendices to this report and a hard copy will be made available for inspection in the Member's room. Further copies of the Appendices and exchanges of correspondence and other documentation relating to this application are held on file 000670 within the Legal Services Unit.

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