

## Update from the Commons Registration Team

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A report by the Director of Environment and Waste to Kent County Council's Regulation Committee on Thursday 9<sup>th</sup> September 2010.

### **Recommendation:**

**I recommend that Members receive this report for information**

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### **Progress with Village Green applications**

1. Members have requested that a summary of the current position of applications to register Town and Village Greens be provided at meetings of the Regulation Committee. A copy of the Schedule of Village Green applications is therefore attached at **Appendix A**.
2. The County Council continues to receive additional applications to register Town or Village Greens at a rate of approximately one or two new applications per month. There have been 4 new applications received since the last Regulation Committee meeting in May, which takes the total received so far this year to 9 applications.
3. There are currently 28 applications outstanding, of which 15 are under investigation. It had been hoped to resolve several cases at two Member Panel meetings that had been provisionally scheduled in August, but due to difficulties in finding a date suitable for the parties involved, these meetings have now had to be rescheduled. It is now anticipated that 10 cases will be referred to three separate Member Panel meetings during September and October.
4. There remains, inevitably, a backlog of applications due to the increasing number of applications received and Officers continue to work to keep this backlog to a minimum.

### **Commons Act 2006 – Pilot Project**

5. Since the report to Members at the last Regulation Committee meeting in May, Officers have continued to identify errors and anomalies within the Registers of Common Land and Town or Village Greens which require resolution. The types of issues identified so far consist largely of errors made when the Registers were first compiled in the early 1970s, particularly in relation to the incorrect transcription of boundaries on the Register maps. Other issues include the incorrect transcription of land taken and given in exchange for road schemes onto the old base maps. The new powers under Part I of the Commons Act 2006 will enable such issues to be corrected through the republication of map sheets and it is hoped that it will be possible to begin making formal proposals to deal with these issues shortly.

### **Case Law update**

6. During the last Member Panel meeting held in May, Members were asked to determine an application to register land at Dumpton Park Drive at Broadstairs as a new Town Green. In addressing the panel, the applicant introduced an argument in relation to the definition of what, in her view, constituted an appropriate 'locality' or 'neighbourhood within a locality' for the purposes of section 15 of the Commons Act 2006. The applicant's point, whilst not factually correct, engendered lengthy discussion.

7. The terminology relating to 'locality' and 'neighbourhood within a locality' in the context of the registration of land as a new Town or Village Green has created much confusion, particularly for lay applicants and indeed also for Commons Registration Authorities who are charged with dealing with such applications. The Courts have been reluctant to define the terms precisely and the legal definition continues to evolve.
8. The most recent judicial consideration of these terms arose in the High Court case of *Leeds Group Plc v Leeds City Council*<sup>1</sup>. The practical implications of this case will now impact on future Member decisions and it seems opportune therefore to provide Members of this Committee with a short resume of the main findings set out by the Court.
9. The *Leeds* case has clarified the definition of 'neighbourhood within a locality' as follows:
- 'locality' in this context means locality or localities
  - An electoral ward is capable of being a locality
  - There can be more than one 'neighbourhood' within a locality
  - A neighbourhood cannot be defined solely by reference to the inhabitants' use of the land
  - Recreational users need not come predominantly from one neighbourhood

### **Recommendation**

10. I RECOMMEND Members receive this report for information.

### **Background documents:**

Appendix A – Schedule of Village Green applications

### **Contact Officer:**

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<sup>1</sup> [2010] EWHC 810 (Ch)