

Application to register land known as Brittain's Common at Sevenoaks as a new Town Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Tuesday 14th September 2010.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Brittain's Common at Sevenoaks has been accepted, and that the land subject to the application (with the exception of the bus shelter) be formally registered as a Town Green.

Local Member: Mr. J. London

Unrestricted item

Introduction

1. The County Council has received an application to register land known as Brittain's Common at Sevenoaks as a new Town Green from the Sevenoaks Town Council ("the applicant"). The application, dated 23rd June 2009, was allocated the application number VGA613. A plan of the site is shown at **Appendix A** to this report and a copy of the application form is attached at **Appendix B**.

Procedure

2. Traditionally, Town and Village Greens have derived from customary law and until recently it was only possible to register land as a new Town or Village Green where certain qualifying criteria were met: i.e. where it could be shown that the land in question had been used 'as of right' for recreational purposes by the local residents for a period of at least 20 years.
3. However, a new provision has been introduced by the Commons Act 2006 which enables the owner of any land to apply to voluntarily register the land as a new Village Green without having to meet the qualifying criteria. Section 15 states:
*"(8) The owner of any land may apply to the Commons Registration Authority to register the land as a town or village green.
(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land."*
4. Land which is voluntarily registered as a Town or Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of statutory protection as that of all other registered greens and local people will have a guaranteed right to use the land for informal recreational purposes in perpetuity. This means that once the land is registered it cannot be removed from the formal Register of Town or Village Greens (other than by statutory process) and must be kept free of development or other encroachments.

5. In determining the application, the County Council must consider very carefully the relevant legal tests. In the present case, it must be satisfied that the applicant is the owner of the land and that any necessary consents have been obtained (e.g. from a tenant or the owner of a relevant charge). Provided that these tests are met, then the County Council is under a duty to grant the application and register the land as a Town or Village Green.

The Case

Description of the land

6. The area of land subject to this application (“the application site”) consists of an area of grassy open space of approximately 1.3 acres (0.5 hectares) in size situated at the junction of London Road with Brittain's Lane in Sevenoaks. The application site is generally open and unfenced, with the exception of the property boundaries on the southern edge of the site. It is bounded on its eastern edge by Public Footpath SU45. Photographs of the site are attached at **Appendix C**.

Notice of Application

7. As required by the regulations, Notice of the application was published on the County Council's website. In addition, copies of the notice were displayed on the application site itself. The local County Member was also informed of the application.
8. No representations, either in support of or in opposition to the application, have been received.

Ownership of the land

9. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the Sevenoaks Town Council under title number K945896. A copy of the Register of Title is attached at **Appendix D**.
10. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The 'locality'

11. DEFRA's view is that once land is registered as a Town or Village Green, only the residents of the locality have the legal right to use the land for the purposes of lawful sports and pastimes. It is therefore necessary to identify the locality in which the users of the land reside.
12. A locality for these purposes normally consists of a recognised administrative area (e.g. civil parish or electoral ward) or a cohesive entity (such as a village or housing estate). Since the application has been made by Sevenoaks Town Council, it seems appropriate that the locality should therefore be the administrative area of the Town Council so that all the residents of the town have the legal right to use the land.

Bus shelter

13. Members will note from the photographs at **Appendix C** that there is a bus shelter on the application site. It is not considered appropriate for the bus shelter to be registered as part of a new Town or Village Green. Town and Village Greens are heavily protected by Victorian statues which make it an offence to deposit materials on the surface, to encroach or to erect structures upon a Town or Village Green. If the bus shelter were to fall into a state of disrepair in the future, Town Green status would make it difficult for the structure to be rebuilt. Therefore, to avoid any potential problems arising in the future, it is preferable to exclude the bus shelter from the registration of the land as a new Town Green.

Conclusion

14. As stated at paragraph 3 above, the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the Commons Act 2006 requires only that the County Council is satisfied that the land is owned by the applicant. There is no need for the applicant to demonstrate use of the land 'as of right' for the purposes of lawful sports and pastimes over a particular period.

15. I have concluded that all the necessary criteria concerning the voluntary registration of the land as a Town Green have been met. However, the bus shelter should be excluded from the registration.

Recommendations

16. I recommend that the County Council informs the applicant that the application to register the land known as Brittain's Common at Sevenoaks has been accepted, and that the land subject to the application (with the exception of the bus shelter) be formally registered as a Town Green.

Accountable Officer:

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The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Photographs of the application site

APPENDIX D – Official copy of register of title from Land Registry