

Application to register land at Ryarsh Recreation Ground in the parish of Ryarsh as a new Village 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 at Ryarsh Recreation Ground at Ryarsh has been accepted, and that the land subject to the application (with the exception of the access track to the Village Hall) be formally registered as a Village Green.

Local Member: Mrs. S. Hohler

Unrestricted item

Introduction

1. The County Council has received an application to register land at Ryarsh Recreation Ground at Ryarsh as a new Village Green from the Ryarsh Rural Community Council ("the applicant"). The application, dated 4th February 2009, was allocated the application number VGA609. 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 5 acres (2 hectares) in size situated on Birling Road in the parish of Ryarsh. The application site is bounded on all sides by fencing, but excludes the area around the Village Hall and car park. 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. 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 Ryarsh Rural Community Council under title number K887030. 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 Ryarsh Rural Community Council, it seems appropriate that the locality should therefore be the village of Ryarsh so that all the residents of the village have the legal right to use the land.

Access track to Village Hall

13. Members will note from the plan at **Appendix A** and the photographs at **Appendix C** that part of the application site includes the access track to the Village Hall.
14. Section 34 of the Road Traffic Act 1988 makes it an offence for a person to drive a motor vehicle over a Village Green without lawful authority (i.e. without prior permission). Additionally, driving over a Village Green is also likely to constitute a damaging activity which would be prohibited under the Victorian statutes designed to protect Village Greens.
15. Therefore, to avoid any potential problems arising in the future, it is preferable to exclude the access track from the registration of the land as a new Village Green.

Conclusion

16. 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.
17. I have concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met. However, the access track to the Village Hall should be excluded from the registration.

Recommendations

18. I recommend that the County Council informs the applicant that the application to register the land at Ryarsh Recreation Ground at Ryarsh has been accepted, and that the land subject to the application (with the exception of the access track to the Village Hall) be formally registered as a Village Green.

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| Accountable Officer: Dr. Linda Davies – Tel: 01622 221500 or Email: linda.davies@kent.gov.uk Case Officer: Miss. Melanie McNeir – Tel: 01622 221628 or Email: melanie.mcneir@kent.gov.uk |
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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. |
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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