

Update from the Commons Registration Team

A report by the Head of Countryside Access to Kent County Council's Regulation Committee on Tuesday 17th May 2011.

Recommendation:

I recommend that Members receive this report and that a proposal is initiated under section 19 of the Commons Act 2006 to correct an error in the Register of Village Greens in relation to VG235 at Wittersham.

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. So far this year, 8 such cases have been considered at two separate Regulation Committee Member Panel meetings held in February. Five of those cases were registered as new Town or Village Greens (three of which were voluntary dedications of land by the owner). Two complex cases were referred to Public Inquiry for further consideration, details of which are provided at Appendix A. It was also agreed that a third case should be referred to the Planning Inspectorate for decision due to a potential conflict of interest between the County Council's role as the Commons Registration Authority and its capacity as a landowner seeking to develop the land.
3. Officers continue to work to reduce the current backlog and there has been a steady reduction in the number of applications awaiting resolution. There are now 19 applications outstanding, 12 of which are currently under investigation. Two further Regulation Committee Member Panel meetings have been scheduled to take place in June to consider six of the outstanding applications.

Commons Act 2006 – Pilot project

4. The review and correction of the Registers of Common Land and Village Greens required by the pilot project remains an ongoing process. At the January meeting of the Regulation Committee, authority was sought from the Committee to proceed with several proposals to correct administrative errors on the Registers of Common Land and Village Green. The necessary consultation processes have now been completed and no objections have been received. As required by the Regulations, these cases are now being referred to the Planning Inspectorate for confirmation, after which the County Council will be able to make the necessary amendments to the Registers.
5. Work has also begun on an application received by the County Council from Mrs. A. Wilks seeking the correction of the Register of Village Greens for VG128 at Seasalter. The application has been made on the basis that, when the land was first registered as a Village Green in 1972, mistakes were made by the Commons Registration Authority in making the entry on the Register of Village Greens. The application

proposes two clerical amendments to the description in the textual section of the Register, as well as an amendment to the Register plan to increase the area of the registered extent of the Village Green. The necessary consultation processes are currently under way and the matter will ultimately be determined by the Planning Inspectorate. The outcome will be reported to the Committee in due course.

Proposal to amend the register for VG235 at Wittersham

6. In addition to the cases referred to above, a further issue has been identified in relation to the Register of Village Greens for VG235 at Wittersham, which requires an amendment to be made to the Register.
7. The Village Green at Wittersham was registered as such following a successful application by a local resident in 1993. In 1994, an Agreement was made between the County Council and the landowner, Ashford Borough Council, to exchange the registered Village Green for an adjacent piece of land. The Register of Village Greens was amended to reflect this agreement. However, legal advice has since confirmed that the correct procedures in relation to the Agreement were not followed and as such neither it, nor the subsequent amendment to the Register of Village Greens, had any lawful effect. The Borough Council has been consulted and accepts this position.
8. Counsel's advice is that the County Council should now use the new powers available under the Commons Act 2006 to resolve the situation by initiating a proposal under section 19 of the 2006 Act. This section allows the County Council to initiate a proposal to amend the Register of Village Greens for the purpose of correcting a mistake made by the Registration Authority in making or amending an entry in the Register. The effect of this proposal would therefore be to restore the original registration and delete the reference in the Register to the invalid exchange of land Agreement.
9. A plan showing the effect of the proposal is attached at **Appendix B**. The Committee is asked to approve the course of action advised by Counsel so that the matter can now be resolved.

Delegations

10. Another issue which has had to be overcome in relation to the County Council's duties under Part I of the Commons Act 2006 has been the necessity to ensure that the Regulation Committee has the necessary delegated powers in order to deal with the range of new powers introduced by the Commons Act 2006. It would appear that those powers, according to the County Council's Constitution, were the responsibility of full Council and had not been fully delegated to the Regulation Committee.
11. In this respect, the Committee's terms of reference set out in the Constitution referred only to the Committee's ability to deal with applications to register land as new Common Land and Town or Village Greens, and applications to vary Rights of Common. This does not affect any previous decisions taken by the Committee (or by the Member Panels) but may have limited the Committee's ability to deal with other types of application now being received under the new provisions of the Commons Act 2006.

12. The situation has had to be rectified and has now been resolved, in consultation with the Director of Governance and Law. As such, arrangements have been put in place for the necessary amendment to be made to the Committee's terms of reference.

Recommendation

13. I RECOMMEND Members receive this report and that a proposal is initiated under section 19 of the Commons Act 2006 to correct an error in the Register of Village Greens in relation to VG235 at Wittersham.

Background documents:

Appendix A – Schedule of Village Green applications

Appendix B – Plan showing proposed modification to the Register of Village Greens for VG235 at Wittersham

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APPENDIX A: Schedule of Village Green applications

Applications resolved by the Regulation Committee since last report (25th January 2011)

Description	Parish	Member(s)	Outcome
Land adjacent to Barnes Car Park	Margate	Mr. R. Burgess	ACCEPTED and registered as VG252 on 08/02/11
Land at High Street	Chiddingstone	Mr. P. Lake	ACCEPTED and registered as VG253 on 08/02/11
Benacre Wood	Whitstable	Mr. M. Harrison Mr. M. Dance	ACCEPTED and registered as VG256 on 22/02/11
Gighill Green	Larkfield	Mrs. T. Dean	ACCEPTED and registered as VG254 on 08/02/11
Land at Mill Lane	Preston	Mr. L. Ridings	ACCEPTED and registered as VG255 on 08/02/11

Forthcoming Public Inquiries

Description	Parish	Member(s)	Details
Grasmere Pastures	Whitstable	Mr. M. Harrison Mr. M. Dance	Commences 05/09/2011. Venue to be confirmed.
Broadstairs Cricket Ground	Broadstairs	Mr. B. Hayton Mr. R. Bayford	Commences 12/09/2011 at the Broadstairs Campus of Christ Church University
Land known as Long Field at Angley Road*	Cranbrook	Mr. R. Manning	Commences 11/10/11 at Unity Hall, Hawkhurst

**Note that this case has been referred to the Planning Inspectorate for determination due to KCC's interest in the outcome of the application. The Inquiry is being held by the Planning Inspectorate.*

Outstanding applications to be resolved

Description	Parish	Member(s)	Status
Round Wood at Walderslade	Boxley	Mr. P. Carter	On hold at applicant's request
St Andrew's Gardens	Gravesend	Mr. B. Sweetland Mr. J. Cubitt	To be referred to Member Panel for decision in June
The Downs	Herne Bay	Mrs. J. Law	To be referred to Member Panel for decision in June
The Allotment Field, Barton Estate	Canterbury	Mr. M. Northey	To be referred to Member Panel for decision in June
Land at Princes Parade	Hythe	Mr. C. Capon	To be referred to Member Panel for decision in June
Land at Hartley Woods	Hartley	Mr. D. Brazier	To be referred to Member Panel for decision in June
Dawbourne Wood	Tenterden	Mr. M. Hill	Under investigation
Land at Westwell Lane	Westwell	Mr. R. King	To be referred to Member Panel for decision in June
Seaton Meadow	Wickhambreaux	Mr. M. Northey	Under investigation
Land at Woodland Road	Lyminge	Ms. S. Carey	Under investigation
Land known as Fisherman's Beach	Hythe	Mr. C. Capon	Awaiting investigation
Land at Mountfield Road	Meopham	Mr. M. Snelling	Awaiting investigation

Playing Field	Marden	Mrs. P. Stockell	Awaiting investigation
Scrapsgate Open Space	Minster-on-Sea	Mr. A. Crowther	Awaiting investigation
The former airfield	Lympne	Ms. S. Carey	Awaiting investigation
Rammell Field	Cranbrook	Mr. R. Manning	Awaiting investigation
Chaucer Field (at the University of Kent campus)	Canterbury	Mr. G. Gibbens	Awaiting investigation

APPENDIX B:
Plan showing proposed amendments
to the Register of Village Greens for
VG235 at Wittersham

