

Update from the Commons Registration Team

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee on Tuesday 22nd January 2013.

Recommendation:

I recommend that Members receive this report.

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. During the last twelve months, there have been six Regulation Committee Member Panel meetings and a total of thirteen Village Green applications have been considered. Of these, two were referred to Public Inquiry, three were registered as new Village Greens and five applications were rejected or otherwise not progressed. A further three are due to be considered at a meeting on 21st January 2013.
3. Also over the last twelve months, four Public Inquiries have been arranged. Two of these (at Herne Bay and Whitstable) involved very complex cases and the hearings each lasted two weeks (which is considerably longer than average for a Village Green Inquiry). One Public Inquiry (at Lyminge) had to be cancelled at short notice due to the land in question being transferred to the Parish Council and the former landowner no longer wishing to take part in the Inquiry. The remaining Inquiry (at Wickhambreaux) commenced in November and had to be adjourned but is due to resume on 27th February 2013. This year, there will also be Public Inquiries into applications at Canterbury (commencing on 18th March 2013) and Hythe (details to be confirmed).
4. At the end of last year, the Planning Inspectorate issued its decision in respect of the application to register land known as the Long Field at Cranbrook as a new Village Green. Members will recall that this application was referred to the Planning Inspectorate for determination on the basis that the County Council had an interest in the outcome of the application (as landowner) such that there was unlikely to be confidence in the authority's ability impartially to determine it. A Public Inquiry was held in September last year at which an Inspector appointed by the Planning Inspectorate heard evidence from users of the land and objectors to the application (which included KCC's Property Group). The Inspector's decision was that the application did not meet all of the required legal tests and the land was therefore not capable of registration as a Village Green. A copy of the Inspector's decision is available at:
http://www.planningportal.gov.uk/uploads/pins/common_land/decision/com329_decision.pdf
5. There are currently 18 applications awaiting determination by the County Council, of which 16 are currently under investigation. There are a further three Regulation Committee Member Panel meetings due to be held in the next few weeks, at which it is hoped that 10 of the outstanding cases will be resolved or progressed to Inquiry stage.

Commons Act 2006 – Pilot project

6. In addition to dealing with the Village Green applications referred to above, work continues on updating the Registers of Common Land and Village Greens, both in terms of KCC-initiated proposals to correct known errors in the Registers and processing applications received from members of the public to make certain amendments to the Registers.
7. There are two applications to amend the Registers of Common Land and Village Greens currently with the Planning Inspectorate for consideration. One of these (in respect of VG124 at Whitstable) will be the subject of a hearing before an Inspector appointed by the Planning Inspectorate on 5th February 2013, and the other (in respect of CL82 at Sevenoaks) is uncontested and will be dealt with on the basis of evidence already provide to the Inspectorate. A further application (in respect of VG126 at Whitstable) is due to be referred to the Inspectorate shortly.
8. At the last meeting of the Regulation Committee, authority was sought from Members to proceed with a project to publish fresh editions of the Registers of Common Land and Town or Village Greens. Members will recall that the majority of the current maps were prepared in the 1970s and are of poor quality on a now very outdated base map. Resources are now being focussed on this task and it is hoped that fresh editions of all of the Register maps will be available by the end of the year.

Consultation on the registration of new Town or Village Greens

9. Members will recall that in July 2011, a consultation was launched by DEFRA on proposals to reform the system for registering new Town or Village Greens under section 15 of the Commons Act 2006. The reforms were proposed in response to growing concerns regarding the volume, nature, cost and impact of Village Green applications, and the Government's desire to achieve an improved balance between protecting valuable open space and enabling development to occur.
10. DEFRA's summary of responses to the consultation, along with a statement of the reforms proposed, was published in November 2012 and is available online at: <http://www.defra.gov.uk/consult/files/consult-tvg-sum-resp-20121114.pdf>. In total, DEFRA received 277 responses from a wide range of individuals and organisations (including local authorities, developers and preservation groups). The majority of respondents agreed that reform of the current legislation was desirable in order to streamline the process, to prevent vexatious applications and reduce the impact of applications on development.
11. As a result of the consultation, the Government has introduced several reforms which will be brought into effect through the Growth and Infrastructure Bill (which is currently at the Committee stage in the House of Lords). Not all of the proposed reforms contained in the consultation have been taken forward; the controversial "character test" and the proposal to link Village Greens with the Local Green Space designation, which generated widespread concern, have been dropped.
12. The intention behind the proposed reforms is to prevent vexatious applications from being made by restricting the circumstances in which a Village Green application may be made. Hence, it will no longer be possible to make a Village Green application

where planning permission for the same land is pending or has been granted, or where the land has been identified for potential development in local and neighbourhood plans.

13. Another reform is the introduction of a system whereby landowners can deposit a statement and plan which will bring to an end any use of their land 'as of right'. A similar system is already in place in respect of Public Rights of Way, but there is currently no equivalent for Village Greens. The reform will enable landowners to prevent permanent rights from being acquired over their land without the costly burden of having to erect fencing and notices to restrict or prevent access. It will also enable local people to continue to enjoy the land for recreational purposes whilst preventing a Village Green application from being made in the future.
14. Although the precise details of the reforms are yet to be published, the Growth and Development Bill will undoubtedly have an impact on this area of work. In the long run, there is likely to be a reduction in the number of Village Green applications made, although the County Council can expect a last-minute increase in applications prior to the new legislation being brought in (in order to escape the effect of the new provisions). The reform in respect of landowner statements will create additional work for the Commons Registration Team but it should be possible to integrate this with the existing process in place for Public Rights of Way so as to minimise the burden.
15. The reforms will be considered in more detail in a further report to the Committee once they have been published in their final format with the accompanying DEFRA guidance.

Recommendation

16. I RECOMMEND Members receive this report.

Background documents:

Appendix A – Schedule of Village Green applications

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**APPENDIX A:
Schedule of Village Green applications**

**Applications resolved by the Regulation Committee since last report
(5th September 2012)**

Description	Parish	Member(s)	Outcome
Scrapsgate Open Space	Minster-on-Sea	Mr. A. Crowther	ACCEPTED on 11/09/12 (registered as VG263)
Sandgate Escarpment	Sandgate	Mr. T. Prater	REJECTED on 21/11/12
Land at Duncan Down	Whitstable	Mr. M. Harrison Mr. M. Dance	ACCEPTED on 11/09/12 (registered as VG262)
Land at Four Acres	East Malling and Larkfield	Mrs. T. Dean	TBC – Panel meeting held 21/01/13
Land at Willow Road	East Malling and Larkfield	Mrs. T. Dean	TBC – Panel meeting held 21/01/13
Land at Walderslade Woods	Boxley and Aylesford	Mr. P. Carter Mr. P. Homewood	TBC – Panel meeting held 21/01/13

Forthcoming Public Inquiries

Description	Parish	Member(s)	Details
Chaucer Field (at the University of Kent campus)	Canterbury	Mr. G. Gibbens	Commences 18/03/12 at the Franciscan International Study Centre, Canterbury
Seaton Meadow	Wickhambreaux	Mr. M. Northey	Resumes 27/02/13 at Ickham Village Hall
Land known as Fisherman's Beach	Hythe	Mr. C. Capon	Date to be confirmed

Outstanding applications to be resolved

Description	Parish	Member(s)	Status
The Downs	Herne Bay	Mrs. J. Law	Inspector's report received and under consideration
Grasmere Pastures at Whitstable	Whitstable	Mr. M. Harrison Mr. M. Dance	Inspector's report received and under consideration
Land at Woodland Road	Lyminge	Ms. S. Carey	Inspector's report received and under consideration
Rammell Field	Cranbrook	Mr. R. Manning	Under investigation
Land at Cockreed Lane	New Romney	Ms. C. Waters	Under investigation
The Glebe Field	Goudhurst	Mr. A. King	Under investigation
The Cricket Field	Marden	Mrs. P. Stockell	Under investigation
Land at Ursuline Drive	Westgate	Mr. R. Burgess	Under investigation
Land at Bishop's Green	Great Chart	Mr. J. Wedgbury	Under investigation
Land at Mount Pleasant	Hildenborough	Mrs. V. Dagger	Under investigation
Folkestone Racecourse	Stanford	Ms. S. Carey	Under investigation
Riverside Close	Kingsnorth	Mr. M. Angell	Under investigation
Land at Showfields	Tunbridge Wells	Mr. J. Scholes	Under investigation
Kingsmead Recreation Ground	Canterbury	Mr. G. Gibbens	Under investigation
Land at South View Road	Tunbridge Wells	Mr. R. Bullock	Awaiting investigation
Land at Coldblow Woods	Ripple	Mr. S. Manion	Awaiting investigation