

Application to register land at Bishops Green at Great Chart as a new Village Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 5th March 2013.

Recommendation: I recommend that the County Council refers the application to the Planning Inspectorate for determination.

Local Members: Mr. J. Wedgbury

Unrestricted item

Introduction

1. The County Council has received an application to register land Bishops Green in the parish of Great Chart with Singleton as a new Village Green from local resident Ms. S. Williams ("the Applicant"). The application, received on 12th January 2012, was allocated the application number VGA642. A plan of the site is shown at **Appendix A** to this report.
2. Members should be aware from the outset that the purpose of this report is not to determine this application, but rather to consider whether the County Council is in a position to determine this application, for the reasons which are set out in more detail below.

Procedure

3. The application has been made under section 15 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.
4. Section 15 of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Village Green where it can be shown that:
'a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
5. In addition to the above, the application must meet one of the following tests:
 - **Use of the land has continued** 'as of right' until at least the date of application (section 15(2) of the Act); or
 - **Use of the land 'as of right' ended no more than two years prior to the date of application**, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act);
6. As a standard procedure set out in the regulations, the Applicant must notify the landowner of the application and the County Council must notify every local authority. The County Council must also publicise the application in a newspaper circulating in the local area and place a copy of the notice on the County Council's website. In addition, as a matter of best practice rather than legal requirement, the County Council also places copies of the notice on site to provide local people with

the opportunity to comment on the application. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

7. The area of land subject to this application (“the application site”) consists of a piece of open land of approximately 1.4 acres (0.6 hectares) situated adjacent to a residential cul-de-sac known as Bishops Green in the Singleton area of the parish of Great Chart with Singleton. The application site is shown in more detail on the plan at **Appendix A**.
8. The application site has, since August 2011, been securely fenced with no public access. Prior to that time, access to the site was via a path leading between Knoll Lane and Longacre Road.
9. The application site falls within the ownership of Kent County Council. In August 2011, the County Council submitted a planning application (reference 11/01045/AS) to Ashford Borough Council, as the local Planning Authority, for outline permission for the erection of up to 14 dwellings on the application site. The planning application remains outstanding with the Borough Council and no final decision has been taken in respect of it.

The case

10. The application has been made on the grounds that the application site has become a Town or Village Green by virtue of the actual use of the land by the local inhabitants for a range of recreational activities ‘as of right’ for more than 20 years.
11. Included with the application were eight user evidence questionnaires from local residents detailing their use of the application site over a period in excess of twenty years. The evidence questionnaires refer to use of the application site for a number of recreational activities, including dog walking, blackberrying, photography and nature observation.

Consultations

12. Consultations have been carried out as required. The following responses have been received.
13. The Great Chart with Singleton Parish Council wrote to confirm its support for the application.
14. Additionally, 15 local residents also wrote in response to the consultation. Three residents wrote solely to object to the proposed development of the application, but the remainder wrote to add their evidence of use to that already submitted in support of the application and to confirm that they had engaged in and observed regular usage of the application site for recreational activities until access to it had been prevented by the erection of fencing.

Landowner

15. As stated above, the application site is owned by Kent County Council (“the landowner”) and is registered with the Land Registry under title numbers K35382 and K343551.
16. Objection has been made to the application by the County Council’s Property Group on the following grounds:
- That a notice was erected on the application site in August 2009 stating “Public Notice Kent County Council Property Land off Long Acre Road Ashford The public may access this site for recreational purposes only they do so at their own risk. Permission may be revoked at any time”. The landowner’s case is that the effect of this notice was to cause ‘as of right’ use of the application site to cease. As the application was not made until January 2012, it falls outside of the two year period of grace provided for by the legislation.
 - That the applicant has not sufficiently defined the locality or neighbourhood within a locality. The application form refers to ‘Singleton, Ashford, Kent’ but Singleton would not qualify either as a locality (because it is not a legally recognised administrative unit) or as a neighbourhood (because it lacks the requisite degree of cohesiveness).
 - That the nature of the application site, prior to its clearance in 2010, was such that it would not have been used significantly for lawful sports and pastimes. The vegetation on the application site would have been such that any walking would have been confined to defined routes, whilst other activities (e.g. balckberrying or kite flying) would have been seasonal and infrequent in nature.
 - That the evidence submitted in support of the application is weak and suggests only limited and sporadic recreational use of the application site, which would be insufficient to appear to a reasonable landowner as being the assertion of a public right. There is no evidence to suggest that the application site was in general or regular use by the local community as a whole.

Applicant’s response to the objection from KCC’s Property Group

17. As required by Regulation 26 of the 2008 Regulations, copies of all of the representations received were sent to the applicant for comment.
18. The applicant rejected the landowner’s suggestion that the evidence in support of the application was lacking and, overall, insufficient to register the land as a Village Green. She states that the local community enjoyed use of the application site for many years until the fencing was erected and access denied. A number of residents have submitted evidence forms documenting their use over the relevant period; it was considered that this was sufficient, but if more evidence is required this can be provided.
19. The applicant also challenged the assertion made by the landowner that Singleton could not be a qualifying neighbourhood, and pointed to a number of features, (including two schools, a youth club, an amateur dramatics society, a village hall and the Singleton Environment Centre) that made up the community of Singleton. She therefore was of the view that the community of Singleton is very much a qualifying neighbourhood for the purpose of Village Green registration.

Legal tests and discussion

20. The responsibility for determining applications under section 15 of the Commons Act 2006 normally rests with the County Council in its capacity as the Commons Registration Authority. However, more recently, it has been recognised that there may be circumstances in which it is not appropriate for the County Council to determine an application. Under those circumstances, the application must be referred to the Planning Inspectorate who will take on the responsibility for considering the application (including by the holding of a Public Inquiry where necessary) and issuing a decision.

21. The circumstances referred to above are set out in Regulation 27(3)(a) of the Commons Registration (England) Regulations 2008 which states that an application must be referred to the Planning Inspectorate in cases where:

'the registration authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability impartially to determine it'

22. DEFRA's guidance¹ in this respect states that:

'an authority should not refer a case simply because it has an interest in the outcome, but only where that interest would seriously call into question the authority's ability to determine the matter impartially... an authority [should not] refer a case simply because it (whether an officer, Member, committee or executive) has discharged a function or expressed views on a related matter in a different context. So, for example, the test would be unlikely to be satisfied in relation to an application to register land as a new town or village green if the authority had granted planning permission for development of the land or expressed support for the development.'

But, in [this] example, if the authority itself owned the land, there might not be confidence in the authority's ability to determine the application having regard to the more subjective nature of the criteria for registration in section 15. However, an authority will need to have regard to all the circumstances: if, for example, its practice is to appoint an independent Inspector to enquire into the application, and to act on the recommendations of the Inspector's report, it may nevertheless be possible for the registration authority to determine the application itself'

23. It is not the first time that such an issue has arisen in this county. Members will recall a similar case involving land known as The Long Field at Cranbrook which was considered at a meeting of the Regulation Committee Member Panel on Tuesday 22nd February 2011. In that case, the application site was owned by the County Council and had been the subject of a planning application for the construction of a new care home. At the time of the meeting, the planning application had been withdrawn pending the outcome of the Village Green application. Members agreed, on the basis of the County Council's significant interest in the outcome of that case, that the Village Green application ought to be referred to the Planning Inspectorate for determination.

¹ 'Guidance to commons registration authorities and PINS for the pioneer implementation' (version 1.41, September 2010), paragraphs 7.19.4 and 7.19.5 at pages 81 and 82

24. In respect of this case, the views of both parties have been sought on the issue of whether the County Council should determine this particular application.
25. The landowner's response (see letter at **Appendix B**) was that it is not sufficient simply for the County Council merely to have an interest in the outcome of the application and there is a high threshold to be met before the application should be referred to the Planning Inspectorate. The landowner refers to DEFRA's guidance (quoted above) which suggests that an authority may still be able to determine an application if its normal practice would be to refer the matter to a Public Inquiry for consideration.
26. Furthermore, the landowner's position is that the application is bound to fail (for reasons set out in the objection above) and as such the County Council can legitimately take a decision on the application without any accusation of acting unfairly or in a biased manner. The landowner adds that the decision by the Panel in relation to the Long Field at Cranbrook was wrong, and there is nothing binding on the panel to act consistently with its previous decision.
27. However, the applicant's response (see letter at **Appendix C**) was that there would be an obvious conflict of interest if the application were to be determined by the County Council, which has a direct benefit in refusing the application. The tone of the objection is, in the applicant's view, dismissive and one-sided and as such only an independent Inspector appointed by the Planning Inspectorate can provide an impartial and objective decision.
28. The applicant also refers to information which she feels has been deliberately withheld despite requests for its provision and believes that it is not clear whether all of the relevant information has been provided. She and the local residents state that they do not have any confidence that clear and unbiased information can be supplied to an internal Member Panel, and that the application cannot be considered objectively unless it is referred to the Planning Inspectorate.
29. Clearly, the test regarding whether or not there is likely to be confidence in the County Council's ability impartially to determine the application is a subjective one. As DEFRA point out, the nature of a Local Authority is such that it undertakes a variety of roles and functions, some of which will unavoidably involve conflicting interests; indeed, the County Council is quite used to dealing with such issues. There is also a further safeguard in the decision-making process in that the Commons Act 2006 imposes a quasi-judicial function on the County Council and unless that function is discharged in an appropriate manner (i.e. according to the strict legal tests set out in section 15 of the Commons Act 2006), then the County Council leaves itself open to a very costly and time-consuming Judicial Review process.
30. However, it is equally important that the matter is considered from the point of view of the applicant and the local community who may not have such a detailed understanding of the decision-making process. If the applicant is not confident of the County Council's ability to impartially determine the application, then it is important to consider whether such doubts are reasonably founded. If, as DEFRA say, it is simply a matter of the County Council exercising conflicting functions (i.e. as the Planning Authority and Registration Authority), then it may

not be reasonable for the applicant to doubt the County Council's ability to determine the matter impartially.

31. If, however, the County Council has a significant interest in the outcome of the Village Green application because, for example, it owns the land in question and is actively seeking to develop the land for financial gain (as opposed to, for example, providing a community facility such as a school), then it is likely to cause to a reasonable person to doubt the County Council's ability to determine the matter impartially.

Conclusion

32. The options available to the County Council at this stage are as follows:

- To refer the matter to the Planning Inspectorate for determination (on the basis of the conflict of interest); or
- To decide that the application should be determined by the County Council in due course.

33. The Officer's view is that, in light of the comments expressed above, it would be appropriate under the circumstances for this application be referred to the Planning Inspectorate for determination. Indeed, the circumstances of this application appear to fall squarely within the new provisions introduced by DEFRA to deal with applications where the Commons Registration Authority has a significant interest in the outcome of the application.

34. If, however, Members are not minded to agree with the Officer's recommendation, then a further report will be put to a future meeting of the Regulation Committee Member Panel with a view the determination of the application.

Recommendation

35. I recommend that the County Council refers the application to the Planning Inspectorate for determination.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221500 or Email: mike.overbeke@kent.gov.uk

Case Officer:

Ms. Melanie McNeir – Tel: 01622 221511 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the PROW and Access Service based at Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

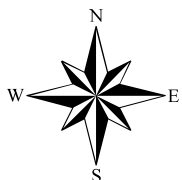
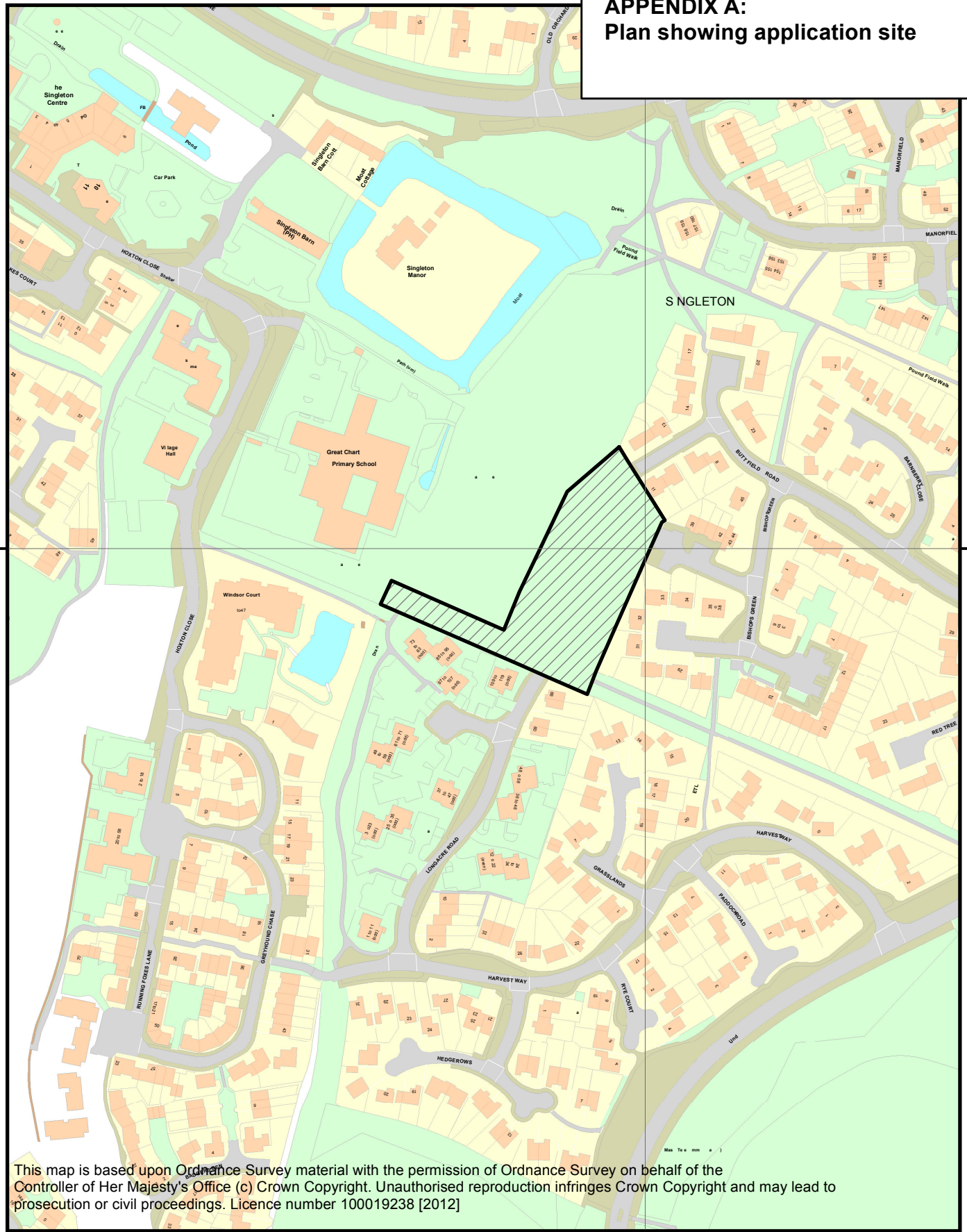
Background documents

APPENDIX A – Plan showing application site

APPENDIX B – Letter from KCC Governance and Law dated 18th January 2013

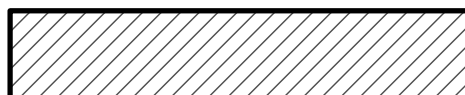
APPENDIX C – Email from the applicant dated 8th February 2013

APPENDIX A: Plan showing application site



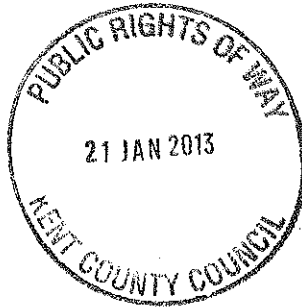
Scale 1:2500

**Land subject to Village Green application
at Bishops Green at Great Chart**



✓
acted
by email
21.01.13

**APPENDIX B: Letter from KCC
Governance and Law dated 18th
January 2013**



Ms M McNeir
Public Rights of Way
IH 2
Invicta House
Maidstone

Governance & Law
Sessions House
County Hall
Maidstone
Kent ME14 1XQ
DX: 123693 Maidstone 6
www.kent.gov.uk/legal

Direct Dial/Ext: 01622 694180
Fax Number: 01622 694402
E-mail address: liezl.emsley@kent.gov.uk
Ask for: Liezl Emsley
Your Ref:
Our Ref: LS/21/26690/359
Date: 18 January 2013

Dear Melanie

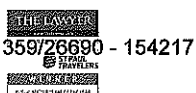
**Section 15(3) of the Commons Act 2006
Land behind Great Chart Primary School (ref VGA 642)
Application by Sharon Williams of 31 Bishops Green, Ashford, Kent TN23 5BQ**

1. Thank you for your letter dated 18 December 2012 which was received in the Governance and Law Department on 27 December 2012. As your request was under Regulation 28(4) of the Commons Registration (England) Regulations 2008 these representations must, in determining the application, be taken into account by the determining authority under Regulation 28(1).
2. In this case you are of course right to note that KCC is both landowner and applicant for planning permission. However, it is not enough to require a reference to the Planning Inspectorate that KCC has an interest in the application. Under Regulation 27(3)(a) it must be an interest which is "such that there is unlikely to be confidence in the authority's ability impartially to determine" the application. This is a high threshold. It means that people generally would have to have such little faith in the ability of KCC as registration authority to behave properly that they thought it was likely that the application would be determined partially, that is (according to the Shorter OED) unfairly, unjustly and in a biased manner.
3. I do not believe that you can seriously consider that the general public would think that it was more likely than not that KCC as registration authority would determine the application unfairly, unjustly and in a biased manner. That is, frankly, unthinkable.
4. That it is a high threshold is confirmed in the DEFRA guidance. Paragraph 7.19.4 of the guidance states that a reference to the Planning Inspectorate is necessary "only where that interest would seriously call into question the authority's ability to determine the matter impartially". Paragraph 7.19.5 states that a registration authority would "need to have regard to all the circumstances". It also states that even where the registration authority is

Geoff Wild LL.B, Dip.LG, Solicitor
Director of Governance & Law



Page 1



also the landowner "if, for example, its practice is to appoint an independent inspector to inquire into the application, and to act on the recommendations of the inspector's report, it may nevertheless be possible for the registration authority to determine the application itself". This is of course the normal practice of KCC as registration authority.

5. It is clear therefore that, under the DEFRA guidance, Government considers that KCC would still be able to determine the application, if it dealt with the application in the way that KCC normally deals with new green applications, that is by appointing a barrister to enquire into the application and acting on the recommendations in the barrister's report.
6. As the DEFRA guidance states, KCC as registration authority must have regard to all the circumstances. On the one hand, in her email dated 17 December 2012, the Applicant has pointed to nothing except her desire that the application should be referred to the Inspectorate. No reasons are given as to why this would be justified in terms of the test in Regulation 27(3)(a). There is no case advanced by the Applicant to show that the test in the Regulations is met.
7. On the other hand, as part of the circumstances, it is relevant to have regard to the issues in dispute which would need to be considered by KCC as registration authority in determining the application and the strength of the Applicant's case for registration. Now we have the Applicant's response to the objection of KCC as landowner, it is clear what issues are in dispute.
8. KCC's objection dated 11 October 2012 explained that the application could not succeed for any or all of the following reasons:
 - (1) The application under s15(3) was not made within the two year period of grace from when any use as of right would have ended in August 2009 when the permissive notice was erected.
 - (2) No qualifying neighbourhood and/or locality are identified in the application.
 - (3) The evidence of use for qualifying lawful sports and pastimes, even if taken at face value, would have been no where near enough to show the necessary quality and quantity of use and also wholly inadequate to discharge the burden of proof.
9. Only one of the above reasons would need to be upheld for the application to be rejected summarily. The application has absolutely no prospect of success. The erection of the notice in particular is a single "knock out blow".
10. Further, an application under s15(2) has not been made but could not have been made in any event as use as of right was not continuing at the date of the application due to the permissive notice, the erection of the fence in August 2011, and/or the state of the land. The land was not used at all for lawful sports and pastimes after the erection of the fence.
11. In her letter dated 10 December 2012, the Applicant does not even take issue with the above points. Whilst she makes various complaints about the situation, she provides no answers to counter the landowner's objection whatsoever. There is nothing from the Applicant to contradict the objection. The objection is bound to prevail.

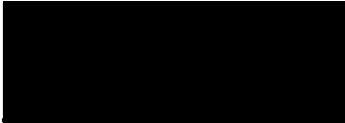
12. The Applicant says that the land has been "used for recreational purposes for several years". It is necessary, however, to show that the land has been used for recreational purposes for at least 20 years (since 1989 in this case) not just "several years". She confirms that those who provided evidence are "obviously... opposed to the development". She confirms that the permissive notice was erected in August 2009 and does not take any issue with the legal effect of the notice. The Applicant accepts that the application was not made within the two year period of grace, but argues instead that additional time beyond the two year period of grace should be given. That, of course, is not accepted. Section 15(3) provides a two year period of grace and nothing more is applicable. If an application is not made within the two year period of grace after qualifying use as of right ceases, then the ability to register the land is lost (see eg *Gasden* 2nd edition at 14-05 and 14-06). The notice was erected in August 2009 and the application was stamped January 2012, five months out of time. Even on the Applicant's (erroneous) argument, the application was two months out of time.
13. In her letter dated 10 December 2012 the Applicant effectively confirms the landowner's submissions about the state of the application site, including that it was largely wooded (see also the attached aerial photographs). She says nothing in her letter to show that there is a qualifying locality and provides no material to respond to the landowner's submissions on neighbourhood, or even to demonstrate that "Singleton" would qualify as a neighbourhood for the purposes of s15(3) (and still provides no plan of the alleged neighbourhood). And she says nothing at all in her letter in response to the objection on lawful sports and pastimes and appearance to a reasonable landowner.
14. Overall, once the complaints and the irrelevant points are left out, the Applicant's letter dated 10 December 2012 strongly supports the landowner's objection and demonstrates that the Applicant has no answer to the objection – and no case for registration.
15. Moreover, in any event, the application in this case is bound to fail, for the reasons given in KCC's objection dated 11 October 2012.
16. In short, the Applicant's case for registration is so hopeless that it is obvious what the outcome of the application should be. As the answer is so obvious – the application must be rejected – in KCC rejecting the application there would be no room for any one to think that KCC as registration authority was acting unfairly, unjustly and in a biased manner. As the case is so clear-cut, there is only one answer that could rationally be given to the application. No serious suggestion of partiality could arise in this case, let alone a likelihood of such partiality in the minds of the general public. There is therefore no reason to consider that the test in Regulation 27(3)(a) would be met in this particular case, regardless of KCC's position as landowner and applicant for planning permission.
17. You refer to the registration authority's decision on the Long Field in Cranbrook. KCC wrongly decided to refer that application to the Inspectorate. Just because the wrong decision was taken in that case does not mean that the wrong decision should be taken in this case as well.
18. In your letter you say that you consider that it would be appropriate for the current application to be referred to the Inspectorate because KCC must act consistently. The need for consistency does not feature as part of the test in Regulation 27(3)(a). It is not a consideration which is relevant to this decision under the Regulations. There is no

requirement in the Regulations for decisions to be consistent. Rather, each decision should be looked at on its own merits. That is a fundamental principle of decision-making. In particular, where earlier decisions were erroneous they should not be followed. The right decision must be taken in this case regardless of what the decision was in the Long Field case.

19. Returning to the merits of the case, in addition to the erection of the permissive notice in August 2009 (probably 13 or 14 August), the promotion of the site for development from 2006 onwards, and the erection of the fencing in August 2011, the objection mentioned the clearance of the site in 2010. The clearance of the site occurred in two stages:
 - (1) clearance of the site (except the central wooded area) by Clearway over 15 working days from 11 December 2009 to 21 January 2010 (see attached invoice and photograph); and
 - (2) the tree felling and stump grinding by KCC Landscape Services in August 2010 in the central wooded area.
20. The work done in December 2009 to January 2010 by Clearway in clearing the scrub from the un-wooded part of the application site was very substantial, taking 15 working days for gangs using chainsaws, hedge cutters and strimmers. Not only does this demonstrate how unusable the land was for lawful sports and pastimes, but it would also constitute an interruption in the use of the land. Photographs show that – as one would expect for health and safety reasons – the site was fenced off for the period when the clearance works were underway (and would not have been usable then anyway). A similar situation would have prevailed for the tree felling works in the central wooded area in August 2010.
21. So, in addition to the points made in the objection dated 11 October 2010, it is apparent that there was an interruption in any use of the land in December 2009 to January 2010 and/or August 2010. The need for continuous use was highlighted by the Supreme Court in *R (Lewis) v Redcar and Cleveland BC* [2010] 2 AC 70 at eg [33], [47] and [72]. An interruption will occur where activities or works are undertaken which prevent use of the affected land during any material part of the relevant period (see *Betterment Properties v Dorset CC & Taylor* [2010] EWHC 3045 (Ch) at [141]-[151], especially [150], and also *Taylor v Betterment Properties & Dorset CC* [2012] EWCA Civ 250 (CA) at [21], [65]-[66] and [70]-[71]). This will prevent registration of the land.
22. Overall, it is clear that the application is hopeless and is bound to fail. This is relevant to the registration authority's decision under Regulation 27(3)(a). No serious suggestion of partiality could arise in this case, let alone a likelihood of such partiality in the minds of the general public, because the case is so clear-cut that there is only one answer that could rationally be given to the application.
23. The DEFRA guidance at paragraph 7.11.31 also makes it clear that the registration authority must give consideration to not only whether there is an interest in the outcome but also whether that interest is "such that there is unlikely to be confidence in the authority's ability impartially to determine" the application. I am sure that in your report to the Regulation Committee Member Panel you will point out all the courses available to

24. Members and ensure that the submissions of KCC as landowner are fully before the Panel.
I would be grateful if you could ensure that I am given notice of the Panel meeting so that KCC as landowner can be represented at the Panel's meeting.

Yours sincerely

A black rectangular box redacting the signature of Liezi Emsley.

Liezi Emsley
Solicitor

McNeir, Melanie - CC CS

From: Sharon Williams [REDACTED]
Sent: 08 February 2013 01:55
To: McNeir, Melanie - CC CS
Cc: Barbara Martin; Hodgkinson, Amanda Georgina - Ashford District Councillor; Angus Willson; David Dickinson
Subject: Application to register land at rear of Bishops Green at Singleton, Great Chart as a Village Green Ref PROW/ /MM/VGA642
Follow Up Flag: Flag for follow up
Flag Status: Completed

Dear Melanie,

Having considered your letter and enclosures sent around 21st January 2013 but dated 13th December 2012 together with neighbours, our local Councillor and Members of the Parish Council I wish to confirm my request for this application to be considered by the Planning Inspectorate for decision. The reasons for this request are as follows:

1. We believe that there would be an obvious conflict of interest in relation to this case if it were to be decided by KCC members. This is because KCC is the landowner in this case and therefore stands to have a direct benefit in refusing the application. We believe that it may be very difficult for this decision to be made impartially since there is every possibility that the decision may be influenced by the potential financial benefits for KCC arising from the sale / development of this land.
2. It is also my belief that there is evidence that KCC officers have avoided the provision of information thereby obstructing the process. KCC officers did not notify residents of the proposals for this land even when asked. In an FOI request response to me I was advised that there was no information held about the decision to clear the land or of the costs or other aspects of KCC activities regarding this land. I was also told that there were no proposals for the future of this land. Surprisingly however when objections to my application were presented suddenly KCC were able to present information including invoices detailing the work to clear the land and even photographs and evidence that KCC had clearly been planning an alternative use for this site. I believe that this demonstrates that officers will not present the information impartially and objectively since they will try to prove the case for the benefit of KCC.

This raises serious concerns that when a member of the public requests information under a clear legal process it cannot be found, yet clearly it exists and is brought forward when it is to KCC's advantage to do so. It seems that Officers pick and choose information to be made available. This leaves me concerned that if this matter is not considered by the inspector our voice will not be heard and we will not be given due consideration. The tone of the KCC submissions so far are dismissive and one sided and therefore we believe that an Inspector can provide an impartial and objective decision.

3. When the works to fell the trees commenced a neighbour enquired about why this work was proceeding and could not be given any clear information about why so it appears that again we were misled at that time. I believe that the lack of provision of information from KCC officers was an attempt to jeopardise any claim, since officers were not open about what was happening and the issue of timescales and only been provided after the submission of the application. Cllr J Wedgebury (County Councillor) was contacted on the day the tree felling started and a request to register a village green application was made within days. My absolute devastation at the loss of the trees and at the damage to the local wildlife was fully witnessed by the Cllr.

4. I would stongly disagree that I have not taken issue with the points set out in Liezl Emsleys letter of 18/01/13. I may not have the benefit of the use of an expensive Barrister's advice, nor legal training or the type of knowledge and experience tha the KCC Property Services Officers have to enable me to respond to these points quite as forcefully or eloquently as Liezl Emsley, but I did clearly respond to the points raised and have challenged them.

5. The local residents including myself had no option but to accept that the notice and fence were put up and could have done anything about this so I find it bizzare to say that it created a break in the use of the land. In actual fact people did continue to use the land as it is not secure and there are other access points onto the land where there is no fence and no signs or notices.

6. When the fence did go up a neighbour contacted KCC and was advised that it was to protect the land from encampments. Strangely this had never been considered before over a period of 20 years and I would therefore suggest that officers were quite well aware of the timescales connected to the VG process and information was withheld about this so as to attempt to thwart any application by local people. In considering the barrister's advice to KCC it does indicate that KCC officers carefully has calculated the errection of the sign suddenly after 20 years , the clearance of the land out of the blue, and the errection of the fence in the full knowledge of timescales around applying for a VG application and timed these actions to specifically frustrate any application by residents. The information about timescales was not made clear or expalined by KCC even when being asked for information.

7. The letter mentions that we were aware of the promotion of the use of this land for development from 2006. We were NOT aware of this. I presume this relates to the urban sites development plan. This was not adequately consulted upon with local residents affected. The consultation amounted to being on the Council web site. What normal resident who has no other indication or reason to would check a website daily just in case there may be something on it which may affect them? How did residents know that this was being consulted upon if they were not told? The simple answer is that we were not told and not directed to look at the website and there is also evidence that this was not adequately brought to the attention of our local Councillor or our Parish Council. I find it unreasonable then for this to be cited in the objections as it is completed irrelevant.

8. The letter datred 18th January 2013 asserts that there were no lawful sports and pastimes on the land. This is simply not true. The land was used as previously advised for various reasons. In addition the Open Spaces society has advised that there is no reason why woodland may not be considered a village green. Neighbours and I have taken great delight in observing wildlife on this alnd and enjoyed the recreational effect of the open space and the trees were an important part of this and was full of birds and bats.

9. We are making this application as we belive that this land should continue to be used by the community incorporating the school which is adjacent tot he land. Sureely there is more to the KCC strategy for imrpoving the health and wellbeing of residents than selling of every part of land possible and taking away all of our open spaces.

In summary my neighbours and I have enjoyed the use of this open space for many years and we feel passionately that residents health and wellbeing should be a major factor considered by KCC to balance with selling sites for a financial return. We feel that this land should continue to be able to be used by the community.

My neighbours and I strongly feel that this cannot be considered objectively unless it is referred to the planning inspector since we have no confidence that clear and unbiased information can be supplied to an internal member panel. Any information placed before council members is liekly to be biased to the wider interests of KCC.

Could I please ask you to provide me with an electronic copy of your letter and enclosures and if

possible a copy of my original application to you with enclosed plan and proformas from other residents. If you have this electronically this would be very much appreciated but if not a hard copy would be welcome.

Regards

Sharon Williams

20/02/2013