

Update from the Commons Registration Team

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee on Tuesday 28th January 2014.

Recommendation:

I recommend that Members consider the report and note its contents.

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 nine Regulation Committee Member Panel meetings and a total of nineteen Village Green applications have been considered; this makes 2013 the busiest year so far for determining Village Green applications made under section 15 of the Commons Act 2006. Of the nineteen applications considered last year, 5 were referred to Public Inquiry, 9 were registered as new Village Greens and 5 applications were rejected or otherwise not progressed.
3. At the Regulation Committee Member Panel meeting on 26th November 2013, Members resolved to defer a decision in respect of the Kingsmead Field at Canterbury application until the Supreme Court's judgement in the *Barkas v North Yorkshire County Council* case has been issued; the case is due to be heard on 2nd April 2014 and a decision is due in the summer. The Downs at Herne Bay application involves similar legal issues and this matter is also on hold pending the outcome of the *Barkas* case. It is currently anticipated that both of these cases will be referred to a Member Panel for decision in the autumn.
4. Also over the last twelve months, six Public Inquiries have been arranged at a range of locations around the county. We are awaiting the Inspectors' reports for four of those cases (due imminently) and these cases will be referred to a Regulation Committee Member Panel for a final decision over the next few months. This year, there will also be Public Inquiries into applications at Canterbury (adjourned from last year, details to be confirmed), Goudhurst (w/c 2nd June 2014) and Ripple (details to be confirmed).
5. There are currently 14 applications awaiting determination by the County Council, all but one of which are currently under investigation.

Pioneer implementation of Part 1 of the Commons Act 2006

6. As Members will be aware, in addition to dealing with the Village Green applications referred to above, the County Council is also involved with the pioneer implementation of Part 1 of the Commons Act 2006 ("the 2006 Act"). The 2006 Act was designed to replace and improve what had become restrictive and much out-dated provisions contained within the Commons Registration Act 1965; in particular, it provided for the Registers to be amended to reflect changes and for mistakes to be corrected.

7. In order to enable Ministers to be kept informed of any unforeseen costs and identify any problems associated with the new legislation, DEFRA decided that the legislation would initially be available only a select number of authorities. Kent County Council was one of seven Commons Registration Authorities that were invited to participate in a 'pioneer implementation' of the legislation, and the new provisions were brought into force in the 'pioneer implementation areas' from 1st October 2008.
8. During this time, the new provisions have been used to update and modernise the Registers of Common Land and Village Greens, and Officers have been working closely with DEFRA to assist with improving the legislation and associated Regulations.
9. Until recently, it has not been clear if (or how) this legislation would be rolled out nationally. However, a ministerial statement made on 9th January 2014 has now confirmed that the Government is committed to proceeding with a national implementation of this legislation, albeit in a staged format. A full copy of this statement is attached at **Appendix B**.
10. Part 1 of the Commons Act 2006 will be commenced in full in Cumbria and North Yorkshire (which have the largest areas of Common Land in the country) as from 1st October 2014; from that date, these authorities will have the same powers available to them as Kent and the other existing 'pioneer authorities'.
11. The Government has decided not to fully implement the Commons Act 2006 provisions more widely at this stage, and is unlikely to do so until at least the next Parliament. However, in recognition of the very limited powers currently available to non-pioneer authorities (in keeping their Registers of Common Land and Village Green up-to-date), there will be partial implementation of a limited number of provisions. This means that, from 1st October 2014, section 19(2)(a) of the Commons Act 2006 (which enables the correction of certain mistakes in the Registers) will be commenced throughout England, as will paragraphs 6 to 9 of Schedule 2 of the Commons Act 2006 (which allows for the de-registration of land that was wrongly registered as Common Land or Village Green).

Recommendation

12. I RECOMMEND Members consider the report and note its contents.

Background documents:

Appendix A – Schedule of Village Green applications

Appendix B – Ministerial statement regarding Part 1 of the Commons Act 2006

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APPENDIX A:
Schedule of Village Green applications

**Applications resolved by the Regulation Committee (Member Panel)
since last report (18th May 2013)**

Description	Parish	Member(s)	Outcome
Land at Cockreed Lane	New Romney	Mr. D. Baker	Rejected
Folkestone Racecourse	Stanford	Ms. S. Carey	Rejected
Riverside Close	Kingsnorth	Mr. M. Angell	Accepted and registered as Village Green
Land at Showfields	Tunbridge Wells	Mr. J. Scholes	Accepted and registered as Village Green
Land at South View Road	Tunbridge Wells	Mr. P. Oakford	Accepted and registered as Village Green
Land at Grasmere Road	Ashford	Mr. J. Wedgbury	Accepted and registered as Village Green

Forthcoming Public Inquiries

Description	Parish	Member(s)	Details
Chaucer Field (at the University of Kent campus)	Canterbury	Mr. G. Gibbens	Awaiting Inspector's report re: preliminary issue
The Glebe Field	Goudhurst	Mr. A. King	Commences Monday 2 nd June 2014, venue TBC
Land at Coldblow Woods	Ripple	Mr. S. Manion	Details TBC

Outstanding applications to be resolved

Description	Parish	Member(s)	Status
The Downs	Herne Bay	Mr. N. Bond Mr. B. MacDowall	On hold*
Seaton Meadow	Wickhambreaux	Mr. M. Northey	Inspector's report received, refer to Panel for decision
Land known as Fisherman's Beach	Hythe	Mr. M. Whybrow	Awaiting Inspector's report following Public Inquiry
The Cricket Field	Marden	Mrs. P. Stockell	Awaiting Inspector's report following Public Inquiry
Land at Ursuline Drive	Westgate	Mr. J. Elenor	Awaiting Inspector's report following Public Inquiry
Kingsmead Recreation Ground	Canterbury	Mr. G. Gibbens	On hold*
Land at Montefiore Woodland	Ramsgate	Mr. A. Terry Ms. Z. Wiltshire	Refer to Panel for decision
Land at The List	Littlebourne	Mr. M. Northey	Under investigation
Land at Masfield Way	Tonbridge	Mr. R. Long Mr. C. Smith	Under investigation
Land at The Warren	Brabourne	Mr. A. Wickham	Under investigation
Whitstable Beach	Whitstable	Mr. M. Harrison Mr. M. Dance	Awaiting investigation

*At the Regulation Committee Member Panel meeting on 26th November 2013, Members resolved to defer a decision in respect of the Kingsmead Field application until the Supreme Court's judgement in the *Barkas* case has been issued (the case is due to be heard on 2nd April and a decision is due in the summer). The Downs application involves similar legal issues and this matter is also on hold pending the outcome of the *Barkas* case.

Commons Act 2006
Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley) (Con):
My Hon Friend the Parliamentary Under Secretary of State (Dan Rogerson) has today made the following statement.

I am pleased to announce the next stage in the implementation of Part 1 of the Commons Act 2006, under which the registers of both common land and town and village greens can be amended.

Part 1 will be fully implemented in the counties of Cumbria and North Yorkshire. These counties have been chosen because they have the highest hectarage of common land and are amongst the most agriculturally active counties in England, in terms of commoning.

Many properties were wrongly registered when the registers were compiled in the late 1960s under the Commons Registration Act 1965 and Commons Registration Authorities have not had the power to amend them. The result is that those properties have been adversely affected for over 40 years. This has had a knock-on effect on the owners' ability to sell those properties. I wish to enable this situation to be resolved so I intend to implement section 19(2)(a) and paragraphs 6-9 of Schedule 2 to the Act throughout England.

Section 19(2)(a) allows for the correction of mistakes made by Commons Registration Authorities when recording entries in the registers. Paragraphs 6-9 of Schedule 2 allow for the de-registration of land that was wrongly registered as common land or town or village green.

The question of further implementation of Part 1 in England will be considered again as soon as resources permit, which I expect to be within the life of the next Parliament at the earliest.