

# Application to register land known as Derringstone Green at Barham (Nr. Canterbury) as a new Village Green

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A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Tuesday 12<sup>th</sup> May 2009.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Derringstone Green at Barham has been accepted, and that the land subject to the application be formally registered as a Village Green.

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Local Member: Mr. Michael Northey

Unrestricted item

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## Introduction and background

1. The County Council has received an application to register land known as Derringstone Green at Barham as a new Village Green from the Barham Parish Council ("the applicant"). The application, dated 2<sup>nd</sup> June 2008, was allocated the application number VGA601. A plan of the site is shown as **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 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 Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of a 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. As a standard procedure set out in the Commons Registration (England Regulations 2008) the County Council must also publicise the application in a

newspaper circulating in the local area and put a copy of the Notice on its own website. The publicity must state a period of at least six weeks during which objections and representations can be made. In addition, the County Council is required to notify all local Councils of the application.

6. 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 Village Green.

## **The Case**

### Description of the land

7. The area of land subject to this application (“the application site”) consists of an area of grassy open space of approximately 0.45 acres (0.18 ha) in size situated adjacent to Valley Road, Old Valley Road and Crookenden Place in the village of Barham, near Canterbury. The application site is largely unfenced and surrounded by roads. It consists of an area of grass as well as a small enclosed play ground. There is also a former mill stone situated on the land placed there as a reminder of the Black Mill at Barham (which burned down in 1970). Photographs of the site are attached at **Appendix C**.

### Notice of Application

8. As required by the regulations, Notice of the application was published in the Kentish Gazette on Friday 13<sup>th</sup> February 2009 and placed on the County Council’s website. In addition, copies of the notice were displayed on the application site itself and served on Canterbury City Council. The local County Member was also informed of the application.
9. In response to the Notice of Application, one letter of support was received from a local resident who stated that the application site should be designated as a permanent and protected open space. She explained that the land was originally used as allotments which were later grassed over and, in 1973, she donated several trees in memory of her husband which were planted by the Parish Council on the land and which she would like to see preserved.
10. No other responses or objections were received in response to the Notice of Application.

### Ownership of the land

11. A Land Registry search had been undertaken which confirms that the application site is wholly owned by Barham Parish Council under title number K144333. A copy of the Register of Title is attached at **Appendix D**.
12. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

## The 'locality'

13. DEFRA's view is that once land is registered as a 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.
14. 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 Barham Parish Council, it seems appropriate that the locality should therefore be the parish of Barham so that all the residents of the village have the legal right to use the land.

## **Conclusion**

15. As state in paragraph 3 above, the relevant criteria for the voluntary registration of land as a new 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.
16. I have concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

## **Recommendations**

17. I recommend that the County Council informs the applicant that the application to register the land known as Derringstone Green at Barham has been accepted, and that the land subject to the application be formally registered as a Village Green.

### Accountable Officer:

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### Case Officer:

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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.

## **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 the register of title from the Land Registry