

## Application to register land known as Spires Ash at Headcorn as a new Town or Village Green

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A report by the PROW and Access Service Manager to Kent County Council's Regulation Committee Member Panel on 18<sup>th</sup> June 2019.

**Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Spires Ash at Headcorn has been accepted, and that the land subject to the application (as shown at Appendix A) be formally registered as a Town or Village Green.**

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Local Member: Ms. S. Prendergast

Unrestricted item

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### Introduction

1. The County Council has received an application to register a piece of land known as Spires Ash at Headcorn, near Maidstone as a new Town or Village Green from the Headcorn Parish Council ("the applicant"). The application, made on 15<sup>th</sup> February 2018, was allocated the application number VGA676. A plan of the site is shown at **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 Town or 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 Town or Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of 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. 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 Town or Village Green.

## **The Case**

### Description of the land

6. A plan showing the area of land to be considered for Village Green status ("the application site"), which consists of two parcels of land on the northern side of Sharp's Field at Headcorn, is attached at **Appendix A**.

### Notice of Application

7. As required by the regulations, notice of the application was published on the County Council's website. The local County Member was also informed of the application.

### Ownership of the land

8. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number K791722. A copy of the relevant Register of Title is attached at **Appendix C**.
9. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Registers of Title.

### The 'locality'

10. DEFRA's view is that once land is registered as a Town or 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.
11. 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).
12. In this case, the application has been made by the local Parish Council. As noted above, a civil parish is a qualifying locality for the purposes of Village Green registration and, as such, it seems appropriate that the relevant locality in this case should be the civil parish of Headcorn.

## **Conclusion**

13. As stated at paragraph 3 above, the relevant criteria for the voluntary registration of land as a new Town or 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.
14. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

## **Recommendation**

15. I recommend that the County Council informs the applicant that the application to register the land known as Spires Ash at Headcorn has been accepted, and that the land subject to the application (as amended and shown at **Appendix A**) be formally registered as a Town or Village Green.

Accountable Officer:

Mr. Graham Rusling – Tel: 03000 413449 or Email: graham.rusling@kent.gov.uk

Case Officer:

Ms. Melanie McNeir – Tel: 03000 413421 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 (as amended)

APPENDIX B – Copy of application form

APPENDIX C – Copy of the Registers of Title from Land Registry