

# Application to register land at West Cliff Bank at Whitstable as a new Town or Village Green

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A report by the PROW and Access Manager to Kent County Council's Regulation Committee Member Panel on Wednesday 20<sup>th</sup> September 2023.

**Recommendation: I recommend that the applicant be informed that the application to register land at West Cliff bank at Whitstable as a new Town or Village Green has been accepted, and that the land subject to the application (as shown at Appendix A) be registered as a Village Green.**

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Local Member: Mr. M. Dance (Whitstable West)

Unrestricted item

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## Introduction

1. The County Council has received an application to register land at West Cliff Bank at Whitstable as a new Town or Village Green from the Canterbury City Council ("the Applicant"). The application, made on 6<sup>th</sup> December 2022 was allocated the application number VGA691.

## 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. The area of land subject to this application (“the Application Site”) comprises a strip of land, approximately 0.5 acres (0.2 hectares) in size, situated in the town of Whitstable, between the public highway known as West Cliff and the Whitstable Seasalter Golf Club. Currently, the land is largely overgrown with vegetation, although it is possible to walk through it along a defined path. Access to the site is available from a point on West Cliff, and it is also open (subject to vegetation growth) from Public Footpath CW51, which continues from the western (cul-de-sac) end of West Cliff, running along the southern and western boundaries of the site.
7. A plan of the Application Site is attached at **Appendix A**, with photographs of it at **Appendix B**.

### Notice of Application

8. As required by the regulations, Notice of the application was published on the County Council’s website.
9. The local County Member, Mr. M. Dance, was also informed of the application and wrote to confirm his support for it.
10. Councillor A. Clark (of Canterbury City Council) also wrote to confirm his support for the application.
11. No other responses to the consultation have been received.

### Ownership of the land

12. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the Applicant under title number K935240.
13. There are no other interested parties (e.g. leaseholders) named on the Register of Title.

### The ‘locality’

14. 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.
15. 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).

16. In this case, the application has been made by the City Council and therefore it seems appropriate for the relevant locality to be the electoral ward within which the Application Site is located, namely Gorrell Ward.

### **Conclusion**

17. 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.

18. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

### **Recommendations**

19. I recommend that the County Council informs the applicant that the application to register the land at West Cliff Bank at Whitstable has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

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### **Appendices**

APPENDIX A – Plan showing application site

APPENDIX B – Photographs of the application site