

REGULATORY COMMITTEE

02 DECEMBER 2015

APPLICATION TO REGISTER LAND AT THE LAND SOUTH OF PASSMORE, TINKERS BRIDGE, MILTON KEYNES, UNDER THE PROVISIONS OF SECTION 15 OF THE COMMONS ACT 2006.

Contact Officer: - Andrew Burton, Rights of Way, 01908 252406.

1. Purpose

- 1.1 To inform Members of an application submitted to the Council by Mr Michael Blomley ("the Applicant") under the provisions of Section 15 of the Commons Act 2006 to register land known as 'land south of Passmore' in Tinkers Bridge as a village green ("the Passmore" application).

2. Recommendation

- 2.1 That the application be determined on the basis of the written representations submitted by the applicant, with the benefit of a report from an independent Inspector.
- 2.2 That an independent Inspector be appointed to assess the written representations and produce a report for consideration by the Regulatory Committee to inform its determination of the application.

3. The Registration of Village Greens

- 3.1 Under the Commons Act 2006 ("the 2006 Act") Milton Keynes Council is the Commons Registration Authority for Milton Keynes. By virtue of the Council's Constitution, this function is delegated to the Regulatory Committee.
- 3.2 Section 15 of the 2006 Act provides that any person may apply to the Commons Registration Authority to register land as a village green. Land can become a town or village green where a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged, as of right, in lawful sports or pastimes on the land for a period of at least 20 years and, they continue to do so at the time of the application (s15(2)).
- 3.3 It is necessary for all of these criteria to have been met before a registration authority can register land as a town or village green and the onus of proof is on the applicant to do so.

4. Application of registration

- 4.1 The Passmore application was submitted to the Council on 27th October 2014 by the Applicant, and validated on 18th November 2014. The application is to register a plot of land approximately 1.0ha bounded by the Grand Union Canal to the East, Passmore to the North, the green adjacent to Marlborough Street (V8) to the West and Colne to the South.
- 4.2 The Council is not only the registration authority for the area in which the land is situated (“the registration authority”) but is also the landowner of the particular land in question (“the Council as landowner”)

5. Determination of the Application

- 5.1 Thus far, the Council has complied with the procedural requirements of the Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 (“the 2007 Regulations”) including notification of the application and timescale for submission of objections.
- 5.2 The Registration Authority is under a “duty to adopt a fair procedure and to take reasonable steps to establish the facts to enable it to answer the statutory question” (*R v Cheltenham Builders Ltd v South Gloucestershire District Council [2003] EWHC 2803*).
- 5.3 In *Oxford City Council v Oxfordshire County Council [2006] 2 AC 674*, Lord Hoffman said that “in some cases fairness would make an oral hearing not merely an option but a necessity”. Such cases may be where there is a significant conflict of evidence of difficult legal points.
- 5.4 There was no objection made by the Council as a landowner to this application. Therefore there are no significant conflicts of evidence and an oral hearing would not be appropriate in this instance.
- 5.5 On the 23rd September 2015 the Regulatory Committee validated the Guide for the Registration of Town or Village Green Applications. The guide states that should an application be received whereby the land-owner is Milton Keynes Council then to ensure there is no bias it shall seek external independent advice on the application and receive a report and recommendation for Committee to review.
- 5.6 In accordance with paragraph 5.5 above, although there is no objection, the registration authority should still seek external independent advice on this application as Milton Keynes Council is also the landowner.

6. Summary of Evidence

- 6.1 The Council as landowner has not objected to the application.

- 6.2 The Applicant submitted 99 forms representing 44 people from the area covering a time range of use from 20 years to 39 years. The range of activities claimed include children's play, dog walking, running, organised and informal sports and games, picnics, kite flying, walking, cycling, bird watching, community celebrations, and fruit picking.

7. Resource Implications

- 7.1 If members accept the recommendation to seek the advice of an independent expert, it is considered appropriate to appoint Counsel with experience in Village Green applications as an independent inspector. The cost of Counsel will depend on the level of experience of the person appointed.