

Highways Committee

12 July 2012

Village Green Registration – Land known as the Fleece and Nursery Land, West Auckland



Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

1. To inform Members of the receipt of an application to register an area of land known as The Fleece and Nursery Land, West Auckland as Village Green.
2. Additionally, to seek the Committee's agreement to appoint an Inspector to hold a Public Inquiry to receive evidence, to prepare a report on the evidence and to make a recommendation to Members of this Committee on the merits of the application.

Background

3. On 11 August 2011 Durham County Council received an application from West Auckland Parish Council to register an area of land shown hatched on the plan attached to this report, as Village Green. The application was accompanied by a number of written statements claiming use of the site for activities, such as football, walking dogs, children playing, community celebration, games and general recreation. These activities are claimed to have been exercised as of right for a period in excess of 20 years.
4. There is an objection to the registration from an adjacent land owner who claims he has taken access across the land, grazed horses on the land and used it freely at all different times without hindrance from any third party. The objector denies that any use has been undertaken on the site other than a short cut to Front Street by dog walkers. There is also one other objection from an individual who has knowledge of the site. This objector challenges the alleged use as Village Green.
5. In cases where there is a conflict of evidence, such evidence should be tested. The most appropriate way to do this would be to hold a non-Statutory Public Inquiry when all parties have the opportunity to present their evidence orally, to a suitably qualified Inspector. The Inspector would then provide a report, which would include advice to the Committee on the

evidence. The report would conclude with a recommendation as to whether to confirm or reject the application.

Proposal

6. The ultimate decision on registration of this land as Village Green is a matter for the Highways Committee. However, the assessment of the evidence does require expertise in dealing with witnesses and assessing evidence. This Authority and others routinely appoint an Inspector with expertise in these matters, to undertake this task on their behalf. In this case, it is proposed to appoint a Barrister who has the relevant experience and expertise to act as an Inspector.

Recommendation

7. It is **RECOMMENDED** that Members agree to appoint a suitably qualified Barrister as an Inspector to hold a Public Inquiry for the purpose of receiving and assessing evidence, thereafter to provide a report and recommendation to Members of the Highways Committee.

Background Paper(s)

Plan

Appendix 1: Implications

Finance

The cost of arranging an Inquiry is part of the Council's statutory responsibilities.

Staffing

There are no staffing implications

Risk

There are no specific risk issues

Equality and Diversity / Public Sector Equality Duty

The Inquiry process is intended to give all interested parties the opportunity to participate

Accommodation

Not applicable

Crime and disorder

Not applicable

Human rights

The Inquiry will be the fairest way of permitting interested parties to exercise their rights

Consultation

The application has been publicised by way of Notice in the locality, the local press and posted on the County Council's website

Procurement

Not applicable

Disability Issues

Not applicable

Legal Implications

The application must fulfil the requirements of Section 15(1) of the Commons Act 2006.