

Highways Committee

19 June 2013

Village Green Registration – Land lying to the south of New Row, Eldon



Report of Colette Longbottom, Head of Legal and Democratic Services

Introduction

1. The Council is the registration authority for town and village greens under the Commons Act 2006. The Council must act impartially in its determination.

Purpose of the Report

2. The purpose of this report is to advise the Committee that an application has been received to register land lying to the south of New Row, Eldon ('the Land') as village green as town or village green under the provisions of the Commons Act 2006.
3. The intention is to obtain the Committee's approval to appoint an Inspector to hold a non-statutory public inquiry to receive evidence, to prepare a report on the evidence and to make a recommendation to the Committee on the merits of the application.

Background

4. On 18th July 2011 Durham County Council received an application from Eldon Parish Council to register the Land as a village green. The application was accompanied by a number of written statements claiming use of the site for activities, such as 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.
5. There is an objection to the registration from the landowners who, at the current time, haven't substantiated the reason(s) for their objection.
6. 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 at which all parties will have the opportunity to present their evidence, 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

7. The ultimate decision on registration of the Land as a village green is a matter for this Committee. However, the assessment of the evidence does require expertise in dealing with witnesses and assessing evidence. This Council 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

8. It is **RECOMMENDED** that Members agree to appoint a suitably qualified Barrister as an Inspector to hold a non-statutory public inquiry for the purpose of receiving and assessing evidence relating to the Land, thereafter to provide a report and recommendation to Members of the Committee.

Background Paper(s)

None

Contact: Louise Kelly Tel: 03000 269671

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

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 Council's website.

Procurement

Not applicable.

Disability Issues

Not applicable.

Legal Implications

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