

**DEVELOPMENT CONTROL COMMITTEE**

Extract from the Draft Minutes of the meeting held at 7.30 pm on 9 July 2014

**6 LAND AT UPPER ELMERS END ROAD AND CROYDON ROAD  
- APPLICATION FOR REGISTRATION AS A TOWN OR  
VILLAGE GREEN**

**Report CSD14095**

Members considered an application to register land comprising the triangular area of ground bounded by Upper Elmers End Road, Croydon Road and Elmerside Road in Elmers End as a Town Green. As the registration authority for Bromley, it was the duty of the Council to decide the application for registration of the land as a new Town or Village Green.

The Chairman of West Beckenham Residents' Association (WBRA), Ms Marie Pender, spoke in support of the application and made the following representations:-

"I hope you have been able to read my letter, see the old maps and the support we have had from local people and other local organisations - Copers Cope Area Residents' Association and The Beckenham Society.

Your legal advice concludes that "it is not considered that the application can succeed". But, you know - it can - if you want it to. The legal advice also says that you, as registration authority, "may decide to register - or decline - on the basis of the application and the evidence before you". It is therefore within your discretion to accept the implied compliance with the spirit of the 2006 Act, by accepting our case. Or by proceeding to register the green voluntarily - as owners of the land.

The spirit of the Act is surely that open land that has been enjoyed by local people for only 20 years should continue to be available for that enjoyment. The only real restrictions in the spirit of the Act are that the enjoyment must be legal and without the use of force or subterfuge, and that the owner should not be forced to have the land registered against its will.

Your legal advice is that the burden of proof lies in "the civil standard of balance of probabilities". The balance of probabilities does not require written testimony – that would be 100% proof. The balance of probabilities is most certainly that this land - never built on and in existence for 300 years – has been used, as the Act describes, for much longer than 20 years.

My letter and the maps show the history of this land. I also emphasise that, for much more than 20 years, the council provided benches for people to sit on – why would you do that if the green were not used for passing the time? Your

signs say “don’t let your dog foul the grass” – why, if there is no dog walking? This land has been enjoyed legally and without the use of force for centuries.

The Council are owners of the land, so why would you object to its protection through registration? There need not be costs involved. If the Council were to agree, there is, for instance, no need for any public inquiry, as suggested by the legal advice.

We understand the Council has rightly been persuaded to register Beckenham Green under the Act. Though the initial legal reaction to that application was also a loud 'no!' We congratulate you on meeting the wishes of the people of Beckenham in that instance."

Having lived in Beckenham for over 30 years, the Chairman confirmed that the green had been used for various activities, ball games, dog walking etc for many years. The WBRA represented over 500 residents, most of whom would not support the application if the statement submitted by Ms Pender was untrue. The Council was unable to prove that the green had not been used for the activities mentioned above. The land was surrounded by roads, however, this had not prevented other areas of land from being registered as town or village greens.

The Chairman also reported that contrary to what was written in the report, the land on which the toilet block stood would be leased not sold and should be excluded from Member consideration.

It was reported that Ward Member Councillor Sarah Phillips was in support of the application. The Chairman moved that the land should be registered as a new town or village green.

In seconding the motion, Councillor Fawthrop emphasised the need to protect such land for residents in the Borough.

Councillor Arthur drew Members' attention to the legal technical definition for registering land as a town or village green. He was concerned that if legal advice was ignored and Members chose to register land without adequate proof of use, then this would set a precedent for future applications.

The Legal Officer agreed with Councillor Arthur and explained the legal framework which must be applied to any application in order for registration to take place and which was addressed in the report. The Development Control Committee when exercising the powers of the Council as a Registration Authority, was required to apply these criteria. It was possible for a land owner on a voluntary basis to dedicate land as a Town Green but this would be a separate matter for the Executive to deliberate upon.

**RESOLVED that Members of the Executive Committee be recommended to apply to voluntarily register the land as a new town or village green.**