

Decision Maker: Executive

Date: 24th March 2015

Decision Type: Non-Urgent Executive Non-Key

Title: LAND KNOWN AS BECKENHAM GREEN LOCATED BETWEEN HIGH STREET AND ST GEORGE'S ROAD BECKENHAM FOR REGISTRATION AS A TOWN OR VILLAGE GREEN

Contact Officer: Greg Ullman, Lawyer
E-mail: greg.ullman@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: Copers Cope

1. Reason for report

The Development Control Committee of 25th November 2014 considered a report relating to the third party application to register the Land as a new Town or Village Green. The report recommended that, as the application failed to meet the legal criteria for a third party registration, it should be rejected. The Committee resolved that registration of the land as a new town or village green be declined for the reasons set out in the report and that the matter be referred to a meeting of the Executive for the Council to consider voluntarily registering the land as a town green in its capacity as owner of the Land. This report is for the Executive as the relevant decision maker to consider whether to follow this course of action.

2. **RECOMMENDATION(S)**

The decision of the Executive as landowner is sought on whether it is minded to have the Land registered as a new Town or Village Green or not. If it is agreed to seek voluntary registration the Director of Regeneration and Transformation is given delegated authority to submit an application for voluntary registration to the Council as Registration Authority.

Corporate Policy

1. Policy Status: Not Applicable:
 2. BBB Priority: Quality Environment:
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Financial

1. Cost of proposal: If the registration takes place, it is not anticipated that this will involve any cost additional to the routine maintenance currently being carried out.
 2. Ongoing costs as 1 above
 3. Budget head/performance centre:
 4. Total current budget for this head: £
 5. Source of funding:
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Staff

1. Number of staff (current and additional): No additional staff required
 2. If from existing staff resources, number of staff hours: it will be necessary for an officer to complete and submit the application in the event of it being decided to proceed to registration, and another officer will be required to process that application and report to Development Control Committee:
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Legal

1. Legal Requirement: The Council as Registration Authority has a statutory duty to process any application made by the Council as Landowner.
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected) Residents of the area in which the Land is located – difficult to estimate on current information.:
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 Reference is made to the report to the Development Control Committee meeting on 25th November 2014 which sets out the detailed legal implications and considerations which are to be applied when considering an application by any party other than the owner of land for the registration of that land as a new Town or Village Green. The report is attached as Annex A.

3.2 An application was received by the Council, in its capacity as Registration Authority for the purposes of the Commons Act 2006, from Mr David Wood, seeking the registration of the Land as a new Town or Village Green.

3.3 As Registration Authority, the Council processed this application, publicised it and sought comments.

3.4 A small number of responses were received in the consultation period, including a response from the Council as landowner. As landowner, it was stated that, in addition to a comment about the lack of any supporting evidence, "Whatever the merits of the application however, the applicant makes the point himself that the land has been appropriated to recreation use and that it is designated as POS. It is in fact a public park. On that basis the use by the public is by right and not as of right and consequently, in accordance with the recent North Yorkshire CC case, the application should be rejected as it does not meet the TVG registration requirements." A summary of the responses, including the Applicant's reply to the proposed recommendation are contained in the report the Development Control Committee.

3.5 The Report to Development Control Committee recommended that the application be refused as it clearly failed to meet any of the legal criteria for registration. Members are requested to read Annex A to familiarise themselves with the background and legal considerations, including the importance of the distinction between use "*as of right*" and "*by right*".

3.6 When the Development Control Committee considered the report to them, they accepted the advice that the application failed to meet the legal criteria to register the Land, but asked the Executive to consider whether the Council as the land owner on a voluntary basis should dedicate the land as a Town Green.

3.7 The Commons Act 2006 provides at S15 (8) that "*The owner of any land may apply to the commons registration authority to register the land as a town or village green*". If such an application is made, then the Council as Registration Authority must grant the application if it is satisfied that the applicant is the owner of the land and that any consents required (eg charge holders, leaseholders) have been obtained. Such an application does not need to satisfy any of the other tests required when a non-owner makes such an application.

3.8 The application for registration of the Land as a new town or village green which was submitted by Mr David Wood fails to satisfy the legal tests required for the registration to proceed. If however, the Council as land owner wishes the registration to take place, then the way to proceed with this should be by making an application for voluntary registration.

3.9 Mr Wood has subsequently written a letter which he wishes to be considered by the Executive which is produced here as Annex B. Mr Wood has asked that the Council also consider the registration of an additional area of land.

LEGAL IMPLICATIONS

4.1 Fully addressed in the body of the report and in Annex A.

Non-Applicable Sections:	Policy/Financial/Personnel
Background Documents: (Access via Contact Officer)	