

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: Thursday 25 July 2024

Decision Type: Non-Urgent Non-Executive Non-Key

Title: APPLICATION TO REGISTER LAND DESCRIBED AS BARNET WOOD, MAZZARDS WOOD, BROOK WOOD, SCROGGINGHALL WOOD AS A NEW TOWN OR VILLAGE GREEN

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Chief Officer: Director of Corporate Services

Ward: Bromley Common and Holwood, Hayes and Coney Hall

1. Reason for decision/report and options

- 1.1 The Council as Registration Authority has received an application under the Commons Act 2006 for the registration of land known as Barnet Wood, Mazzards Wood, Brook Wood, Scrogginghall Wood as a new town or village green. The purpose of this report is to enable the Council to consider and determine this application. In order for the land to be registered as a Town or Village Green it must meet certain criteria and if all of these criteria are not met, then the land should not be registered as such. In this case not all of the criteria are met because the applicant has not demonstrated that users were enjoying lawful sports and pastimes since the use was in the nature of a public right of way and there have been material interruptions during the relevant 20 year period.

2. **RECOMMENDATION(S)**

- 2.1 That Members reject the application to register the land known as Barnet Wood, Mazzards Wood, Brook Wood, Scrogginghall Wood as a new town or village green, for the reasons set out in the Inspector's report at Appendix 2 of this report (To Follow).

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
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Transformation Policy

1. Policy Status: Not Applicable
 2. Making Bromley Even Better Priority
For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future
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Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: Not applicable
 3. Budget head/performance centre: Planning
 4. Total current budget for this head: £
 5. Source of funding: Existing Budget
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Personnel

1. Number of staff (*current and additional*): 90
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not applicable
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Procurement

1. Summary of Procurement Implications: None
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Property

1. Summary of Property Implications: None
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: None
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Impact on the Local Economy

1. Summary of Local Economy Implications: None
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Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: None
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Customer Impact

1. Estimated number of users or customers (*current and projected*): Unknown
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: To be verbally updated

3. COMMENTARY

3.1 On 16th January 2020, the Council, in its capacity as commons registration authority received an application from Ms NB. It sought to register land described as “Barnet Wood-formerly known as The Bishops Wood (Lying south of Barnet Wood Road sometimes part of known as Colyers or Coliers Wood), Mazzards Wood, Brook Wood, Scrogginghall Wood” as a new Town or Village Green pursuant to section 15(3) of the Commons Act 2006.

3.2 The application was made under section 15(3). In accordance with statutory procedures, the application was advertised and objections were received from the RE Company who is the freehold owner of the application land and Mr J H who is the registered proprietor of a small area of land within the application.

3.3 The Commons Act 2006 is the statutory regime governing commons and town and village greens. Each registration authority is required to maintain a Register of Commons and Town and Village greens within its area. Section 15 provides for the registration of land as a town and village greens where the relevant statutory criteria are established.

Section 15(2) of the Commons Act 2006 enables any person to apply to register land where:

- (a) A significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years: and
- (b) They continue to do so at the time of the application.

Section 15(3) of the Commons Act 2006 applies where:

- (a) A significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
- (b) They ceased to do so before the time of the application but within one year from when the use ceased.

3.4 In order to be successful the applicant needs to demonstrate that:

- the land has been used for lawful sports and pastimes,
- the use has been for a period of not less than 20 years,
- such use has been by a significant number of the inhabitants of a locality or of a neighbourhood within a locality,
- such use has been as of right and
- such use continued at the time of the application or within one year from the date of the application.

3.5 The Council appointed Mr Paul Wilmshurst, barrister, as an Inspector to hold a non-statutory public inquiry to hear oral evidence and submissions from the Applicant and objectors to the application. The Inquiry was held during October 2023. At the inquiry the applicant indicated there was no desire to continue the application with respect to the small area in the ownership of Mr JH. Having heard submissions, Mr Wilmshurst concluded that there was no compelling reason or public interest in hearing evidence in respect of that area of land only. The Inquiry proceeded dealing with the objections on behalf of the RE Company only.

3.6 Mr Wilmshurst published his findings on 24th May 2024. He considered the evidence submitted in support of the application and on behalf of the objection against these criteria. He concluded that there does not appear to be an event which caused the qualifying users of the application

land to cease to be present as of right. Accordingly the application would fall to be considered under section 15(2) of the Commons Act and not section 15(3). He found that the Applicant has not demonstrated that users were enjoying lawful sports and pastimes. In his findings the use was in the nature of public rights of way. He also found that there had been material interruptions in the user during the 20 year period when large areas of the land were effectively rendered out of bounds for those seeking to use the woods for recreational activity when shoots took place and when areas of the woods were unavailable for use for substantial periods of time during the 20 year period due to coppicing.

4 LEGAL IMPLICATIONS

4.1 These are addressed in the report. The application must be determined in accordance with the criteria set out in section 15 of the Commons Act 2006

5. WARD COUNCILLOR VIEWS

5.1 Any ward councillor comments will be reported verbally.

Non-Applicable Headings:	Impact On Vulnerable Adults and Children, Transformation/Policy Implications, Financial Implications, Personnel Implications, Procurement Implications, Property Implications, Carbon Reduction/Social Value Implications, Impact On The Local Economy, Impact On Health and Wellbeing, Customer Impact
Background Documents: (Access via Contact Officer)	Application dated 16 th January 2020 from Ms NB Representations submitted on behalf of RE Company dated 15 January 2021 Report of Paul Wilmshurst dated 24 th May 2024

Appendix 1 Map of application area for general identification purposes only

Appendix 2 Report of Paul Wilmshurst dated 24th May 2024 (To Follow)