
Decision maker:	Director of resources
Decision date:	4 April 2016
Title of report:	Application to register land at Willowbrook, Greytree, Ross-on-Wye as a town or village green
Report by:	Commons registration officer

Classification

Open

Key Decision

This is not a key decision.

Wards Affected

Ross North

Purpose

To agree the recommendation set out in the Inspectors report to reject the application to register the land as a town or village green under the Commons Act 2006 section 15(2).

Recommendation

THAT:

- (a) **the application to register the land as town or village green under the Commons Act 2006 Section 15(2) is rejected.**

Alternative options

- 1 Approve the application. This would not be in line with the inspector's recommendation dated the 10 March 2016.

Reasons for recommendations

- 2 The application does not meet all the legal tests as set out required by section 15(2) of the 2006 act.
- 3 The application use of the land is “by right” not “as of right” thus failing the legal test.

Key considerations

- 4 Herefordshire Council (“the Council”) as Commons Registration Authority received an application from Mr P Davies, Mrs J Yeomans, Mrs S Davies and Mrs H Fursdon (“the applicants”) to register land at Willowbrook, Greytrees, Ross-on-Wye, HR9 7JS (“the application land”) as a town or village green under section 15(2) of the Commons Act 2006.
- 5 Section 15(2) enables the registration of land as a village green where: -
 - (a) a significant number of the inhabitants of any locality, or of a 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
 - (b) they continue to do so at the time of application.
- 6 Evidence of the use of the application land has been provided in the form of questionnaires completed by those who live in the locality.
- 7 The application has been publicised in accordance with the Commons Registration (England) 2014 regulations. A notice was served on the Landowner, Ross Town Council and a notice was put up on site.
- 8 The Council received 22 objections to the application, one of which was on behalf of the landowner. It also received a number of representations in support of the application.
- 9 The Council commissioned an independent inspector to prepare a report recommending whether it should register the application land as a town or village green pursuant to the 2006 Act.
- 10 A determination hearing was held on Wednesday 24 February 2016 at the Town Hall, Hereford to allow the applicants and the landowner who was the main objector to make submissions regarding the application. The inspectors report is attached at appendix 1.

Community impact

- 11 None identified.

Equality duty

- 12 This proposal is not likely to generate any negative impacts as identified under the council’s public sector equality duty.

Financial implications

- 13 There are no direct financial implications arising as a result of this decision, however the Risk Management section (paragraph 15) should be noted

Legal Implications

- 14 Herefordshire Council has a statutory duty set out in paragraph 26 of the Commons Registration (England) Regulation 2014 to determine applications to amend the registers of common land and town and village greens. The inspector considered the application and recent analogues caselaw. The decision to reject the application accords with that and is based on a reasoned consideration of the facts.

Risk management

- 15 Should the council make a decision which is opposed, there may be a risk of Judicial Review. If a court should find against the council in an application to the court for Judicial Review, these costs can be significant and can represent a financial risk to the council. This information must not influence the decision about whether the application is accepted or rejected; as such decision can only be based on the evidence before the council.

Consultees

None

Appendices

Appendix A - Inspectors report dated 10 March 2016.

Appendix B – Site location plan.

Background papers

- None identified.