

Special Sub-Committee for VG109

Meeting to be held on Monday, 10 February 2020

Part I

Electoral Division affected:
Lancaster Central;

Commons Act 2006

Commons Registration (England) Regulations 2014

Determination of Town and Village Green Application VG109 relating to land at Freemans Wood, off New Quay Road, Lancaster

(Annex 'A' and Appendices 'A', 'B', 'C' and 'D' refer)

Contact for further information:

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Executive Summary

An Application for land at Freemans Wood, off New Quay Road, Lancaster, to be registered as a town or village green.

Recommendation

The Special Sub-Committee are asked to accept the Application for all the reasons set out in the report from the Independent Inspector at Appendix 'D', as detailed at paragraphs 10 and 11 in said report.

Background and Advice

Section 15 of The Commons Act 2006 (The 2006 Act) came into force in April 2007 with most of the remaining sections of the 2006 Act coming into force in Lancashire in October 2008. The 2006 Act makes provision for the registration of common land and of town or village greens and the maintenance of the registers of common land and town and village greens by Registration Authorities. The county council is the Registration Authority for the County of Lancashire and the determination of applications to register town greens rests with the Regulatory Committee.

In October 2012, an application was made to register land at Freemans Wood, off New Quay Road, Lancaster as a town or village green. A map of the Application Land can be seen at Appendix 'A'. A further map of the claimed locality can also be seen at Appendix 'B'.

The Commons Registration (England) Regulations 2014 (the 2014 Regulations) have been made under the 2006 Act and now apply to this application. The proper procedure has been applied to the application. The application was publicised and 2 objections were received together with 15 representations in support. The Applicant has had the opportunity to comment on all of these.

In May 2019, it was approved under the Urgent Business Procedure and after consultation with the Chair and Deputy Chair of the Regulatory Committee, that an independent inspector be appointed to hold a public inquiry and hear the evidence in this matter, and then to prepare a report and recommendation back to the Special Sub Committee. Under the 2014 Regulations, the inspector must also conduct a site inspection.

A public inquiry was arranged and the inspector, Mr Alan Evans, Barrister at Law was appointed. Mr Evans issued Directions to the parties and various documents were filed prior to the inquiry.

At the Inquiry commencing on 27th August 2019, the Inspector heard the evidence, cross examinations and submissions.

Mr Evans has now carefully considered all the evidence and information, has inspected the site and prepared a report to the Special Sub-Committee which contains his consideration of how the law applies to the information and evidence and his recommendation that the application be accepted (subject only to a boundary amendment to exclude land owned by Hurstwood Holdings Limited (as shown hatched blue on the attached plan (Appendix 'C') for the reasons he sets out in the report at paragraphs 10 and 11. (Appendix 'D').

Further guidance regarding the law applicable in this matter is set out at Annex 'A'.

It is advised that prior to this meeting, the Special Sub-Committee have had sight of the Application in full, together with all objections and statements made at the Inquiry and all other available documentation.

It is advised that the Special Sub-Committee consider all the guidance and the information and evidence before them, in order to reach a decision on the application.

Consultations

The application was duly publicised under the 2014 Regulations, which includes notifying the City Council, but there is no provision for actual consultation relating to the making of this decision.

Implications:

This item has the following implications, as indicated:

Human Rights

Human Rights implications would arise should it be determined to register the Land as a village green. In that scenario, Article One of the First Protocol to the European Convention of Human Rights is applicable which entitles everyone, including a company, to a right to the peaceful enjoyment of their property. If the Land is registered, the owners would be precluded from developing their Land. However, that must be balanced against the public interest in registering land as village greens where the local inhabitants have established their rights over that land to use it for recreational purposes in order to ensure the protection of such rights.

If the Land was not registered, that would result from it not being established that the Land was a village green in which case the local inhabitants would not have any recreational rights over the Land that ought to be protected. There does not appear to be any human rights implications arising from that scenario.

Risk management

The decision to be made by the Special Sub-Committee could be subject to judicial challenge.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
Files of papers denoted 3.681 – save as exempt from disclosure		Lindsay Campy Legal and Democratic Services Ext: 33439

Reason for inclusion in Part II, if appropriate

N/A