

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date of Decision:	18 March 2010
Decision Title:	Revocation of a decision to appoint an independent Inspector to hold a non-statutory public inquiry into an application for registration of land at Chilworth as town or village green (Application No. TVG 238) consequent on the withdrawal of this application.
Decision Reference:	1421
Report From:	Director of Culture, Communities and Rural Affairs

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EXECUTIVE SUMMARY

1) Summary of decision area:

1.1. Hampshire County Council is the Commons Registration Authority for the purpose of exercising functions under the Commons Act 2006. An application was made by Chilworth Residents' Association of Southerly, Chilworth Ring, Chilworth for the registration of land in Chilworth known as 'The Playing Field' as a town or village green. Having advertised this application and received objections, the County Council resolved to appoint an independent Inspector to hold a non statutory Public Inquiry to consider the matters raised. Following to this resolution, Chilworth Parish Council purchased this land, which will be subject to covenants providing for its use only as public recreational land. Chilworth Residents' Association now wishes to formally withdraw this application. Officers therefore request that Committee accept this withdrawal and that the decision to appoint an Inspector to hold a non-statutory Inquiry into this matter be revoked.

2) Legal framework for the decision:

2.1. S.15 COMMONS ACT 2006

Registration of greens:

s.15(1) Any person may apply to the commons registration authority to register land to which this part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

s.15(3) This subsection applies where –

(a) a significant number of the inhabitants of any locality, or of any neighbourhood in a locality, 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 after the commencement of this section; and

(c) the application is made within the period of two years beginning with the cessation referred to in paragraph (b).

s.15(6) In determining the period of 20 years referred to in subsection[...]
(3)(a).., there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment.

2.2 THE COMMONS (REGISTRATION OF TOWN OR VILLAGE GREENS) (INTERIM ARRANGEMENTS) (ENGLAND AND WALES) REGULATIONS 2007

Consideration of objections

6(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, as soon as possible after the date by which statements in objection to an application have been required to be submitted, the registration authority must proceed to the further consideration of the application, and the consideration of statements (if any) in objection to that application, in accordance with the following provisions of this regulation.

(2) The registration authority –

(a) must consider every written statement in objection to an application which it receives before the date on which it proceeds to the further consideration of the application under paragraph (1); and

(b) may consider any such statement which it receives on or after that date and before the authority finally disposes of the application.

3) Recommendation:

i) That the withdrawal of the application be accepted by Members

ii) That the decision to appoint an independent Inspector to hold a non-Statutory Inquiry, as contained in Minute number 326 of the meeting of the Regulatory Committee held on March 11th 2009, be revoked.

MAIN REPORT

1) Purpose of report:

- 1.1. The purpose of this report is to seek acceptance of the withdrawal of an application to register land known as 'The Playing Field' in Chilworth and to revoke the decision to appoint an independent Inspector hold a non-statutory Public Inquiry into the matters raised.

2) Applicant:

Chilworth Residents' Association of Southerly, Chilworth Ring, Chilworth

3) Landowners:

Chilworth Parish Council.

4) Background:

- 4.1. The land which was the subject of the application ('the Land') is shown edged red on the plan annexed to this report (Appendix 1). It consists of approximately hectares of land. The land is comprised in the registered title number HP 718865. Following the receipt of the application (and in accordance with the Commons [Registration of Town or Village Greens](Interim arrangements)(England and Wales) Regulations 2007]) it was advertised by the County Council and objections were received. In light of these objections, the County Council resolved to hold a non-statutory Inquiry to investigate the matters raised. This resolution was made was made by the Regulatory Committee on the 11th March 2009 and is recorded as Minute number 326.
- 4.2. Since the application was made, negotiations were commenced by Chilworth Parish Council to purchase the application land from the former owners Mitchells and Butler Retail No. 2 Limited. These negotiations were successfully concluded on 2nd February 2010, and Chilworth Parish Council now own the land, subject to a restrictive covenant not to use the land other than for public recreation.
- 4.3. In light of this purchase, Mrs Alison Finlay of Chilworth Residents' Association has confirmed in writing that the Association wishes to withdraw the application to record this land as a Town or Village Green (Appendix 2). Her letter also confirms that the land which has been purchased is co-extensive with the land that formed the application.
- 4.4. The House of Lords in *Oxfordshire County Council v Oxford City Council and Robinson* [2006] UKHL 2 (the Trap Grounds Case) held that although applicants are, in the remit of the law, able to withdraw their application, they have no absolute right to do so unless the Registration Authority considers such a withdrawal reasonable.
- 4.5. In this case, given the purchase of the land by the Parish Council and the intention to use this land for public recreation, it is considered both reasonable and expedient that the application be withdrawn.

8) Recommendation

- i) That the withdrawal of the application be accepted by Members
- ii) That the decision to appoint an independent Inspector to hold a non-Statutory Inquiry, as contained in Minute number 326 of the meeting of the Regulatory Committee held on March 11th 2009, be revoked.

**Agenda Item:
Integral Appendix 3:**

CORPORATE AND LEGAL INFORMATION ABOUT THIS DECISION:

Links to the Corporate Strategy

	Yes	No
Hampshire safer and more secure for all	<input type="checkbox"/>	<input type="checkbox"/>
Maximising well-being	<input type="checkbox"/>	<input type="checkbox"/>
Enhancing our quality of place	<input type="checkbox"/>	<input type="checkbox"/>

OR

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because the County Council, in its capacity as Commons Registration authority has a legal duty to amend the register of towns and village greens in the circumstances described in this report.

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report.

(NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

(Quote list of documents here: e.g. list the relevant letters, memos, etc. and their location)

<u>Document</u>	<u>Location</u>
Files: VG 238	Countryside Access Team Room 200 Mottisfont Court High Street Winchester SO23 8ZF