

Hampshire County Council

Decision Report:

Decision Maker:	Regulatory Committee
Date of Decision:	27 April 2011
Title:	Application for the registration of land known as Monks Brook Playing Fields at Monks Brook Greenway, Swaythling as town or village green
Reference:	2891
Report from:	Director of Culture, Communities and Business Services

Contact name: Sylvia Seeliger

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Email: sylvia.seeliger@hants.gov.uk

1. Executive Summary

1.1 Hampshire County Council is the Commons Registration Authority for the purpose of exercising functions under the Commons Act 2006. One such function is the determination of applications made to register land as town or village green. In 2007 an application was made in respect of land partly within the administrative boundary of Hampshire and partly within the administrative boundary of Southampton City and authority was given by this Committee to Southampton City Council to deal administratively with the application on behalf of Hampshire County Council. Approval is now sought to write to the Leader of Southampton City Council on behalf of the Regulatory Committee requesting information about the lack of progress of the application relating to the land lying within the County of Hampshire, so that a decision may be made as to how to bring to completion the determination of the application for the Hampshire part of the land.

2. Legal framework for the decision

2.1 S.15 Commons Act 2006

Registration of greens:

(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.

(2) This subsection applies where –

(a) a significant number of the inhabitants of the locality, or of any neighbourhood within 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 continue to do so at the time of the application.

(4) This subsection applies (subject to subsection (5)) where –

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;

(b) they ceased to do so before the commencement of this section; and

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

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. **Applicant:** Mrs. Janet Ticehurst of 1 Mardon Close, Swaythling, Southampton

4. **Landowners:** Hampshire County Council.

5. Description of the land (please refer to the map attached to this report)

- 5.1 The application land lies between Stoneham Lane (A 335) and Monks Brook Greenway, and is divided by the boundary between Southampton City and Hampshire. The map shows the application land edged in blue, and the part lying in Southampton City is hatched black. The whole area is unregistered. Its area is 11.32 acres (4.58 hectares).

6. The application

- 6.1 In September 2007, an application (TVG 234) was made to register land known as Monks Brook Playing Fields (Meadow) at Monks Brook Greenway, at Swaythling by Mrs. Janet Ticehurst. Part of the land is within Hampshire and part is within Southampton City with the respective parts being owned by Hampshire County Council, and by Southampton City Council. The application was accompanied by maps, photographs, a petition, and letters from local residents. The applications were effectively identical.
- 6.2 On 28 September 2007, a report was taken to the Regulatory Committee (copy attached), seeking that Southampton City Council should be authorised to deal administratively with the application relating to the land in Hampshire, to revert back to the County Council after the non-statutory public inquiry had been held, and the Inspector's decision letter giving a recommendation as to the determination had been received.
- 6.3 The matter was duly passed to Southampton City Council. Recent attempts at officer level to find out what progress has been made with the matter have not been successful. Undetermined village green applications are holding up the processing of new applications, to the point that there is now a waiting list. In order to be able to process these new applications, the backlog has to be cleared.
- 6.4 For this reason, permission is sought to write, as from the Chairman of the Regulatory Committee, to the Leader of Southampton City Council, on behalf of the Regulatory Committee, requesting information on the lack of progress of this application, so that it may be decided whether Hampshire County Council, as the Commons Registration Authority for the land covered by this application, should take this application back into its control and proceed to a determination.

7. Issues to be decided

- 7.1 Whether permission should be given to write to the Leader of Southampton City Council, on behalf of the Regulatory Committee, requesting information on the lack of progress of the application relating to the land lying in Hampshire.

8. Recommendation

- 8.1 That authority is given to write, as from the Chairman of the Regulatory Committee, to the Leader of Southampton City Council, requesting information about the lack of progress of the application relating to the land lying in Hampshire, so that a decision can be made as to how best to proceed to determination of the matter.

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	yes/no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes/no
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes/no
Corporate Improvement plan link number (if appropriate):	
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 town and village greens in the circumstances described in this report.	

Section 100 D - Local Government Act 1972 - background documents	
<p>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.)</p>	
<u>Document</u>	<u>Location</u>
File: VG 234	Countryside Access Team Room 200 Mottisfont Court High Street Winchester, SO23 8ZF

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

1.1

2. Impact on Crime and Disorder:

2.1

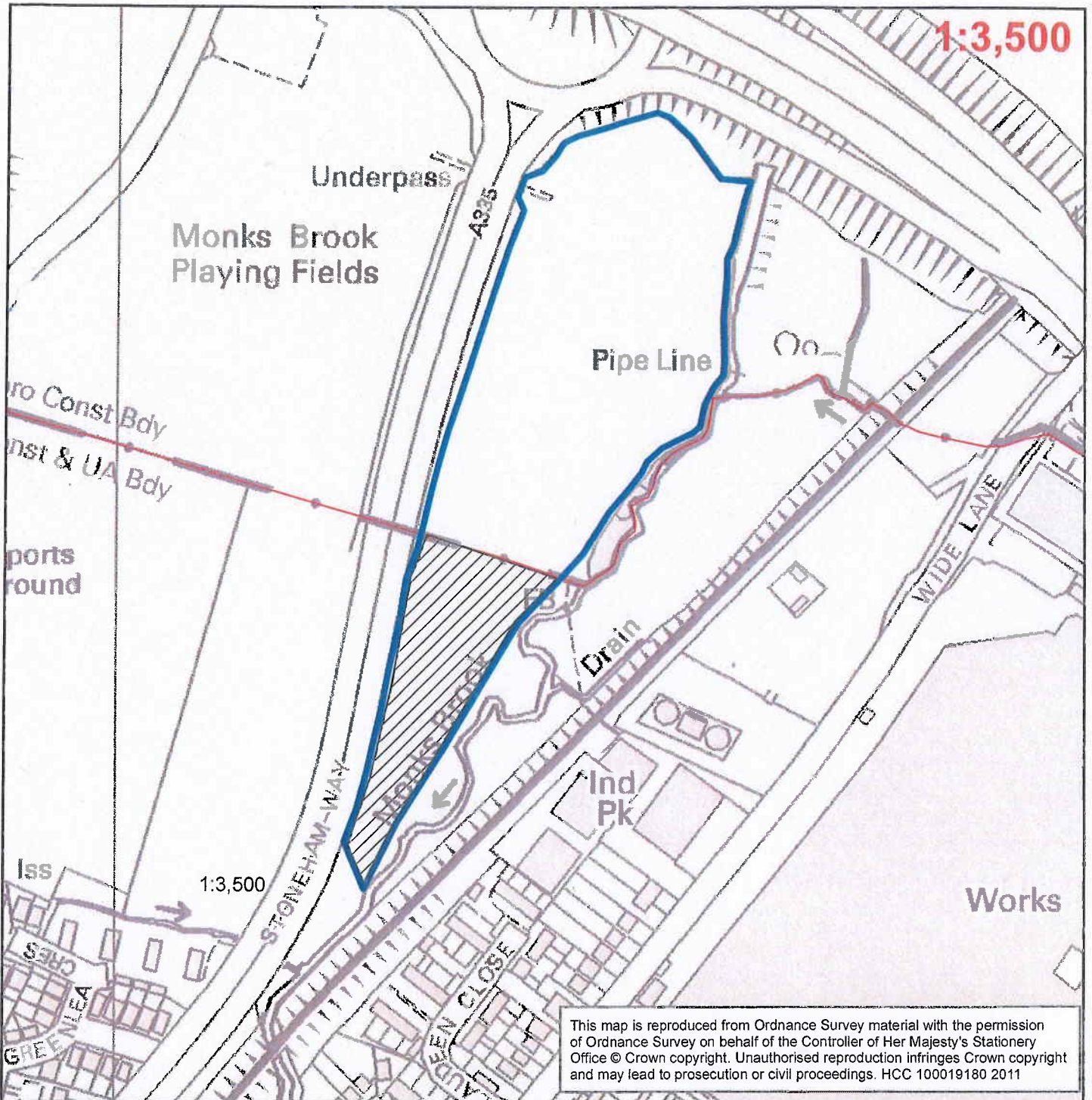
3. Climate Change:


- a) How does what is being proposed impact on our carbon footprint / energy consumption?
- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

This report does not require impact assessments 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 town and village greens in the circumstances described in this report.

Commons Act 2006 - Section 15(1)

Notice of an application for the registration
of land as a town or village green



 Hampshire
County Council
Commons Registration Team
Culture Communities and Business
Services
Mottisfont Court
High Street
Winchester
SO23 8ZF

EASTLEIGH AND SOUTHAMPTON



Approximate extent of land
subject to this application



Approximate area owned by
Southampton City Council

Hampshire County Council

Regulatory Committee

Item

28 November 2007

**Application to Register land at Monks Brook, Swaythling as
Town or Village Green**

Commons Act 2006

**The Commons (Registration of Town or Village Greens)
(Interim Arrangement) Regulations 2007
Report of the Chief Executive**

Contact: Liz Ellam, (01962) 847371 elizabeth.ellam@hants.gov.uk

1 Summary

- 1.1 An application has been made by Mrs Janet Ticehurst of 1 Mardon Close, Swaythling, Southampton to register land known as Monks Brook, Playing Fields (Meadow) and Monks Brook Greenway, Swaythling as town or village green as shown coloured green on the attached map. The application relates to land which lies within the administrative district of the County Council and the Council is therefore the Commons Registration Authority.
- 1.2 A similar application has been made by Mrs Ticehurst in respect of the land shown green and hatched black on the map and this lies within the administrative district of Southampton City Council and Southampton City Council is therefore the Commons Registration Authority in respect of that land.
- 1.3 It is proposed that Southampton City Council are authorised by the Regulatory Committee to deal administratively with the application in respect of the Hampshire land and revert back to the County Council after the non-statutory public inquiry has been held, with the Inspector recommending whether the County Council should agree to the application, in whole or part, or reject it.

2 Introduction

- 2.1 The application to Hampshire County Council is considered to be 'duly made' under the Interim Arrangement Regulations and the next stage would be for the application to be advertised.
- 2.2 The owners of the land the subject to the application to Hampshire County Council are Hampshire County Council.
- 2.3 Members will be aware that it is quite usual for non-statutory public inquiries to be held where there are issues of fact and law to be resolved, with an independent Inspector being appointed to preside at the public inquiry and

prepare a report for the Registration Authority with a recommendation to agree to or reject the application.

- 2.4 It is unusual for an application to be received which straddles administrative boundaries and the legislation is silent as to how such applications should be dealt with.
- 2.5 The Guidance Notes for completion of an application published by DEFRA say "if the land comes under the jurisdiction of more than one registration authority we suggest that you apply to the registration authority within whose area the majority of the land lies".
- 2.6 Mrs Ticehurst has, as stated above, made applications to both Hampshire County Council and Southampton City Council.
- 2.7 It will be more practical for one registration authority to deal with both applications, as they in effect relate to the same land, and it is proposed that the Regulatory Committee authorise Southampton City Council to deal with the application, advertising of the application, dealing with the administrative provisions as to the exchange of objections/representations made and the appointment of an Inspector should a non-statutory public inquiry be necessary.
- 2.8 As Hampshire County Council own approximately 65% of the land and Southampton City Council 35% it may be for this reason alone that it would be prudent for a public inquiry to be held.
- 2.9 If Members are agreeable to this proposal, then the costs of the public inquiry would be split 50/50 between the two Councils. The cost of a five day public inquiry has been estimated to be in the region of £20,000.

3 Recommendation

- 3.1 That Southampton City Council be authorised under Section 101 of the Local Government Act 1972 to deal administratively with the application to Hampshire County Council to register land at Monks Brook Swaythling as town or village green including the appointment of an Inspector to preside over a non-statutory public inquiry.
- 3.2 The costs of any public inquiry to be shared between the two Authorities 50/50.
- 3.3 That the Inspector be asked to prepare a report for Hampshire County Council following the public inquiry with a recommendation to agree to the application or reject it.
- 3.4 That the application be returned to the Regulatory Committee for determination in due course.

Section 100D – Local Government Act 1972 – background papers

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

NB: the list excludes:

1. Published works
2. Documents which disclose exempt or confidential information as defined in the Act

Application and supporting documentation held in Chief Executive's Department

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AT A MEETING of the REGULATORY COMMITTEE of HAMPSHIRE COUNTY COUNCIL held at The Castle, Winchester on Wednesday 28 November 2007.

PRESENT:

Chairman:

p Councillor R. C. McIntosh

Vice-Chairman:

p Councillor I. F. E. Beagley

Councillors:

a Carol Boulton

p B. T. Gurden

p J. V. Bryant

p G. M. Hockley

a A. S. Carew

p S. C. James

p M. F. Cartwright

p Jo Kelly

p M. G. Cooper

p Roger H. Price JP

p Mrs. P. Dickens

p S. H. Reid

a D. Gillett

p J. K. West

Also in attendance:

Councillor Charlotte Bailey for Item 6.

165. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Carol Boulton, A. S. Carew and D. Gillett.

166. DECLARATIONS OF INTEREST

All Members who believe they have a personal or prejudicial interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in paragraphs 9, 10, 11 and 12 of the County Council's Code of Conduct, consider whether to leave the meeting whilst the matter is

discussed, save for exercising any right to speak in accordance with paragraph 12 of the Code. The declaration should be made at the time of the relevant debate.

167. MINUTES

The Minutes of the Meeting held on 17 October 2007 were confirmed by the Committee and signed by the Chairman.

Arising thereon:

Minute 159 - Four Dell Industrial Park, Poles Lane, Otterbourne.

(Application No 07/01815/HCS) (County Council Ref. WR210)

In response to a Member question concerning the accident close to the location of the new access road, the Head of Planning and Development advised that the accident had not been directly related to the access of the site.

Minute 160 - Henry Beaufort School (Application No. 07/02066/HCS

W00871/018) (County Council Ref. WRE013)

Councillor J. V. Bryant's personal interest was corrected to Chairman of the Management Committee at Henry Cort Community College.

168. CHAIRMAN'S COMMUNICATIONS

The Chairman reported that the Head of Planning and Development had arranged to hold a short presentation on noise appreciation by a noise expert immediately following the meeting of the Committee on 10 January 2008. The presentation would last approximately 40 minutes and there would be an opportunity to ask questions afterwards.

169. APPLICATION TO REGISTER LAND AT MONKS BROOK, SWAYTHLING AS TOWN OR VILLAGE GREEN

The Committee considered the report of the Chief Executive (Item 11 in the Minute Book) on an application to register land known as Monks Brook, Swaythling as town or village green.

RESOLVED:

- (a) That Southampton City Council be authorised under Section 101 of the Local

Government Act 1972 to deal administratively with the application to Hampshire County Council to register land at Monks Brook, Swaythling as town or village green including the appointment of an Inspector to preside over a non-statutory public inquiry.

(b) That the costs of any public inquiry to be shared between the two Authorities 50/50.

(c) That the Inspector be asked to prepare a report for Hampshire County Council following the public inquiry with a recommendation to agree to the application or reject it.

**170. NEW SYNTHETIC TURF PITCH, WELDMESH FENCING,
FLOODLIGHTING AND ASSOCIATED LANDSCAPE WORKS AT
HENRY BEAUFORT SCHOOL, EAST WOODHAY ROAD,
HARESTOCK, WINCHESTER (APPLICATION NO. 07/02066/HCS
W00871/018) (COUNTY COUNCIL REF. WRE013)**

Sasha Nicholas representing Hampshire Football Association, Councillor Jacey Jackson Ward Councillor for Littleton and Harestock, Mr Paul Best Principal Architect for Architectural Services at Hampshire County Council, Mr Tony Eade representing youth Football Clubs in Winchester, Mr Mark Palmer on behalf of adjoining residents in Buriton Road, Mr Jonathan de Sausmarez, Headteacher of Henry Beaufort School, Councillor Kelsie Learney Winchester City Councillor, Mr T. M. Cross resident of Buriton Road, Mrs E. A. Cross resident of Buriton Road, Mr D. Elsmore Clerk to Harestock and Littleton Parish Council and resident of Buriton Road, Mr A. Sayle of Parish Smith and Randall Solicitors and Mr S. Dunn, local resident made deputations in respect of this item. Councillor Charlotte Bailey also attended and spoke as Local Member supporting the proposal for a new Synthetic Turf Pitch which would create opportunities for pupils at the school to participate in sport. She advised that the school had been responsive to local residents concerns and is making every effort