

Hampshire County Council

Decision Report:

Decision Maker:	Regulatory Committee
Date of Decision:	25 April 2012
Title:	Application for the registration of land known as Monks Brook Playing Fields at Monks Brook Greenway, Swaythling as town or village green
Reference:	3829
Report from:	Director of Culture, Communities and Business Services

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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 was sought, and given, 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 part of the Land in Hampshire. After several attempts to elicit information, it seems that no progress has been made, and therefore approval is now sought to rescind the resolution of 2007 that Southampton City Council should deal administratively with this application, and that officers of this registration authority should process it to determination.

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
Southampton City 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 November 2007, a report was taken to the Regulatory Committee (copies of both reports attached at Appendix 1), 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, and there is evidence that the material was received. Renewed efforts have been made to ascertain what progress, if any, has been made with this application, and officers were informed in October 2011 that the Council had written to the applicant to find out whether she still wished to proceed with the application. Since then, it has proved impossible to obtain any further information on the matter of the applicant's view, or anything else relating to the application. The reason for seeking approval to write to the Leader of Southampton City Council to get this information remains unchanged, in that 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. This is the last application in that backlog remaining to be determined.

- 6.4 For this reason, Members' authority is sought to rescind the resolution of at minute 169 of the meeting on 28 November 2007 (see Appendix 2), in which it was agreed that Southampton City Council be authorised under Section 101 of the Local Government Act 1972 to deal administratively with the application to register Monks Brook, Swaythling as town or village green, and to approve the taking back of this application back into the control of the County Council so that it can proceed to a determination and dispose of it.

7. Issues to be decided

- 7.1 Whether previous authority given by this Committee to authorise Southampton City Council to deal administratively with this application should be rescinded. The processing of the section of land in Hampshire will be carried out by the County Council, together with the land lying in Southampton if we receive the consent of Southampton City Council to do so. This would allow for a determination of all the land affected this application, since it is one parcel of land split by an administrative boundary. The evidence submitted with the application relates to the whole area of land.

8. Recommendation

- 8.1 That authority is given to rescind the resolution contained in minute 169 recording a decision made on 28 November 2007 to authorise Southampton City Council to deal administratively with this application, so that that the application to register the section of the land at Monks Brook that lies in Hampshire may be brought to a determination by officers of the County Council, along with the land lying in Southampton if the consent of Southampton City Council is received to do so.

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

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.)

Document

File: VG 234

Location

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.