

Hampshire County Council

Decision Report:

Decision Maker:	Regulatory Committee
Date of Decision:	19 March 2014
Title:	Acceptance of the withdrawal of an application for registration of land known as 'School Field', in the parish of Abbots Ann, as town or village green (Application No. VG 254)
Reference:	5711
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 (CRA) 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. The Regulatory Committee, in its capacity as Commons Registration Authority, is asked to consider an application for registration of land known as 'School Field', in Abbots Ann, as town or village green. The application was made by Mr. D. Wells of Manor Close, Abbots Ann. The applicant has requested that this application be withdrawn, on the basis that a final agreement is being reached between Abbots Ann Parish Council, and the landowner, Hampshire County Council, to enter into a lease between the two parties, and the applicant and local inhabitants are satisfied with this outcome. The request to withdraw the application was advertised so that no prejudice could be caused to any party, and no representations were received. Officers therefore, request that the Committee accept this withdrawal.

2. Legal framework for the decision:

2.1 Section 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.

(3) This subsection applies 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 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).

(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).

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 School Field' in Abbots Ann parish as town or village green.

2. Applicant:

Mr. D. Wells,
16 Manor Close,
Abbots Ann,
Andover,
SP11 7BJ.

3. Landowners:

Hampshire County Council,
The Castle,
Winchester,
SO23 8UU.

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

- 4.1 The land which is the subject of the application ('the Land') is shown edged red on the plan annexed to this report. It consists of approximately 2.02 acres (0.82 hectares) of land situated south of Clatford Road, west of Manor Close and east of Duck Street, in the village of Abbots Ann, in the parish of Abbots Ann, and known as the 'School Playing Field'. The Land is unregistered.

5. The application:

- 5.1 The application was received on 11th August 2010. It states that the Land should be registered as town or village green because it has been used by a significant number of the inhabitants of a locality (or neighbourhood in a locality) for lawful sports and pastimes for at least 20 years, and they continue so to use it. The application identified the village of Abbots Ann, in the parish of Abbots Ann, as the locality or neighbourhood within the locality, in respect of which the application is made.
- 5.2 The application was accompanied by a map of the Land being claimed as town or village green, a map of the locality, photographs showing the field in use, a video, 2 personal statements, and 48 completed user evidence forms.

6. Background:

- 6.1 In accordance with the Commons [Registration of Town or Village Greens](Interim Arrangements)(England and Wales) Regulations 2007),

the application was advertised by the County Council, and objections were received. The County Council considered these objections, and the arguments put forward by the applicant.

- 6.2 Since the application was made, negotiations were commenced between Abbotts Ann Parish Council and the landowner, Hampshire County Council, in relation to a lease of the land. These negotiations are in the process of being concluded and the applicant then informed the County Council in its capacity as the Registration Authority on 3rd September 2013 that he wished to withdraw his application because a lease was being negotiated, and he and the local inhabitants were satisfied with this outcome.
- 6.3 In order that there should be no prejudice to any party, the intention to withdraw this application was advertised on 20th December 2013. No representations were made and no other person has come forward to act as the applicant.
- 6.4 There are no specific provisions within the legislation for an applicant to withdraw from an application. The judges in the Court of Appeal case of *Oxfordshire County Council v Oxford City Council and Robinson* 2005 EWCA Civ 175 (the Trap Grounds Case) however, agreed with the comment that a registration authority does not have to proceed with an application that the applicant does not wish to pursue (whether wholly or in part) where it is reasonable that it should not be pursued. The House of Lords did not disagree with this view when the case came before them.
- 6.5 In this case, given that a lease is being negotiated between the Parish Council of Abbotts Ann and the landowner, that the applicant and local inhabitants are satisfied with this outcome and no-one else wishes to act as applicant, it is considered both reasonable and expedient that the application be withdrawn.

7. Recommendation

- 7.1 That the withdrawal of the application be accepted by Members of the Regulatory Committee.

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 decided whether or not the register of towns and village greens should be amended.	

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: VG254

Location

Countryside Access Team
Room 0.01
Castle Avenue
Winchester, SO23 8UL

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.