

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**

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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