

**DERBYSHIRE COUNTY COUNCIL
REGULATORY-LICENSING AND APPEALS COMMITTEE**

29 October 2018

Report of the Director of Legal Services

**Application to register Land known as Dale Crescent Green, Hathersage,
(VG145) as a town or village green.**

1. Purpose of the Report

To ask the Committee to approve the appointment of an independent Inspector to advise the Council in respect of the application to register land known as Dale Crescent Green, Hathersage as a town or village green (VG145), if necessary to hold a public inquiry and to make a recommendation to the Council as to its determination.

2. Information and Analysis

Application VG145 was made by Brian Griffiths, represented by Lionel Stout of Fitzgerald-Harts Solicitors. Following advertisement of the application no objections were received. A plan showing the Land affected by the application, shaded in green is at Appendix 1.

The application was made pursuant to the Commons Act 2006. As is required further to the amendment to legislation by the Growth and Infrastructure Act 2013, a request for information pursuant to section 15C of the Commons Act 2006 was sent to Derbyshire County Council (as Minerals Planning Authority), Peak District National Park (as Local Planning Authority) and The Planning Inspectorate to ascertain whether any trigger or terminating events had occurred. Replies were received indicating that no trigger or terminative events had occurred on the land and a letter was sent on 18 November 2016 notifying the applicant that the application was accepted as validly made.

Application VG145 was made pursuant to Section 15(2) of the Commons Act 2006 and will be determined in accordance with those provisions and regulations made under the 2006 Act. In order for the Land to have become a new town or village green ("TVG") under the Act it has to have been used:

- "as of right" (being without force, without permission and not in secret)
- By a significant number of the local inhabitants of a locality, or neighbourhood within a locality
- For lawful sports and pastimes
- For twenty years prior to the date of the application.

It is usual to seek advice from an Inspector as to whether it is appropriate to determine an application on the basis of the application form, statements in objection to the application and further written comments received from interested parties (determining on the papers) or where there are disputes of fact it is usually recommended that a public inquiry be held to test the conflicting evidence.

It is probable that an Inspector would recommend that this application can be determined on the papers as there have been no objection received.

3. Legal Considerations

VG 145 will be dealt with in accordance with the provisions of the Commons Act 2006 as amended by the Growth and Infrastructure Act 2013 and Regulations made under those Acts.

The relevant legal test can be found in section 15(2) of the Commons Act 2006, which provides that any person may apply to register land as a town or village green where:

- “(a) a significant number of the inhabitants of any locality or of any neighbourhood within a locality, have 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”*

The Growth and Infrastructure Act 2013 amended the legislation on TVG registration. The right to apply for the registration of a green is excluded if any one of a number of prescribed planning-related events (“trigger events”) has occurred in relation to the Land. The right to apply only becomes exercisable again if a corresponding terminating event has occurred in relation to that Land. The trigger and terminating events are set out in Schedule 1A to the Commons Act 2006. For this reason it was necessary to seek confirmation from the Planning Inspectorate and the local planning authorities that no trigger events had occurred, or if they had that a corresponding terminating event had also occurred in relation to the application.

Whilst there is no statutory requirement to appoint an independent Inspector to make recommendations as to the determination of an application, this is the usual practice of many registration authorities. Given that there are no objections to this application, it is likely that the matter can be determined on the papers.

4. Financial Considerations.

The costs of determining the applications will be met from the existing budget.

5. Other Considerations.

In preparing this report the relevance of the following factors has been considered; prevention of crime and disorder, social value, equality and diversity, human rights, personnel, environmental, health, properly and transport considerations.

6. Background Papers

Application VG145 for registration of land as a town or village green and relating documentation relevant to that application is held on Legal Services file 68977.

7. OFFICERS RECOMMENDATION

That the Committee authorises the Director of Legal Services to appoint an Inspector to make recommendations to the Council as to the determination of application VG145 as a town or village green and if deemed necessary to hold a public inquiry into the application.

JANIE BERRY
DIRECTOR OF LEGAL SERVICES

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