



Northumberland County Council

Rights of Way Committee

Wednesday, 25 October 2023

West Woodburn Village Green

Report of Councillor(s): Councillor John Riddle, Cabinet Member for Improving Roads and Highways

Responsible Officer(s): Stephen Gerrard, Director of Corporate Governance and Monitoring Officer

1. **Link to Key Priorities of the Corporate Plan**

This report relates to the withdrawal of a Village Green application.

2. **Purpose of report**

To consider the withdrawal of the Village Green application submitted by Corsenside Parish Council in relation to land to the east of West Woodburn County First School, Whiteacre, West Woodburn.

3. **Recommendations**

- 3.1 To approve the withdrawal of the application in respect of the land lying to the east of West Woodburn County First School, Whiteacre, West Woodburn (“the application site”).

4. **Forward plan date and reason for urgency if applicable**

A key decision is not required as it does not fall within the criteria set out in the Northumberland County Council Constitution.

5. **Background**

- 5.1 Northumberland County Council as the Commons Registration Authority (“CRA”) received a Form 44 application from Parish Councillor Anne Pender on behalf of Corsenside Parish Council for the registration of a new village green at West Woodburn under section 15(2) of the Commons Act 2006 (“the 2006 Act”) as a Town or Village Green. The application is dated 28 February 2013. The application

is for one piece of land shown on the plan. A copy of the application and plan are provided alongside this report.

- 5.2 The application was processed under the 2006 Act and regulations made under that Act.

As part of the application validation process, the CRA wrote to the Planning Inspectorate and the Planning Authority on 14 October 2013 to establish whether the right to apply for village green status was excluded. This is required by the provisions of the Growth and Infrastructure Act 2013 in order to ascertain whether the right to apply for the registration of the village green had been excluded by the occurrence of any one of the prescribed “trigger events” as set out in Section 1A to the 2006 Act. Both departments confirmed that the right to apply had not been excluded.

- 5.3 The application was formally validated by the CRA on 14 November 2013 and allocated reference VG83.

The application was then publicised on 7 February 2014 with any person wishing to object given until 26 March 2014 to make a submission.

- 5.4 Part of the application site was owned by Northumberland County Council.

Submissions were received from the Governing Body of West Woodburn County First School and Northumberland County Council’s Strategic Estate Management team and Sustainable Transport team objecting to the application. Copies of the submissions were sent to the applicant on 1st April 2014 and they were given until 16 May 2014 to provide any comments on the objections received.

West Woodburn First School objected on the basis that the school playing field, school access road and parking/turning area, which formed part of the application site, were and had for many years been maintained under the control of the school and public access had been restricted. The Council’s Sustainable Transport team requested that two tarmacked parking areas be excluded from the application as they were Maintained Public Highway, The Council as the owner of the land provided a Statement of Objections and submitted that the applicant had failed to satisfy the qualifying criteria set out in Section 15(2) of the 2006 Act, namely that the use of the land by the applicant and local inhabitants had been by way of permission by the Council and was therefore “by right” and accordingly not “as of right” as required for registration.

- 5.5 On 14 May 2014, an email was sent by Julie Famelton, Clerk to Corsenside Parish Council to the CRA advising that in light of the representations made against their application, the Parish Council felt they were unable to pursue it any further and requested that the application be withdrawn. A copy of the email is attached to this report. At that point in the process, the Rights of Way Committee had not formally determined the application and no decision had yet been reached.

- 5.6 Subsequently, on 12 October 2016, Corsenside Parish Council purchased part of the application site from Northumberland County Council. The Transfer included a covenant not to use the land other than as open space for the purpose of public recreation. A further Community Asset Transfer was completed on 2 December 2022 between Northumberland County Council and Corsenside Parish Council

which also included a covenant not to use the land other than as Village Green or otherwise as open space. The remaining part of the application site was transferred to a private individual on 10 November 2022.

- 5.7 On 12 May 2023, the CRA emailed the current clerk to Corsenside Parish Council informing her that following a review of the file, it had been established that the original application remained 'live'. Given the passage of time since the original instruction to withdraw was submitted, the Parish Council was asked to confirm that they still agreed to the withdrawal of the application. On 15 May 2023, an email was received from Christine Woodcock, clerk to the Parish Council confirming the Parish Council did not object to the withdrawal. A copy of the email is attached to this report.

5.8 The Legislation

As the village green application had been accepted by the CRA it can only be withdrawn with the agreement of the appropriate decision making body.

The Commons Act 2006 does not explicitly make provision for the withdrawal of applications for the registration of land as a town or village green. The applicant does not have the statutory power to withdraw an application unilaterally and therefore the CRA can insist that the application proceed to determination if it wishes.

The Department of Environment, Food and Rural Affairs (DEFRA) guidance notes for the completion of an application for the registration of land as a town or village green outside the pioneer implementation areas dated October 2013 for applicants sets out at paragraph 61:

“If you decide at any stage not to proceed with your application, the registration authority has discretion either to take no further action on your application, or to go ahead and determine the application you made, based on the evidence available”.

- 5.9 The House of Lords in *Oxfordshire County Council v Oxford City Council and Robinson* (2006) UKHL 2 (the Trap Grounds Case) held that the applicant has no absolute right to withdraw his application unless the registration authority considers it reasonable to allow withdrawal. Despite the applicant's wish to withdraw, the registration authority may consider that it is in the public interest to determine the status of the land.

6. Options open to the Council and reasons for the recommendations

The Rights of Way Committee is asked to consider the applicant's request to withdraw the application and either:

- (a) agree to the withdrawal of the application or
- (b) decide whether there is an overriding public interest which would require the Committee to proceed to determine the status of the land regardless of the fact that the original applicant no longer wishes the issue to be decided.

Given the Parish Council is now the owner of the majority of the application site with the intention to use the land for public recreation, it is considered both reasonable and expedient that the application be withdrawn.

If the Committee did not agree to the withdrawal it would need to set a new date for a hearing and determine the case on its merits based on the documentation presented to it.

7. Implications

Policy	The report relates to the Councils role as the Commons Registration Authority so there are no policy implications
Finance and value for money	N/a
Legal	The applicant has requested that their application be withdrawn. The land is in the ownership of the applicant and subject to covenants as to its use, resulting in the recommendation for withdrawal of the application.
Procurement	N/a
Human resources	N/a
Property	The land in question is not in the ownership of Northumberland County Council and therefore has no effect on County Council Property.
The Equalities Act: is a full impact assessment required and attached?	No - no equalities issues identified The withdrawal of the application will have no impact on the opportunity for recreation.
Risk assessment	None identified
Crime and disorder	The implications of Section 17 of the Crime and Disorder Act 1998 have been considered and there are no direct or indirect impacts on Crime and Disorder.
Customer considerations	None identified
Carbon reduction	None identified
Health and wellbeing	None identified

Wards	Bellingham;
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8. Background papers

Form 44 application and plan

Email dated 14 May 2015 from the applicant to the CRA

Email dated 15 May 2023 from the applicant to the CRA

9. Links to other key reports already published

Not applicable

10. Author and Contact Details

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