



Northumberland County Council

Rights of Way Committee

Wednesday, 25 October 2023

Horncliffe Voluntary Village Green Application - Play Park

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 a voluntary application for the registration of a Town or Village Green

2. Purpose of report

The Rights of Way Committee has the power to determine the accompanying application to register land and buildings lying to the south west of Tweed Row, Horncliffe, Berwick upon Tweed (described by the applicant as the Horncliffe Play Park).

The Committee will need to satisfy themselves that the requirements for registration have been met or not met, as the case may be.

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

3. Recommendations

- 3.1 To approve the registration of the land and buildings lying to the south west of Tweed Row, Horncliffe, Berwick upon Tweed (otherwise referred to by the applicant as the Horncliffe Play Park) as a Village Green and the Commons Registration Authority Register of Village Greens updated accordingly.

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 Northumberland County Council's Constitution.

5. **Background**

The Commons Registration Authority has received a Form 44 application for the voluntary registration of land under section 15(8) Commons Act 2006 as a Town or Village Green from Horncliffe Parish Council (the "Applicant").

The land is described by the Applicant as Horncliffe Play park however the Land Registry title registration details the relevant land as "the land lying on the north east side of Tofts Lane, Horncliffe, Berwick upon Tweed", and for consistency this report shall refer to the relevant land in this way throughout.

5.1 **The Legislation**

5.1.1 The relevant extracts of the Commons Act 2006 are:

s15(8) The owner of any land may apply to the commons registration authority to register the land as a town or village green.

S15(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.

5.1.2 The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 apply to applications made to the Commons Registration Authority under Section 15(8) of the Commons Act 2006.

Regulation 7 sets out following procedure in relation to which such applications apply:

7. Where an application is made under section 15(8) of the 2006 Act to register land as a town or village green, the registration authority must grant it provided it is satisfied that –

a. the application is the owner of the land; and

(b) any consents which are required by section 15(9) of the 2006 Act have been obtained.

5.1.3 In October 2013 DEFRA issued: Section 15 of the Commons Act 2006 Guidance notes for the completion of an application for the registration of land as a town or village green outside the pioneer implementation areas.

Northumberland is not a pioneer area.

The Guidance for applicants sets out:

44. *If you are the owner of land, you may apply under Section 15(8) of the 2006 Act to register it voluntarily as a green. You cannot do this unless you have first obtained the consent of any lease or charge holder of the land, such as a tenant, or a mortgagee. You must provide evidence that any 'relevant leaseholder', and the proprietor of any relevant charge' over the land, consent to the application. These terms are defined in Section 15(9) and 15(10) of the 2006 Act. In such cases you will need to consult these people in advance of the application to inform them of your intention to seek voluntary registration. They will need to provide you with a signed document which includes their name and address, a statement of the nature of their relevant interest in the land, and their formal consent to the application.*

45. *You will need to confirm in the statutory declaration that:*

- *you the applicant are the owner of the land and are applying to register the land as green; and either that*
- *you have obtained and included with the declaration all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land; or*
- *no such consents are required.*

46. *In some cases the registration authority may decide to ask you for further evidence of your ownership before it accepts your application.*

If you are applying under Section 15(8)

58. *The registration authority will formally acknowledge receipt of your application. If a receipt is not received within ten working days you should contact the registration authority. If the registration authority is satisfied that your application is properly made, the land will be registered as a town or village green, and you will be supplied with details of the registration. An application cannot be rejected, but it may be returned if you appear not to be the owner of the land, if any necessary consent has not been obtained, or the application is otherwise incomplete*

5.1.4 The prescribed application form (Form 44) sets out that for the purposes of a registration under section 15(8) no justification of use is required, and no further details of ownership are required.

5.1.5 As set out in the Regulations and the guidance above, an application for voluntary registration cannot be rejected but further questions as to ownership and / or necessary consents may be sought.

5.2 The application

In order to be satisfied with the applications the Commons Registration Authority needs to be satisfied:

1. *The application has been submitted in the prescribed form (Form 44) as required by the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007:*

The duly completed Form 44 has been submitted and is provided in support of this report. The land is described within the application as Horncliffe Play Park, however, notes the location consistently with the Land Registry description as the land and buildings lying to the south west of Tweed Row, Horncliffe, Berwick upon Tweed.

2. *The application includes an ordnance survey map to the correct scale and description of the land claimed for registration duly marked and signed by the declarant and by the justice of the peace, practising solicitor, commissioner for oaths or notary public before whom the declaration was made;*

The map submitted with the application is in the correct format / correct scale (not less than 1:1250), corresponds with the description of the land provided and has been duly marked and signed as required. The map is exhibited to the Form 44.

3. *The locality or neighbourhood where local people have the right to use the Village Green has been identified.*

Although as a voluntary application it is not necessary for the Applicant to satisfy the requirements of section 15 (1) and (2) re use and duration, the registration as a village green will have the same affect and entitle the local people to use the land for recreation. Although the Applicant has not provided photographs (and nor are they required to) a site visit has been undertaken, photographs show the land to be predominantly currently in use as a play area. Photographs (June 2023) and google maps screen grabs (September 2022) are set out below (Annex 1) to show the land, accessible by gates.

4. *Evidence of Ownership:*

The Applicant has provided Official Copies of the Land Registry Title Register for the land under title number: ND154995 confirming their ownership and provided in support of this report. There are no registered leaseholders nor proprietors of any relevant charges over the land to which declarations of consent would have been required in accordance with section 15(9). However, there is a restrictive covenant on the title that the land is only to be used as a children's play area. The Parish Council confirmed they have been in discussions with Northumberland County Council Strategic Estates in this regard. We have had sight of an email from the Strategic Estates Department confirming they have no objections to the application. A formal letter in this regard has been requested.

5. *All necessary consents, if applicable, have been obtained.*

As the applicant is the owner of the land it would be for the owner to seek and obtain the necessary consents.

The owner has confirmed no such consents are required, supported by the Land Registry title register provided alongside the application which shows no leases exceeding 7 years have been registered, from whom consent would be required.

The Parish Council confirmed they have been in discussions with Northumberland County Council Strategic Estates in this regard. We have had sight of an email from the Strategic Estates Department confirming they have no objections to the application. A formal letter in this regard has been requested.

6. *The required statutory declaration has been duly completed.*

The Form 44 contains the required statutory declaration by Isabel Hunter, Parish Clerk who has confirmed via email dated 19 May 2023 timed at 16:08 she has authority to sign the application.

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

6.1 The application has been submitted in accordance with the statutory requirements, and is a voluntary application by the landowner, it is therefore recommended that Committee approve the registration of the land as a Village Green

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 application is for voluntary registration of a Village Green. Statutory and procedural requirements have been complied with resulting in the recommendation for registration.
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 Council is undertaking its role as the Commons Registration Authority

The Equalities Act: is a full impact assessment required and attached?	No - no equalities issues identified It is considered the dedication will enhance the opportunities for recreation.
Risk assessment	n/a
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	Norham and Islandshires;

8. Background papers

Form 44 Application

Proof of Ownership: Official Copies of the Register and Title Plans for title number: ND154995.

Photographs

9. Links to other key reports already published

Not Applicable

10. Author and Contact Details

Carol Humphries, Principal Lawyer; Angela Lynn-Hemsley, Lawyer,
Email: carol.humphries@northumberland.gov.uk
angela.lynn-hemsley@northumberland.gov.uk