

**HERTFORDSHIRE COUNTY COUNCIL
DEVELOPMENT CONTROL COMMITTEE
TUESDAY 17 SEPTEMBER AT 10:30 AM**

Agenda No.

1

BROXBOURNE DISTRICT

**APPLICATION FOR THE REGISTRATION OF LAND AT BURY GREEN,
CHESHUNT AS A TOWN OR VILLAGE GREEN**

Report of the Director of Environment

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Local Member: M Janes

1. Purpose of the report

- 1.1 To inform members of the committee of an application to register land at Bury Green, Cheshunt as a town or village green.
- 1.2 To inform members of the findings and recommendations of an independent inspector following a non-statutory local inquiry.
- 1.3 To ask members to decide whether to accept or reject the registration.

2. Summary

- 2.1 An application to register land at Bury Green, Cheshunt as a town or village green, was formally received by Hertfordshire County Council on 11th June 2001 from Mr Geoffrey Wooldridge of 8 Hawthorne Close, Cheshunt. (see map attached at Appendix 1).
- 2.2 The application has been processed by the Environment Department on behalf of the County Council as Registration Authority, in accordance with the Commons Registration Act 1965.
- 2.3 The land is owned by the Borough of Broxbourne who on 27 September 2001 lodged an objection to the application.
- 2.4 Following the necessary gathering and exchange of information, it was decided that the evidence should be considered at a non-statutory public inquiry. The inquiry was held at The Green Dragon, Cheshunt on 6th June 2002. The independent inspector appointed by the County Council was Mr Vivian Chapman, a barrister experienced in this area of law.
- 2.5 His report states that the application should be rejected. A full copy of Mr Chapman's report is attached at Appendix 2.

3 Conclusions

The application to register land at Bury Green as a town or village green should be rejected for the reasons set out in the Inspector's report dated 10th June 2002.

1. Background

- 1.1 The land which is the subject of this application is an open, flat area of mown grass in the centre of the Bury Green Estate, Cheshunt. It is bounded on the west by Hargreaves Avenue, on the south by Tudor Avenue, on the east by Hawthorn Avenue, and on the north by Stuart Way (see map attached at Appendix 1)
- 1.2 In 1947, Cheshunt Urban District Council bought land on the outskirts of Cheshunt for a housing development. The housing estate was largely completed in the early 1950's, and is now known as the Bury Green Estate. Following local government reorganisation, any land not sold under the right to buy legislation and a local predecessor scheme is now vested in the Borough of Broxbourne.

2. The Process

- 2.1 A town or village green is defined in section 98 of the Countryside and Rights of Way Act 2000 as;

“land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either (a) continue to do so, or (b) have ceased to do so for not more than such period as may be prescribed, or determined in accordance with the prescribed provisions”.
- 2.2 As yet no regulations have been made to implement paragraph (b) of this definition.
- 2.3 Applications to register towns or village greens are made to Hertfordshire County Council who are the Registration Authority for Hertfordshire under the Commons Registration Act 1965.
- 2.4 The initial procedure for dealing with such applications is laid down in the Commons Registration (New Land) Regulations 1969.
- 2.5 The determination of the application must be based on whether there is evidence supporting the application that shows that a town or village green has come into existence and should therefore be registered.
- 2.6 If the County Council decides that the land in question meets the requirement of the above definition, it must register the land.
- 2.7 However there is no statutory procedure for making decisions on applications.
- 2.8 To determine applications the Registration Authority may appoint an independent Inspector to hold a non-statutory inquiry to hear the evidence for and against the application, and to make a report with recommendations based on that evidence and its interpretation in the light of case law.
- 2.9 There is no statutory right of appeal to the First Secretary of State against the County Council's decision and the only challenge to a decision made by this Committee would be through the process of judicial review of the procedure and process that have been applied to the determination.

3. Application

- 3.1 The application, dated 8th June 2001, was made by Mr. Geoffrey Wooldridge to Hertfordshire County Council as the Registration Authority.
- 3.2 The application is supported by statements of local people describing the recreational activities they have enjoyed over the land and the periods of time those activities have taken place. Copies of those statements are available for members of the committee and interested members of the public to view at County Hall by prior appointment. Appointments should be made with Rosalinde Shaw on the telephone number at the head of this report.
- 3.3 The procedures were followed by the applicant for making the application, and by the County Council for the notification of interested parties and advertising the application.
- 3.4 One objection was received from Broxbourne Borough Council.
- 3.5 Once all the information requested from both parties had been received by the County Council, a preliminary meeting was held between officers from the Environment and County Secretary's Department. In this meeting it was agreed that a non-statutory inquiry should be held.
- 3.6 Mr V. Chapman was appointed by the County Council as an independent Inspector and an Inquiry was held on 6th June 2002 at the Green Dragon, Cheshunt

4. Conclusion

Mr. Chapman's report is attached at Appendix 2. He concludes that recreational use of the land has been by implied permission of the landowner and as such the application fails because use of the land has not been as of right. He therefore recommends that the application should be rejected "for the reasons set out in the Inspector's Report dated 10 June 2002."

5. Financial Implications

- 5.1 The finance that has been required to process this application has been resourced from existing County Council budgets.
- 5.2 However, should the applicant seek judicial review of the procedures and processes that have been used by the Registration Authority in determining this application such review procedures could incur costs for the Registration Authority that may not be covered by existing budgets.

Background information used by the author in compiling this report

Commons Registration Act 1965

Commons Registration (New Land) Regulations 1969

Report of Mr. Vivian Chapman of 10th June 2002

Countryside and Rights of Way Act 2000