

Regulatory Committee - 01 April 2025

Application to register land as Kereseley Newlands as new town or village green

Recommendations

1. That the Regulatory Committee approves the application submitted to Warwickshire County Council and authorises the addition of the land shown on the plan at Appendix 1 to this report to the Register of Town and Village Greens maintained by Warwickshire County Council under the Commons Act 2006.

1. The Law

- 1.1 Warwickshire County Council is the Commons Registration Authority for its area pursuant to the Common Act 2006. This Act requires the County Council to maintain sets of maps and written registers relating to Common Land, and Town & Village Greens within Warwickshire.
- 1.2 The system of commons registration in England is in transition. The Government is gradually migrating commons registration authorities from the former system that applied under the Commons Registration Act 1965 (based on paper maps and registers) to a new system (based on digitised versions of the paper maps). Warwickshire has not yet been transferred to the new system (it is currently not clear when the transfer will occur).
- 1.3. Until Warwickshire is transferred to the new system it is required to process applications such as this under transitional regulation which preserves some of the features of the 1965 Act: Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 (SI 2007/457)
- 1.4 Section 15(2) of the 2006 Act allows application to be made for new town or village green to be added to the registers and maps where 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 they continue to do so at the time of the application.

2. Application details

- 1.1 The Keresley Village Residents Association (the Applicant) submitted an application to the County Council dated 20th May 2024.
- 1.2 The application was accompanied by statements from 148 local residents (the total population of Keresley Newlands being approximately 4,000).
- 1.3 The original application referred to a great many different areas of grassland 'verge' within Keresley Newlands (attached as Appendix 2). However, further investigation established that the vast bulk of the areas within the application were regarded by the County Council (in its capacity as Local Highway Authority) as being part of the publicly maintainable highway. The Applicant accepted that it was not likely to be able to prove the statutory criteria for village green in respect of highway land and that the application would not be proceeded with in respect of such land
- 1.4 That left only the area edged black on the Plan attached to this report as Appendix 1.

3. Ownership of the Application Land

- 3.1 The application land is not registered at HM Land Registry making it difficult to establish ownership. However, extensive title investigation suggests that the application land was acquired along with the rest of the land comprising Keresley Newlands by British Coal and its predecessors, for the provision of housing for coal miners and their families working at the former Coventry Colliery which was located in Keresley End prior to its closure in 1991 (the former colliery site is now a distribution park).
- 3.2 Enquiries have been made of the Coal Authority and North Warwickshire Borough Council (to whom the former Coal Authority housing was transferred. However, neither body claims to have any ownership interest in the Application Land.

3. Publicity and Notification

- 3.1 As noted above, the Application was accompanied by many evidence forms gathered by the Applicant from the local community regarding their use of the Application Land, indicating the wide breadth of consultation undertaken.

3.2 On 19th February 2025 a site notice was displayed at the entrance to the land and at various local shops/ post offices etc giving 21 days for members of the public to make objections/ observations (attached as Appendix 3). The objection period expired on the 4th March 2024.

4. Representations

4.1 One letter of objection was received from a resident of Colyere Close, whose property backs onto the Application Land (attached as Appendix 4). The objector states that he is concerned about the security implications of registering the Application Land as village green. In 2023 the objector made enquiries to establish that there was no registered owner of the Application Land and erected a post and rail fence enclosing a strip of the Application Land abutting his boundary.

4.2 The Application in this case was lodged just short of one year following the erection of the fence. This is significant because the legislation governing village greens allows a 'grace period' of one year following the cessation of public access to lodge an application to register as a village green. Should one year or more elapse from the cessation of public access it would no longer be possible to submit a village green application.

5. Assessment and Observations

5.1 The number of supporting statements regarding use of the application land, set against the population of Kereseley Newlands, and the lack of objection to the application, mean that the evidential burden required to prove the application on the balance of the evidence has been satisfied and it is recommended that the application land be registered as a town or village green.

5.2 Accordingly, the County Council is required to consider this application on the basis of the facts which existed prior to the erection of the new fence. This approach would lead inevitably to the conclusion the strip of land enclosed behind the fence should also be registered as a village Land if the rest of the Application Land is.

5.3 The balance of the evidence in this case meets the test set out in Section 15(2) of the 2006 Act. Breaking the legal test down into its individual elements, the evidence proves that:

- 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 they continue to do so at the time of the application (or that the application to register was made no more than one year

after that use was interrupted (by the erection of a fence in this case).

- 5.4 It is possible that the objector may continue to assert that erecting a fence is an indication of ownership on their part to the strip of land behind the fence. However, the objector has other legal avenues that such a claim can be pursued through – it is not relevant for the purpose of the current application. Almost all of the common land and village green registered by the County Council does have an owner. The fact that it has such an owner is not inconsistent with the exercise by the public of common land or village green rights.

6. Background Papers

- 6.1 Application Form dated 20th May 2024.
- 6.2 Supporting Statements by local residents.

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