Report of the Chief Executive

LAND AT REDWOOD CRESCENT: APPLICATION FOR DEDICATION AS VILLAGE GREEN

1. Purpose of report

To seek permission for an application to be made to dedicate green space land at Redwood Crescent as village green.

2. Detail

A development took place at Redwood Crescent Beeston Rylands. Four new homes were built and subsequently an application for a pocket park was made to government by local residents, assisted by Council officers and match funded by the Council. The application was successful and funding was given to local residents and a new pocket park created. A plan in appendix 1 shows the area of the green space comprised in the pocket park in the centre of the plan bisected by paths.

As the legal owner of the land the Council has been approached by residents to make an application to dedicate the green space as village green in order that its status can be protected for the future.

The land has an unusual and controversial history. It would be a sign of good faith with local people if the Council did in these unusual circumstances make the decision to agree to apply to have the land recognised as village green.

3. Financial implications

There are no significant financial implications associated with the suggestion other than administrative costs.

4. Legal implications

The comments from the Head of Legal Services are set out in appendix 2. This sets out the legal implications of the area becoming a village green and the requirements of the process.

Recommendation

The Committee is asked to RESOLVE that an application to the County Council be made to register the open space at Redwood Crescent identified in red on the plan in appendix 1 as village green.

Background papers
Nil

APPENDIX 1


Find address or place
Ireland Avenue
Redwood Crescent
Works
20m
60ft
453,216.193 336,155.402 Meters
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esri

APPENDIX 2

Registering land as Village Green

Introduction

Applications to register land as a village green are made under Section 15 of the Commons Act 2006 (CA 2006)

The core requirement common to all applications under section 15 of the CA 2006 is that there is:

"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.".

The core requirement common to all applications in section 15 of the CA 2006 is based on the definition of town or village green in section 22 of the Commons Registration Act 1965. (CRA 1965). Although section 22 of the CRA 1965 was repealed by the CA 2006, some of the case law on its interpretation may continue to be relevant to the interpretation of section 15 of the CA 2006.

Section 22 of the CRA 1965 defined a town or village green as being any of the following:

1) land that has been allotted by or under any Act of Parliament for the exercise or recreation of the inhabitants of any locality (class a green).

2) land on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes (class b green).

3) Land on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than 20 years (class c green).

Voluntary registration by the owner to register their land as a town or village green

It was not possible for landowners to dedicate their land as a green prior to the implementation of section 15 of the CA 2006. Purported dedication would have prevented registration because the use would have been permissive and therefore not "as of right".

Under section 15(8) of the CA 2006, the owner of any land can apply voluntarily for the land to be registered as a town or village green. In such cases, the landowner does not need to show that the land has been used by local inhabitants for lawful sports and pastimes for at least 20 years.

The landowner must get consent to make the application from the holder(s) of this with a legal interest over the land, this is not relevant as the land is free from encumbrances/charges.

Questions put forward to Legal:

1) **Is there any legal reason why the Council cannot make an application for registration as a village green to the county Council in respect of this open space land we own?**
No there is no legal reason to why the Council cannot make an application to register the area as a village green. The area in question qualifies as a village green as per the definition above.

2) **Would we have the evidence to support such an application in the light of the fact that the land is newly established (although part as I understand it of a larger pre-existing area of open space)?**

Ordinarily, evidence needs to be submitted to show that the area of land has been used by the public for the purposes of recreation and playing lawful games. However, under s15(8) CA 2006, the Council, as owner of the land, can make a voluntary application to register the area of land as a village green. The Council will not be required to show evidence of the land being used for the purpose of recreation for at least 20 years.

Procedure to register

An application to register land as a town or village green must be made in accordance with the Commons (Regulation of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 (SI 2007/457).

These regulations set out specific requirements regarding the steps to be taken by an applicant, the form of an application, the information or evidence that must accompany an application and the people who must be notified of an application. The regulations include requirements that an application to register land as a town or village green must be

1) Made on Form 44, issued by Department of Environment & Rural Affairs (DEFRA)

2) Supported by a statutory declaration made by:
the applicant (or one of the applicants if there is more than one);

the person who signed the application on behalf of an applicant which is a body corporate or unincorporated; or

a solicitor acting on behalf of the applicant.

Accompanied by an Ordnance Survey map of a scale of not less than 1:2,500 which shows the land in respect of which the application is being made.

Protection of the village green

If the registration of land as a green is successful, the land will be protected by long-standing legislation (known as the Victorian Acts) that effectively mean that the land cannot be developed.

Section 12 of the Enclosure Act 1857 (IA 1857) makes it a criminal offence to do any of the following:

a) wilfully cause injury or damage to any fence on a green;
b) wilfully take any cattle or other animals onto a green without lawful authority;
c) wilfully lay any manure, soil, ashes, rubbish or other material on a green;
d) undertake any act which causes injury to the green; or
e) undertake any act which interrupts the use or enjoyment of a green as a place of exercise and recreation.

Section 29 of the Commons Act 1876 (CA 1876) deems it to be a public nuisance, and therefore an offence, to:

a) encroach on or enclose a green;
b) erect any structure on, disturb, interfere with or occupy the soil of, a green unless this is done "with a view to the better enjoyment of such town or village green".

Section 29 of the CA 1876 is worded in a rather contradictory way. On the one hand, any encroachment on, or enclosure of, a green is forbidden. However, it would seem that an erection of a structure on a green with a view to enhancing better enjoyment (for example, a cricket pavilion) may be allowed.

Defra have published non-statutory guidance on a number of issues relating to management and protection of greens, called Management and protection of registered town and village greens.