

APPLICATION TO REGISTER LAND KNOWN AS THE MEDI PARC, HAREFIELD, HILLINGDON AS A VILLAGE GREEN

Committee	Registration and Appeals Committee
Officer Contact	Rory Stracey
Papers with report	Report of the Inspector to the Public Inquiry
Ward(s) affected	Harefield

SUMMARY

The purpose of this report is to assist Members in determining an application submitted by the Harefield Tenants and Residents Association to register the site known as the Medi Parc Site, Harefield as a village green pursuant to Section 15 of the Commons Act 2006. The approximate extent of the application site is shown edged red on the plan at Appendix 1 of this report.

RECOMMENDATION: That, having considered the contents of the Inspector's report at Appendix 2 and, having regard to the legal tests and the conclusions of the Inspector, the application to register the site as a village green be refused for the reasons set out in the Inspector's report.

BACKGROUND INFORMATION:

1. The Commons Act 2006 ("the 2006 Act") sets out a statutory scheme enabling applications to be made to registration authorities for the registration of any land as a town or village green. The Council is the registration authority for the purposes of the Commons Act 2006 and is therefore responsible for determining applications to register land as town or village greens within the borough.
2. Where village green applications are received, the Council must register the land as a village green where the applicant proves on the balance of probability 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"* (Section 15(2) of the 2006 Act). The law relating to village greens is complex. However, briefly there are a number of limbs to the legal test for registration:
 - **"a significant number"** does not mean considerable or substantial. What needs to be shown is that the number of people using the land is sufficient to signify that the land is in general use by the community rather than occasional use by individuals as trespassers.
 - **"locality or of any neighbourhood within a locality"** means either a legally recognised locality (for instance a parish, manor or borough) or a neighbourhood within one or more localities (for instance a housing estate or street).
 - **"have indulged as of right"** means that the use must not be by force (for instance breaking fences or climbing over gates), nor by stealth (for instance by concealing the use from the owner), nor with permission of the owner.
 - **"lawful sports and pastimes"** means informal recreation such as walking or playing informal games.
 - **"on the land"** means the land that is the subject of the application.

- **“for a period of at least 20 years”** means that the use must have continued for the whole of the 20 year period although certain periods of non-use will be disregarded.
3. Once registered, town and village greens are protected by statute to ensure that the use or enjoyment of a village green as a place of recreation is not interfered with. The registration of land as a village green effectively prevents that land from being developed by a land owner: those who interfere with the recreational use of the village green may be held criminally liable.
 4. On 23 April 2010 the Council received an application from The Harefield Tenants & Residents Association C/O Tina Wane (“the Applicant”) to register a parcel of land known as “the Medi-Parc Site” as a village green pursuant to Section 15 of the Commons Act 2006 (“the Application”). The land subject to the Application is owned by Brookstream Properties Limited (“the Objector”).
 5. On 4 June 2010 that the Application was formally validated by the Council. On 28 July 2010, formal public notice of the Application was published in the Harefield Gazette which is a local newspaper with a circulation within the Borough and in particular within the locality of the Application site. On 28 July 2010, 5 site notices publicising the Application were erected at or around the Application site. On 30 July 2010, the Council formally served a copy of the statutory notice on the Objector. A notice was also published on the Council’s website. The notices stated that any representations relating to the Application must be submitted to the Council by not later than 10 September 2010.
 6. Following the close of the statutory consultation, there followed a short written representations procedure whereby the Applicant and the Objector were invited to submit their comments on representations received by the Council in response to the application. Following this procedure, the Council instructed Richard Ground of Counsel to advise the Council generally in its capacity as registration authority and if appropriate to act as an inspector at a non-statutory public inquiry.
 7. In consultation with the Applicant and the Objector, the Council arranged for a non-statutory public inquiry to be held so that the evidential and factual issues arising from the application could be examined and tested. There was some degree of delay in convening the public inquiry because it was necessary to allow the Objector sufficient time to carry out investigations into the claims made by the Applicants. A public inquiry was finally held between 21 – 24 March 2012, 28 – 31 March 2012 and 21 – 24 May 2012. The inspector carried out a site visit on 22 May 2012.
 8. Following the public inquiry, the inspector appointed by the Council, Mr Richard Ground of Counsel, prepared a detailed report into the evidence presented at the inquiry and his findings based on that evidence. Members are advised to consider the inspector’s report carefully in coming to a decision on the application.

Background Papers: Site Plan: Appendix 1; Inspector’s Report: Appendix 2