

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE

18th August 2022

REPORT BY: HEAD OF HIGHWAYS, TRANSPORT & RECYCLING

**SUBJECT: 20-001VG Application to register a new Town or Village Green –
method of determining application**

REPORT FOR: DECISION

20-001VG Application to register a new Town or Village Green on land at Bronllys – Method of determining application.

Background:

An application to register a new Town or Village Green on land at Bronllys was received on 20th April 2020. The land affected by the application is located at the former Bronllys County Primary School and is shown on the plan at appendix A. It is the Council's interpretation of the plan supplied with the application and has been confirmed by the applicant as being a correct representation.

The applicant is the Bronllys Green Group, of which by Mr T Hurford is the Chair. The land is owned by Powys County Council.

The application and supporting documents were checked by officers of the Countryside Access and Recreation team and Legal Services. Planning permission has been granted for development on the land. However, the application to register a new Village Green was submitted before the date on which planning consent was granted. As such, it is not considered that the granting of planning permission is a 'Trigger event' that removes the right to apply to register a new Village Green (Commons Act 2006, Schedule 1B.)

Due to case law that came into effect in December 2019, it was necessary to seek an external legal opinion as to whether the application could be accepted. The conclusion was that the application could be processed.

Accordingly, on 14th April 2021, the statutory form six to accept the application as 'duly made' was served on the applicant. It was allotted the reference number 20-001VG, in accordance with statutory requirements.

It was then advertised via a newspaper advertisement and site notices. Notice of the making of the application was served on the applicant, the Council's Housing Services and Legal Services and others and a 6-week period was allowed for receipt of objections and representations.

An objection was received on 21st April 2022, from the Council's Housing Services. The applicant has been given opportunity to comment on this.

The Committee is not yet being asked to consider the evidence in relation to this application, nor to decide whether it should be granted or not. This report is solely to

seek the Committee's view as to how the application should be determined, as there are several options as detailed below.

Options:

Broadly, the law allows Commons Registration Authorities to determine applications to register new Town or Village Greens in one of two ways being:

- To consider the documents provided by the applicant and objector and determine the application solely based on the written evidence; or
- To hold a hearing, so that the applicant and objector and their witnesses can appear and present evidence in person. The Committee can then determine the case based on the written information submitted beforehand and any further information gained during the hearing.

The Council is not required to hold a hearing if an application is opposed. However, the Council must provide opportunity for the applicant to deal with any matters raised by the objector and any other matters that could lead to the Council rejecting the application.

This application has been opposed, bringing into question whether the legal criteria for registration as a Village Green are met. A hearing would allow witnesses to present evidence in person and for the applicant and objector to cross examine the other party and their witnesses. That gives opportunity for further clarity to be sought around the written evidence supplied.

Finally, the Committee could either decide to conduct the hearing itself or appoint an independent Inspector to do so.

Appointing an independent Inspector does not replace the Council's responsibility to determine this case. Rather, an independent Inspector will prepare a report and recommendation, as the basis on which the Committee can then make a decision.

This may be appropriate where, for example, a conflict of interest is identified that could be seen to be prejudicial to the Council's ability to determine the case impartially. The Council does own the land affected by this application, so a recommendation from independent Inspector would offer impartiality.

Holding a hearing incurs costs in terms of a venue, travel and officer time. Referral to an independent Inspector incurs additional costs, in the region of £10,000; these would be met from Service budgets.

Given this, it is proposed by officers that the case be referred to an independent Inspector. Once the Inspector's report and recommendation are available, these will be presented to the Committee as a basis on which to determine the application.

RECOMMENDATION:

- **That application 20-001VG to register a new Town or Village Green on land at Bronllys be referred to an independent Inspector.**

Appendix:

Appendix A Plan of land affected by application 20-001VG