

## WORCESTERSHIRE COUNTY COUNCIL: COMMONS ACT 2006

### REPORT FOR DECISION BY HEAD OF LEGAL AND DEMOCRATIC SERVICES

#### APPLICATION FOR A TOWN GREEN: LAND AT CATSHILL MARSHES CATSHILL BROMSGROVE WORCESTERSHIRE S15 COMMONS ACT 2006

##### 1. The Application

- 1.1 An application under s15 (1) Commons Act 2006 was made on 9th May 2012 by Ms I. P. Frazer, Mr Michael Dobbins and Mrs Judith Sturgess, the Chair, Treasurer and Secretary of Catshill Marshes Action Group respectively, of 310 Stourbridge Road, Catshill, Bromsgrove, Worcestershire B61 9LH to Worcestershire County Council as the commons registration authority to register a village green at Catshill Marshes.
- 1.2 The application claimed that the land ("the Land") shown on the plan annexed ("the Plan") became a Town Green on 9th May 2012.
- 1.3 The application maintained that the Land had been used by a significant number of local inhabitants for lawful sports and pastimes for upwards of 20 years.
- 1.4 The freehold owners of part of the land are Land & Leisure Ltd, Garth Riley and the Department for Transport.

##### 2 Objectors

Objections to the application were received from:

1. Cala Management Ltd and

2. the Department for Transport. The Department for Transport withdrew its objection to the application after inspecting the small area of land which it owned which was affected by the application

### 3. Background

The Land is an irregular shaped parcel of land measuring 6.6 hectares in area (16.37 acres). It is bound by the M5 motorway to the north, residential estates to the east, Church Road to the south and the rear of properties on Stourbridge Road to the west. Battlefield Brook runs north to south through the Land. The Land is open and undeveloped, and is heavily overgrown in places. There are worn paths evident, and various access points onto the Land.

### 4. Evidence

- 4.1 Evidence was supplied in written form with the application as to the use of the land.

- 4.2 In view of the contentious nature of that evidence and of the evidence of the objectors to the application the Commons Registration Authority decided to hold a non-statutory public inquiry at which Miss Ruth Stockley of Kings Chambers, Manchester acted as Inspector from 5<sup>th</sup> to 7<sup>th</sup> December 2012. The Inspector's report was received on 19<sup>th</sup> February 2013 and the applicants and the objectors were given an opportunity to make further observations. Neither chose to do so, save to express their content with the report.

- 4.3 I attach a copy of the Inspector's report which summarises the evidence and the law and makes the following conclusions :-

- 4.3.1 That the Application Land comprises land that is capable of registration as a town or village green in principle;

- 4.3.2 That the relevant 20 year period is May 1992 until May 2012 under section 15(2) or is January 1992 until January 2012 under section 15(3);

- 4.3.3 That the electoral ward of Catshill, the ecclesiastical parish of Catshill and the area of Catshill Parish Council are all qualifying localities;
- 4.3.4 That the Application Land has not been used for lawful sports and pastimes throughout the relevant 20 year period to a sufficient extent and continuity to have created a town or village green;
- 4.3.5 That the use of the Application Land for lawful sports and pastimes has not been carried out by a significant number of the inhabitants of any qualifying locality or neighbourhood within a locality throughout the relevant 20 year period;
- 4.3.6 That the use of the Land for lawful sports and pastimes has not been as of right throughout the relevant 20 year period; and
- 4.3.7 That the use of the Application Land for lawful sports and pastimes did not continue until the date of the Application under section 15(2), but the Application was made within 2 years of the date of the cessation of the use under section 15(3).

## 5. The Law

The law requires there to be more than 20 years' continuous use of the Land for lawful sports and pastimes as of right enjoyed by a significant number of the inhabitants of a neighbourhood or a locality. On testing of the evidence at a non-statutory public inquiry the Inspector was of the opinion that the applicants did not satisfy each and every relevant statutory requirement and that the application should be rejected on the following grounds:

- 5.1 The Applicant has failed to establish that the Application Land has been used for lawful sports and pastimes to a sufficient extent and continuity throughout the relevant 20 year period to have created a town or village green;
- 5.2 The Applicant has failed to establish that the use of the Application Land has been by a significant number of the inhabitants of any qualifying locality or neighbourhood within a locality throughout the relevant 20 year period; and
- 5.3 The use of the Application Land for lawful sports and pastimes has not been as of right throughout the relevant 20 year period

**Recommendation**

Accordingly having considered the Inspectors report on the outcome of the inquiry and adopting her reasoning I recommend that the application to register the Land as a Village Green be refused.

Fiona Morgan.

Principal Conveyancer.

Dated: 11th March 2013

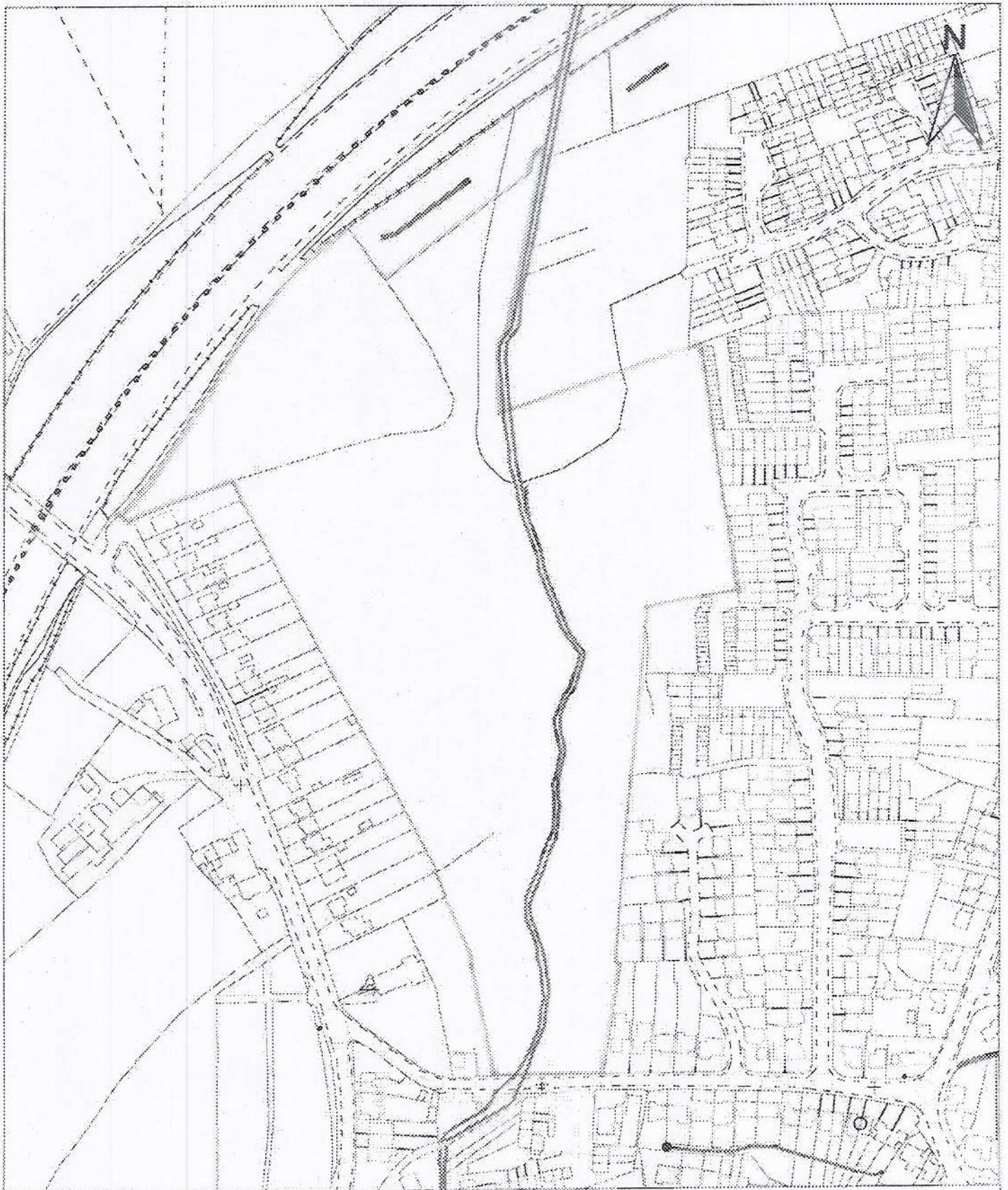
I agree the recommendation made in the report above.

The report of counsel is comprehensive and persuasive. The non-statutory public inquiry has tested the evidence and I support the recommendation to refuse on the grounds set out

Simon Mallinson

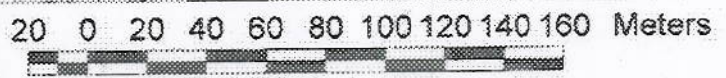
Head of Legal and Democratic Services

Date: 12<sup>th</sup> March 2013



 **worcestershire**  
county council  
County Hall,  
Spetchley Road,  
Worcester  
WR5 2NP

Scale: 1:2,500



*Catshill Marshes to north  
& Church Road Catshill  
Bromsgrove*

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