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**Meeting:** Development Management Committee  
**Date:** 30 March 2011  
**Subject:** An application to register land described in the Application as “The Old Village Hall Site”, Pembroke Road, Houghton Conquest as a Town or Village Green

**Report of:** Director of Sustainable Communities

**Summary:** This report proposes that the Council will notify the Applicant that for the reasons stated in the Inspector’s Report the application to register the land described in the Application as The Old Village Hall Site, Pembroke Road, Houghton Conquest as a Village Green has been rejected, following the Non-Statutory Public Inquiry held on 9 March 2011.

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**Public/Exempt:** Public  
**Wards Affected:** Maulden & Houghton Conquest – Cllrs Angela Barker and Howard Lockey  
**Function of:** Council

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

Promoting Healthier Lifestyles - by protecting and promoting access to areas of public recreation and leisure.

### **Financial:**

The Council is currently unable to charge a fee for processing applications to register land as a town or village green at the present time under Section 15 of the Commons Act 2006.

### **Legal:**

The Law relating to Village Greens is set out in this report and where relevant is covered by the Inspector’s Report.

### **Risk Management:**

No risk management issues have been identified by the author.

### **Staffing (including Trades Unions):**

No staffing issues have been identified by the author.

**Equalities/Human Rights:**

No equalities/HR issues have been identified by the author

**Community Safety:**

No community safety issues have been identified by the author.

**Sustainability:**

No sustainability issues have been identified by the author.

**RECOMMENDATION(S):**

**For the reasons set out in this report and as stated in the Inspector's Report that the Council notify the Applicant that his application to register the land described in the Application as The Old Village Hall Site, Pembroke Road, Houghton Conquest as a Town or Village Green has been rejected.**

**Introduction**

1. The Commons Act 2006 ("the Act") makes provision for the registration of common land and of town or village greens. Commons Registration Authorities were created to maintain two registers, one for common land and the other for town/village greens. Central Bedfordshire Council ("the Council") is the relevant Registration Authority for this location in Bedfordshire. Section 15 of the Act came into force on 6 April 2007 and made changes to the criteria for the registration of a Village Green.

**The Application**

2. The Council has received an application dated 30 June 2010 to register land described in the Application as the Old Village Hall Site, Pembroke Road, Houghton Conquest as a Village Green from a local resident, Mr R ("the Applicant"). The Application included 21 evidence questionnaires in support and was allocated the application number 1/2010. A copy of the application form is attached at Appendix B.
3. The Application has been made under Section 15(1) of the Act and is subject to the qualifying criterion under Section 15(2) of the Act which applies where land has been used "as of right" for lawful sports and pastimes for 20 years or more before the application is made, and this use continues at the date the application is submitted.

**Location of Application Land**

4. The land which is the subject of the Application ("the Application Land") is described by the Applicant as the Old Village Hall Site, Pembroke Road, Houghton Conquest and is located off the High Street and Rectory Lane at the northern end of Pembroke Road. A plan of the land is shown at Appendix C to this report and photographs of the land can be found at Appendix D.

## Relevant Law

5. The law is set out in Section 15 of the Act. An extract of this Section of the Act is at Appendix A). The statutory criteria/tests are, where relevant addressed in the Inspector's Report (Appendix I). In summary the Applicant must prove that the land has been used by a significant number of local inhabitants for lawful sports and pastimes "as of right" for a period of twenty years.
6. The Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 ("the Regulations") apply to all applications made under the 2006 Act and govern how village green applications should be processed by registration authorities,
7. In dealing with an application to register a new Village Green the Council must consider the following criteria:
  - (i) Whether use of the land has been by a significant number of inhabitants
  - (ii) Whether use of the land has been from a particular locality, neighbourhood or a neighbourhood within a locality?
  - (iii) Whether use of the land has been for the purposes of lawful sports and pastimes.
  - (iv) Whether use of the land has been "as of right"?
  - (v) Whether use has taken place on the land identified in the application.
  - (vi) Whether use has taken place over twenty years or more and when the use ended.

Each of the above criteria is considered under the heading "The Evidence and Determination" below.

## Relevant Planning History of the Application Land and vicinity

8.
  - (a) MB/85/00571 – Adjacent 21 Pembroke Road, Houghton Conquest
  - (b) MB/85/00615 - 15 Pembroke Road, Houghton Conquest
  - (c) MB/86/00782 - 11 Pembroke Road, Houghton Conquest
  - (d) MB/88/01311 – Land at the rear of 19 Pembroke Road, Houghton Conquest
  - (e) MB/88/01820 - Land to the rear of 19 Pembroke Road, Houghton Conquest
  - (f) MB/93/00486 - 15 Pembroke Road, Houghton Conquest
  - (g) MB/TPO/05/0012 - Pembroke Road, Houghton Conquest
  - (h) MB/05/00456 – Land off Pembroke Road, Houghton Conquest
  - (i) MB/07/01702 – Land off Pembroke Road, Houghton Conquest
  - (j) MB/08/00240 – Land adjacent to 21 Pembroke Road, Houghton Conquest
  - (k) CB/09/06454 - Land adjacent to 21 Pembroke Road, Houghton Conquest

## **Consultation and Publicity**

9. The Council considered that under Paragraph 3 of the Regulations the Application had been “duly made” and published the statutory notice in accordance with the Regulations. The Notice of Application (Appendix E) was placed in the Bedfordshire On Sunday newspaper on 8 August 2010 and displayed on the Application Land itself. It was also served on the landowner and the Houghton Conquest Parish Council with a request to place the Notice of Application on the parish notice boards.

## **Statement of Objection and Representations**

10. The Application Land is in the private ownership of Mr and Mrs C whose Solicitors, EMW Law sent a Statement of Objection dated 1st October 2010, which is at Appendix F. Houghton Conquest Parish Council did not reply during the objection period.
11. In accordance with the Regulations, the Council sent copies of the Statement of Objection to the Applicant on 15 October 2010. The Applicant was invited to comment on the Statement of Objection and a number of issues were raised (copy of registration authority’s letter is at Appendix G). A copy of the Applicant’s reply is at Appendix H).
12. The Council considered that the Applicant had made out a prima facie case in support of registration and therefore there was no reason in law why the Council should reject the Application ab initio however due to the significant amount of conflicting evidence between the Applicant and the Objectors and the fact that the Applicant had not clarified the question of use by a significant number of the inhabitants of a qualifying locality or any neighbourhood within a locality the Council decided to hold a non-statutory public inquiry at which the Application and evidence could be appropriately tested.
13. This procedure has been used on a regular basis by registration authorities and is considered appropriate for contested or difficult cases. An Inquiry provides the opportunity for an Inspector to hear all the evidence and cross examination and to report to the registration authority. Following consultations as detailed in paragraphs 5 to 8 of the Inspector’s Report, the Public Inquiry took place at the Houghton Conquest Village Hall on 9 March 2011.

## **The Public Inquiry and Inspector’s Report**

14. The Inspector’s Report deals in detail with the evidential matters including the information given to the Inquiry by the witnesses and the relevant legal tests for the determination of the Application. These are set out in paragraphs 22 to 58 of the Inspector’s Report and the Committee is invited to read and concur with the Inspector’s assessment and conclusions.
15. The Inspector’s Report records that the Applicant did not appear at the Inquiry nor did any of the supporters who completed evidence questionnaires or any local residents. The Objectors Barrister called a number of witnesses to give oral evidence.

16. The Inspector deals with his findings of the fact based on the evidence concluding that the Applicant had failed to demonstrate that the Application Land had been used for sports and pastimes during the relevant period and that the use of the land had been carried out by a significant number of the inhabitants of the locality or neighbourhood within the locality
17. Therefore, the Inspector recommends to the Council that the Application be rejected.

## **The Evidence and Determination**

### **(i) Significant Number of Inhabitants**

18. The Application was supported by 21 evidence questionnaires. The Inspectors assessment is contained in paragraph 44 of his Report.

### **(ii) Locality, or neighbourhood within a locality**

19. The Inspector deals with this issue in paragraph 39 et seq of his Report.

### **(iii) Lawful sports and pastimes**

20. The Applicant and the evidence questionnaires refer to football, cricket, rounders, various children's games, team games (not organised) bird watching, kite flying, cycle and bicycle riding, bonfire parties, dog walking, drawing & painting, bonfire parties, community celebrations, berry picking, people walking, bicycle riding and carol singing, as activities that have taken place on the Application Land.
21. The Inspector's assessment of this issue and in particular the weight of evidence he attributes to the witnesses is considered in paragraph 45 et seq of the Report.

### **(iv) As of Right**

22. To meet this criteria/test the Applicant needs to demonstrate that the use of the Application Land has been without force, without secrecy and without permission. The Inspectors records in paragraph 38 of his Report that the Objectors agreed that if any sports or pastimes had taken place on the land then these had taken place as of right.

### **(v) Land**

23. The Applicant clearly identified the Application Land on the plan marked "A" submitted with his Application form.

### **(vi) For a period of twenty years**

24. The Applicant claims a period from 1976 to June 2010. The relevant period to substantiate use of the land as a Village Green commenced in this case runs from 1 July 1990 to 1 July 2010. Paragraph 20 of the Inspectors Report addresses this matter.

## **The Inspector's Recommendation**

25. The Inspector's report was received on 17 March 2011 and a copy is at Appendix I. Paragraph 59 contains the Inspector's conclusions and recommendation.
26. This Committee, to which Central Bedfordshire Council's functions on commons registration matters have been delegated, have to decide whether to accept or reject the application. It is clearly not for the Committee to reconsider the evidence, which was dealt with at the Public Inquiry. However, the Committee does have to consider whether the legal criteria for registration as a village green under Section 15(2) of the Act have been satisfied, bearing in the mind the evidence and the law as set out in the Inspector's Report.

## **Conclusion**

27. The Inspector's Report has been considered carefully and officers are able to confirm support for the Inspector's conclusions and recommendation that the application to register land described in the Application as The Old Village Hall Site, Pembroke Road, Houghton Conquest as a Village Green should be rejected for the reasons stated.

## **Appendices:**

Appendix A – Extract from the Commons Act 2006 – Section 15  
Appendix B – Application to register land as a Town or Village Green  
Appendix C – Plan of Application Land  
Appendix D – Photographs of Application Land  
Appendix E – Notice of Application  
Appendix F – Statement of Objection  
Appendix G – Letter to Applicant with Statement of Objection  
Appendix H – Applicant's comments on Statement of Objection  
Appendix I – Inspector's Report

## **Background Papers:** (open to public inspection)

(i) Supporting documents submitted with Application to register land as a Town or Village Green....

**Location of papers:** Priory House, Chicksands