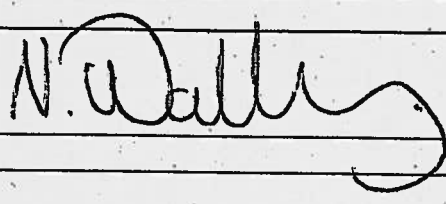
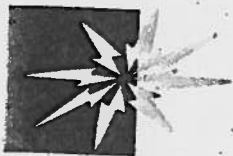


Haringey Council

Report for:	Licensing Sub-committee - A 10 September 2013	Item Number:	
Title:	Application to register land bounded by Alexandra Road N10, Pinkham Way (A406) N10, the Great North Railway and Muswell Hill Golf Course as a town or village green		
Report Authorised by:	Nick Walkley, Chief Executive 		
Lead Officer:	Antonios Michael, Acting Principal Lawyer		
Ward(s) affected: Alexander Bounds Green (adjoining) New Southgate (adjoining – LB of Enfield)		Report for Key/Non Key Decisions: N/A	

1. Describe the issue under consideration

- a. The Council is the Commons Registration Authority for the purposes of registering and maintaining a register of Town and Village Greens in its area.
- b. An application has been received under S.15(3) of the Commons Act 2006 for an area of land to be registered as a town or village green. The area of land is known as the former Friern Barnet sewage works and in the application is referred to as "the dump". It is bounded by Alexandra Road N10, Pinkham Way (A406) N10, the Great North Railway and Muswell Hill Golf Course, N10.
- c. Although the determination of such an application rests with a licensing sub-committee, it is not uncommon for a Registration Authority to appoint an experienced independent assessor to hold a non-statutory inquiry and to produce a report containing recommendations as to whether or not the land subject to the application should be registered as a village green. This approach was considered appropriate and was taken in this application because the Council has an interest in the land by virtue of its membership to the North London Waste Authority which has plans to develop the site.



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d. A successful application under s.15(3) of the Commons Act 2006 would need to demonstrate that all the following criteria have been met i.e. that:

- i) a significant number of inhabitants of any locality (or any neighbourhood within a locality);
- ii) indulged in lawful sports or pastimes;
- iii) as of right;
- iv) for a continuing period of not less than 20 years, and
- vi) the application was made within 2 years of such use having ceased.

The independent assessor's report is attached as Appendix 1. He has concluded that the first and last criteria are not met and therefore recommends that the application be rejected.

2. Cabinet Member introduction

N/A

3. Recommendations

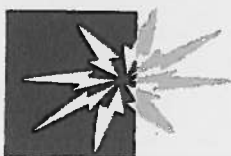
To accept the recommendations of the independent assessor that the land should not be registered as a village green because the evidence does not meet the statutory test required for registration.

4. Alternative options considered

The sub-committee is not obliged to follow the recommendations in the report. However, if the sub-committee decided not to follow the recommendations, good reasons for doing so would be required.

5. Background information

a. The application was received on 13 October 2011 and validated on 24 February 2012 once the application form had been fully completed. Both before and during the inquiry, the Applicant took issue with the fact the application was not validated upon receipt. The Registration Authority remains of the view that the application was properly validated. The independent assessor states in his report that he cannot go behind this decision and that his recommendations, in any event, would be no different if the application was validated upon receipt (paragraph 27 of the assessor's report).



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b. In accordance with the regulations governing the procedure, the Registration Authority proceeded to give notice of the application to interested parties including those with a known legal interest in the land. The application was also publicised to a greater extent than is required by the regulations. In addition to being advertised in the Haringey Independent, Enfield Independent, Barnet Times, Haringey People magazine, and on a dedicated Council webpage, letters were also sent out to residents of Barnet, Enfield and Haringey living within 1km of the site. This included contact details of the Registration Authority where any queries could be responded to.

c. Responses to the publication were uploaded onto the Council's dedicated web page other than Barnet's/NLWA's submissions due to their size (but they were made available in a number of libraries). Details of the inquiry were advertised on the Council's website for two months before it took place.

d. In December 2012 the Registration Authority authorised the appointment of an independent assessor to hold an inquiry who then issued directions in preparation for the inquiry. Following an objection to this appointment, an alternative appointment was made in February 2013. This was Phillip Petchey of Francis Taylor Buildings (an experienced barrister in village green law) who adopted the directions and proceeded to hold the inquiry.

e. The inquiry took place between Monday 4th March 2013 and Friday 8th March 2013 at the Cypriot Centre, N22. The only Objectors that orally participated at the inquiry were the North London Waste Authority and Barnet Council which were jointly represented.

6. Comments of the Chief Finance Officer and financial implications

The cost of dealing with this application have been included within budget monitoring projections.

7. Head of Legal Services and legal implications

Schedule 1 Part B, Para 72 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 states that the registration of a town or village greens in not to be the function of an authority's executive. The Council's constitution reserves such functions in Part 3, Section C, Section 3, 4.1(2)(a) to the licensing sub-committees. The main legislation governing the registration of town or village greens in the Commons Act 2006 and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 which are outlined in the body of this report. The holding of an inquiry that is not required by statute (a "non-statutory inquiry") was a sensible approach to take bearing in mind the Council's interest in the land. While the committee is not bound to follow the



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independent assessor's recommendations, the decision would be susceptible to judicial review if it did not do so without good reasons.

8. Equalities and Community Cohesion Comments

The rejection of the application would mean that the land would not enjoy protection that it would otherwise attract such as the prohibition of the placing of structures on the land. This is not, however, a factor for consideration under the statutory test.

9. Head of Procurement Comments

N/A

10. Policy Implication

The decision on registration is subject to a statutory test in the Commons Act 2006 and not subject to any Council policy.

11. Reasons for Decision

The reasons for the decision must be based on the statutory criteria.

12. Use of Appendices

Appendix 1 – Independent assessor's report dated 30th May 2013.

13. Local Government (Access to Information) Act 1985

The content of the independent assessor's report has been redacted to a very limited degree to remove full address details of the witnesses who gave oral evidence at the inquiry.