



WOKING JOINT COMMITTEE

DATE: 10 NOV 2021
SUBJECT: WRITTEN PUBLIC QUESTIONS
DIVISION: WOKING

Question 1 – Keith Creswell, Village Representative WB, Byfleet West Byfleet and Pyrford Residents Association

In November 2020 in response to item 7.1 and following support from those Councillors who spoke, Mr Milne undertook to cost out the completion of the shared path along the A245 to Byfleet and present it to members in the next Committee round as one of the expenditure options, funding permitting. Councillor Barker particularly wanted to ensure this was not "kicked into the long grass" and Councillor Boote was willing to use some of her Highways budget to aid completion. Councillor Azad agreed that the shared path should be considered in the next funding round.

It was minuted that this proposal would be considered in the March 2021 budget round.

At the meeting of 24/3, the minutes state

"The Woking Joint Committee agreed to:

...

- iv) Agree the proposed capital works programme for 2020/21, shown in Table * and as agreed at the informal meeting of the Woking Joint Committee on 10 March 2021.

Table* was not attached and no record of its contents or the informal discussion to show if the A245 shared path proposal was included for consideration as decided in November 2020.

No Highways issues were covered in the June meeting.

My question is therefore has the A245 shared path proposal been kicked into the long grass again or does it now feature as an item on Table*?

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Answer

To follow

Question 2 - Rachel Blumson, Old Woking Road resident

When will Surrey Highways make the Old Woking Road safe? How many more people need to die before a speed camera will be put in place on the hill near Pyrford Common Rd.

What safety measures will Surrey be introducing to protect school children who are attending Greenfield School, for example 30 mph.

Answer

To follow

Question 3: Robert Shatwell, Chair, Hoe Valley Neighbourhood Forum

In Nov 2019 I submitted requests, on behalf of The Hoe Valley Neighbourhood Forum, to the Commons Registration Officer to have the recreation Grounds at St Peters Rd, Old Woking, Loop Rd at Westfield and Elmbridge in Kingfield re-designated as Local Village Greens, (LVG). I submitted the appropriate request form together with details of a significant number of residents having used the sites "as of right" for a period up to 50 years. This fulfils the requirements for re-designation to LVG.

It is now 2 years on and still no decisions have been made, despite much correspondence. There have been "trigger events" submitted as reasons why the grounds at St Peters Rd and Loop Rd should not be re-designated as LVGs. These trigger events are previously submitted planning applications dating back to 1948. All these trigger events have either been completed or out of time and should therefore not be considered as reasons for refusal.

With regards to the site on Elmbridge the land owners Woking Borough Council, (WBC), has submitted an objection on the grounds that there is a statutory right for the residents to use this site, however they have never notified the residents, or placed signs stating a statutory right and what that statutory right permits. I have submitted a counter argument to the Commons Registration Officer, dated 16th July 2021, but have not received any response.

I would wish to ask the joint committee why it has taken some 2 years to process this matter and why outdated trigger events are being used as reason to reject the application? I fully appreciate that we have gone through a pandemic where many employees are supposedly working from home, however I do not think that is good reason for such a lengthy delay. I hope that by bringing the matter before the joint committee the process can be expedited.

There is an element in my question which only SCC can answer, that being why SCC are sighting planning applications which date back to 1948, have been completed or are out of time, as being trigger events precluding both St Peters and Loop Road Recreation Grounds from being redesignated as Local Village Greens. This a decision taken by SCC, not WBC.

Answer

In November 2019 Mr Shatwell made an application to register 3 separate parcels of land as a Town or Village Greens at St Peters Road Recreation Ground, Old Woking, Loop Road Recreation Ground, Westfield and Elm Bridge Recreation Ground in Kingfield. The applications were made under section 15 of the Commons Act 2006. At that time Commons Registration was dealt with by another section of the County Council, however towards the end of 2020 the responsibility for Commons Registration was transferred to the Countryside Access Team. Mr Shatwell has made an official complaint about the delay in responding to his cases, and this has been dealt with through the complaint's procedure.

The legislation under which Mr Shatwell made the applications sets out the matters that need to be considered before the Council can consider whether the evidence supplied is sufficient to suggest that the area of land is a Town or Village Green.

One of the first things that we, as Commons Registration Authority, have to consider is the fact that the right to apply for registration as a TVG under section 15(1) Commons Act 2006 ("the Act") is excluded under section 15(C) of the Act by what is referred to as 'trigger events' and would only become exercisable again if the corresponding 'terminating event(s)' had occurred.

This rule applies even if the trigger event or terminating event occurred prior to the commencement of section 15C of the Act (in this case 25 April 2013).

The Defra guidance on sections 15A to 15C of the CA 2006 published in 2016 also sets out that "at any time when the right to apply is excluded in respect of land, a commons registration authority **cannot accept any application to register the land as a green**" (emphasis added).

So, this means that, regardless of the amount or quality of the evidence supplied with the application, if there is a trigger event with no terminating event, we are unable to proceed with the application.

We asked all the relevant planning authorities for the area (the Borough Council, the County Council, and the Planning Inspectorate) if there had been any trigger events on the land. Woking BC supplied us with details of planning applications which would be considered trigger events relating to the areas of land at both Old Woking and Westfield. The information indicated that some of these applications

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were both granted planning permission and subsequently implemented. No corresponding terminating events have therefore occurred for this site.

We sought legal advice from the legal team in Surrey County Council regarding the impact of these planning applications and whether they could indeed be classed as trigger events. The advice from our legal team was that they were indeed trigger events and that as there were no corresponding terminating events then the legislation makes it clear that a commons registration authority cannot accept any application to register the land on the two sites (Westfield and Old Woking) as a Town or Village Green.

Mr Shatwell was informed by way of emails dated 2.3.2021 (St Peters Road Recreation Ground) and 18.05.2021 (Loop Road Recreation Ground) that his applications could not be progressed due to the existence of trigger Events with no corresponding terminating Events. In addition, I have exchanged correspondence with him since then reaffirming our position regarding these two cases and reiterating that they are not going to be progressed.

Regarding his third application, at Elm Bridge Recreation Ground, we are progressing this matter, it has been advertised in the local press and on site. The landowners (Woking Borough Council) have submitted a full objection to the application which our legal team has considered at length. I have informed Mr Shatwell by email dated 5th October 2021 of the current situation which is that the legal team are seeking advice from Counsel regarding the matter and are minded to hold a local public inquiry to determine the matter.

I note that Mr Shatwell refers to a counter argument that he submitted 16th July 2021. I am in receipt of an email dated 13th July 2021 in which Mr Shatwell submitted a response to the objection that had been lodged by Woking Borough Council. I responded to this by email dated 16th July 2021 acknowledging his response and confirming that it would be submitted along with all the other documents to our legal team for their consideration. Legal then received Mr Shatwell' s application, the evidence, the objection, and his comments on the objection.

Mr Shatwell asks why it has taken so long to process the matter and why outdated trigger events are being used as a reason to reject the applications.

The trigger and terminating events are set out in Schedule 1A of the Commons Act 2006 which you can view by following this link: [Commons Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

In this instance, we are dealing with only planning applications as triggers and Schedule 1A of the Commons Act 2006 sets these and the corresponding terminating events out as follows:

<i>Trigger events</i>	<i>Terminating events</i>
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<p>1. An application for planning permission [or permission in principle,]² in relation to the land which would be determined under section 70 of the 1990 Act is first publicised in accordance with requirements imposed by a development order by virtue of section 65(1) of that Act.</p>	<p>(a) The application is withdrawn. (b) A decision to decline to determine the application is made under section 70A of the 1990 Act. (c) In circumstances where planning permission [or permission in principle]³ is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld. (d) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.</p>
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Where a trigger event occurs, the exclusion from the right to apply remains until the corresponding terminating event occurs. So, where the trigger is that a planning application has been made, the only terminating events are those listed above i.e., the application is withdrawn, not determined, refused (including all possible appeals) or if permission granted, the time for development to begin has lapsed (i.e., the permission has expired before it has been implemented).

If planning permission is granted and implemented within the timescales of the permission, this excludes the land as there is no corresponding terminating event. Advice from our legal team was that the planning applications that were related to the two sites could be considered as trigger events and that therefore a commons registration authority cannot accept any application to register the land as a green.

Our position remains that the two applications for a Town or Village Green (TVG) at St Peters Recreation Ground and Loop Road Recreation Ground are unable to be progressed. The third application for TVG at Elm Bridge Recreation Ground is being progressed through due process.

Questions 4 & 5: Robert Shatwell, Chair, Hoe Valley Neighbourhood Forum

As the result of concerns raised by residents:-

- a) Residents raised concerns regarding the pedestrian crossing facilities in Rydens Way, Woking outside the 6th form college. I had a site meeting with Mr Patching where it was agreed that there is a highways safety problem. This was not caused by excess speed therefore the reduction of speed limit would not remedy the problem. It was believed the problem was caused by inconsiderate driving and lack of suitable pedestrian crossing points. Mr Patching agreed that pedestrian crossing points needed to be installed across Rydens Way by the junction with Shackleford Rd, across Shackleford Rd by the junction with Rydens Way and across Sundridge Rd at the junction with Rydens Way. Mr Patching said that these could not be done within this financial year due to lack of

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funding but that he would have the issue submitted for the budget in the 2022/23 financial year.

- b) At the recent AGM of the Hoe Valley Neighbourhood Forum (HVNF), residents raised a concern regarding the crossing of Westfield Ave at the junction with Kingfield Rd. Currently this is a 3 lane junction with no facilities, save dropped kerbs, for pedestrians to cross this busy junction. May this site be surveyed and recommendations made to improve the crossing point for pedestrians.

Both the above are serious concerns for pedestrian safety and in the proposed local plan of HVNF, (still in draft format state), it is to be a policy that every improvement in pedestrian/cycle safety will be a priority.

May both the above matters be submitted for inclusion in the financial budget for 2022/23, as a matter of serious highway safety.

Answer

Members are asked to note the above.