

TO: PLANNING & REGULATORY COMMITTEE
BY: SENIOR COUNTRYSIDE ACCESS OFFICER
DISTRICT ELMBRIDGE

DATE: 24 APRIL 2024

**ELECTORAL DIVISION &
MEMBER:**
THE DITTONS
NICK DARBY

PURPOSE: FOR DECISION

GRID REF: 516820 165764

TITLE: APPLICATIONS FOR VILLAGE GREEN STATUS, LAND AT STOKES FIELD,
LONG DITTON, SURREY

SUMMARY

The committee is asked to consider whether to register the land which is the subject of these applications as Village Green.

Applications for Village Green status by Mr Marcus Burke-Williams (First applicant) dated 14 August 2017 (Application 1880) (and subsequently amended to exclude the southern part, owned by Taylor Wimpey UK Limited) and Mrs Amanda Moylan-Jones (Second applicant) dated 17 December 2018 (Application 1882) both relating to land north of the A309, West of Woodstock Lane North. Both applications incorporate Stokes Field Nature Reserve and Application 1882 also extends to One Tree Hill to the south, collectively referred to as 'Stokes Field'.

The County Council is the Commons Registration Authority (CRA) under the Commons Registration Act 1965 and the Commons Act 2006 and which administers the Registers of Common Land and Town or Village Greens. Under Section 15 of the 2006 Act the County Council can register new land as a Town or Village Green (TVG) on application.

The recommendation is :

- i. Application 1880 should NOT BE ACCEPTED.
- ii. Application 1882 should be ACCEPTED in part.

As outlined in the report.

APPLICATION DETAILS

Applicant

Mr Marcus Burke-Williams (First applicant) Ref. 1880
Mrs Amanda Moylan-Jones (Second applicant) Ref. 1882

Land

The original description of the land in both applications is:
Land North of A309, West of Woodstock Lane North, incorporating Stokes Field Nature Reserve and One Tree Hill and commonly collectively known as "Stokes Field".

Application 1880 was amended as detailed in the report (at para. 1.3) and the areas covered by each application can be summarised as:

Application 1880: Land north of the A309, West of Woodstock Lane North incorporating Stokes Field Nature Reserve, land to the west of the cemetery (Cemetery Extension Land) and a slither of unregistered land (as shown on the plan at Annex A).

Application 1882: Land north of the A309, West of Woodstock Lane North incorporating Stokes Field Nature Reserve and land to the west of the cemetery (Cemetery Extension Land), a slither of unregistered land and land owned by Taylor Wimpey UK Limited (“the Taylor Wimpey Land”) to the south comprising the Northern Quarter, One Tree Hill and the Cultivated Rose Garden Area (as shown on the plan at Annex B).

An overview plan has been prepared by officers, to indicate the approximate areas referred to in this report (Annex H). This is not a formal plan and the individual application plans and plans of the sections of Taylor Wimpey land should be referred to for the precise areas (Annexes A, B and F).

Date of Applications

14 August 2017: Reference Application 1880

17 December 2018: Reference Application 1882

ILLUSTRATIVE MATERIAL

Annex A: Plan of land submitted with Application 1880 (original and modified plans)

Annex B: Plan of land submitted with Application 1882

Annex C: Plan showing proposed neighbourhoods for applications 1880 and 1882

Annex D: Inspector’s Report.

Annex E:

- i. Plan of land voluntarily dedicated as TVG by Elmbridge Borough Council
- ii. Voluntary registration of TVG by Elmbridge Borough Council (Application 1890)
- iii. Elmbridge Borough Council plan of Cemetery Extension Land

Annex F: Plans showing the three sections of the Taylor Wimpey land:

- i. ID16A – Agreed plan of Northern Quadrant, One Tree Hill and Cultivated Rose Garden Areas
- ii. ID16B – Agreed red line plan of Northern Quadrant
- iii. ID16C – Agreed red line plan of One Tree Hill Area
- iv. ID16D – Agreed red line plan of Cultivated Rose Garden Area

Annex G: Copy of s. 15C of the Commons Act 2006

Annex H: Reference map

1. BACKGROUND

- 1.1. On 14 August 2017 Surrey County Council received an application (Application 1880) for a new village green for the site of Stokes Field, Long Ditton. The original plan submitted with this application is attached at Annex A (original plan) for reference. However, this had to be amended as described below (para. 1.3) and the plan showing the revised Application Land is attached at Annex A (modified plan). This comprises the Stokes Field Nature Reserve, land to the west of the cemetery and a slither of unregistered land (also see Annex H).
- 1.2. On 17 December 2018 a second application (Application 1882) was received for a new village green for the site of Stokes Field, Long Ditton. A plan of this Application Land is attached at Annex B and in addition to the land in the revised Application 1880, it includes Taylor Wimpey owned land to the south. The differences between the land claimed can be viewed on these plans and are explained in more detail below.

- 1.3. Whilst both applications relate to land known collectively as 'Stokes Field', there are several considerations to bear in mind which affect the scope of this report from the outset.
- i) Application 1880 as originally made was amended to exclude the southern part, owned by Taylor Wimpey UK Limited, from the overall original Application land (Annex A – modified plan). That was to reflect the fact that a 'trigger event' within paragraph 3 of Schedule 1A to the Commons Act 2006 (identification of the land for potential development in a draft development plan document) had occurred prohibiting an application to register that part of land as a town or village green ('TVG') by reason of section 15C of that Act¹.
 - ii) Subsequently a corresponding 'terminating event'² occurred which meant that an application on the Taylor Wimpey Land was no longer prohibited. Application 1882 therefore included that land as well as the northern part of the overall site, the Nature Reserve, owned by Elmbridge Borough Council and land to the west of the cemetery ('the Borough Council Land'). There is a slither of land between those different ownerships within the land comprised in Application 1882, the property title of which is unregistered and the ownership of which is unclear ('the slither of land'). (See Annex H for reference map).
 - iii) A large part of that land belonging to the Borough Council was voluntarily registered as a TVG following that Council's Application (Ref: 1890 dated 3 April 2023) under section 15(8) of the Commons Act 2006 (See Annex E). A plan showing the land now registered as a TVG is at Annex Ei. It should be noted that this registration does not include what is referred to as the Cemetery Extension Land (as shown on the plan at Annex Eiii), located to the west of the existing cemetery and within both Applications. It was agreed by the parties that this would be omitted. The existing cemetery is outside the land in both Applications.
 - iv) The result of this and as agreed by the parties is that only the remaining land in Application 1882 needed to be addressed in substance. This relates to the Taylor Wimpey Land and the unregistered 'slither of land'.
 - v) Only part of this land is currently in dispute between the parties. The Taylor Wimpey Land constitutes three parcels of land (see plans at Annex F)- One Tree Hill, the Northern Quarter and the Cultivated Rose Garden. It was agreed between the parties at the non-statutory public inquiry that:
 1. One Tree Hill Area satisfies the statutory criteria for registration;
 2. The Cultivated Rose Garden Area does not;
 3. The only area in dispute is therefore the Northern Quadrant.
 - vi) The Council as Commons Registration Authority will need itself to be satisfied with this position.
- 1.4. Both Applications were made on the basis that "a significant number of the inhabitants of any locality or neighbourhood within a locality have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years".
- 1.5. Application 1880 was accompanied by 109 witness statements³ from people who claimed that the site had been in constant use for over 20 years as evidence in support of the claim for registration.
- 1.6. The majority of the Borough Council Land within Application 1880 has been registered as a TVG pursuant to section 15(8) of the Commons Act 2006 and the Applicants indicated that they did not intend to pursue registration of the remaining Elmbridge Borough Council Land. This application can therefore be treated as withdrawn and it is not considered further in any detail.

¹ Annex G

² Terminating event occurred on 16 December 2018.

³ Although the Applicants state there were 105 forms in their closing notes to the inquiry.

addressed in substance and only that part of the application relating to the Taylor Wimpey Land (but also including the slither of land).

- 1.16. The Inspector submitted his report dated 4 September 2023 to the CRA on 17 September 2023 (Annex D) setting out his recommendations.
- 1.17. Section 6, Analysis and Commentary below sets out the factors to be considered in this case.
- 1.18. We are therefore now placing this matter before members for consideration.

2. CONSULTATIONS AND PUBLICITY

Borough Council

Elmbridge Borough Council: Response received in their role as landowner.

Consultees (Statutory and Non-Statutory)

The Open Spaces Society: Supported the Application.

The Ramblers: No response received.

Residents: Support was received from 46 local or otherwise interested parties.

County (and Borough) Councillor (Nick Darby): No response received.

Borough Councillors (Barry Fairbank, Neil Houston, Shweta Kapadia): No response received.

Summary of publicity undertaken

Documents placed on public deposit at local council offices and local library. Notices posted in various locations on site across all parts of the land ownership.

All affected landowners and immediately adjacent landowners were informed.

3. HUMAN RIGHTS IMPLICATIONS

Public Authorities are required to act, as far as possible, compatibly with the European Convention on Human Rights, now enforceable in English Courts by way of the Human Rights Act 1998. The officer's view is that this proposal will have no adverse impact on public amenity and has no human rights implications.

4. FINANCIAL IMPLICATIONS

The costs of advertising and of holding the non-statutory public inquiry have already been incurred.

5. ENVIRONMENTAL IMPLICATIONS

If the Land is registered as a village green it will be subject to the same statutory protection as other village greens and local people will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis. Registration is irrevocable and so the Land must be kept free from development or other encroachments.

6. ANALYSIS AND COMMENTARY

- 6.1. The Applications before the CRA for determination were made under Section 15(2) of the Commons Act 2006 and relate to an area of green space bordered by the houses to the west, north and north-east. To the south-east is an education centre and a garden centre and to the south the A309 Kingston By-pass (as shown on the plans at Annexes A, B and F).
- 6.2. Both freehold owners Taylor Wimpey UK Limited and Elmbridge Borough Council initially opposed the Applications, but the latter subsequently did not pursue their objection and took no part in the Inquiry. As only Taylor Wimpey appeared in support of their objection at the Inquiry, the reference to “the Objector” in the Inspector’s Report and in this report is to Taylor Wimpey.
- 6.3. The objectors C. and D. Trigg took no part in the Inquiry and made no further representations.
- 6.4. To succeed, the Applicants must prove, on the balance of probabilities:
- i. that a significant number of the inhabitants
 - ii. of any locality, or of any neighbourhood within a locality
 - iii. indulged as of right
 - iv. in lawful sports and pastimes on the land
 - v. for a period of at least 20 years continuing up to the date of the application.
- These are the criteria on which the Applications must be assessed, and it is not for the CRA to concern itself with the merits of any competing uses for the Application Land in determining the Applications.
- 6.5. In relation to the locality or neighbourhood within a locality requirement, the Applicants initially put forward 6 different alternatives as a basis for the Applications. This was clarified during the Inquiry and is discussed further below.
- 6.6. As outlined at 1.13 following the receipt of objections to these Applications, it was decided that a non-statutory public inquiry would be held.
- 6.7. The Inspector’s Report (Annex D) summarises (in section 2 and 3) the evidence submitted and heard at the Inquiry in support of both the Applicant’s case and the Objector’s case. Part 4 covers an assessment of the statutory criteria, the scope of the issues, the determining issues (for both applicant and objector), an assessment of the evidence of use of the ‘Northern Quadrant’, the Objector’s evidence and the issue of both locality and neighbourhood.
- 6.8. The burden in these cases rests with the Applicant to demonstrate on the balance of probabilities (more likely than not) that each relevant statutory criteria is met. In this case, following the decision to register the land owned by Elmbridge Borough Council (save for the Cemetery Extension Land), as a TVG, both Applicants and Objector agreed at the Inquiry that only Application 1882 need be the focus of consideration. Within that Application only those parts owned by Taylor Wimpey were in dispute. It was agreed by the Applicants that they no longer intended to pursue registration on any Elmbridge Borough Council land and wished to delete said land from the Applications. This included land known as the ‘Cemetery Extension Land’ which was not part of the

voluntary registration at Ref. 1890. The Inspector recommended acceptance of the position agreed between the parties at para. 4.0.7 of his report.

- 6.9. The parties remained in dispute over that part of the Taylor Wimpey Land referred to as the Northern Quadrant. Two other areas which were not in dispute are One Tree Hill, which the Objector recognised qualifies for registration and the Cultivated Rose Garden area which the Applicants accepted did not qualify for registration. The CRA must also be satisfied with this position.
- 6.10. The aforementioned slither of unregistered land was not in dispute but was considered as part of Application 1882.
- 6.11. Two key issues are then recognised.
- Whether qualifying use rather than use akin to a right of way had taken place on the Northern Quadrant throughout the qualifying period and at a sufficient level to be understood by a reasonable owner as the assertion of a TVG right, such that this area should, together with One Tree Hill (and the slither of land) be registered as a TVG pursuant to Application 1882.
 - Whether the requirement for the Applicant to demonstrate a locality or a neighbourhood within a locality can be satisfied (the locality and neighbourhood issue). Whilst the Objector does not dispute that this requirement can be satisfied the CRA must satisfy itself on the balance of probabilities.
- 6.12. Each of the identified issues was assessed in detail in section 4 of the Inspector's Report and the extensive findings are summarised below.

The Qualifying and Sufficient Use Issue

- 6.13. Only user that is within the qualifying 20-year period up to the date of the Application 1882 (1998-2018), is by inhabitants from the claimed area and is carrying out 'lawful sports and pastimes' on the land (rather than just walking through) should be counted when looking at whether there is sufficiency of use. When evaluating that evidence, what matters is how that use would appear to owner of the land.
- 6.14. The claimed qualifying user of the Application Land must be by a "significant number" of inhabitants i.e. sufficient to indicate general use by the local community for informal recreation, rather than occasional use by individuals as trespassers. This need not mean that the land needs to be used 24/7 and 365 days per year.
- 6.15. The qualifying user has to be demonstrated for the whole and not just part of the land. This does not mean that every part of the land must have been physically used. If parts of the land are not accessible or not easy to access, this does not preclude their registration if they are properly considered to be an integral part of the overall land.
- 6.16. Use that qualifies in these cases is use that is "as of right" which is defined as being without force, secrecy or permission. The Objector did not contend that any otherwise qualifying use was not as of right, save possibly that arising from dens being by nature secretive / hidden.
- 6.17. The Applicant asserted that a reasonable owner could not have failed to realise that TVG rights were being asserted and would be established unless action was taken to prevent them. That use varied from bike riding to blackberry picking and from walking to dog walking and jogging. They asserted that the existence of two main tracks ought not be ascribed to the existence of a right of way but were in fact intrinsic to the use of the rest of the land. They drew attention to the fact that the use considerably pre-dated the

20-year period, which was supported by witnesses at inquiry with use back to 1960. They also note in response to the observation that the Northern Quadrant is now very overgrown, that there is no requirement that the land must be used in the same way across the whole qualifying period.

- 6.18. The evidence in support of the Applicant at Inquiry primarily consisted of expert aerial photography evidence given by Christine Cox and evidence of use given by individual users.
- 6.19. The Objector identified the key issue as whether the Applicant has established, on a balance of probabilities, that the *whole* of the Northern Quadrant has been used for lawful sports and pastimes over the qualifying period. Whilst acknowledging that use of the land has taken place, the Objector considered that use of the Northern Quadrant was confined to two tracks in the early years of the 20-year period. These were used like rights of way as a means of moving between the Nature Reserve and One Tree Hill, which has specific individual attractions. In noting this they pointed out that both the Nature Reserve and One Tree Hill had their own specific attractions, but the Northern Quadrant (in their opinion) did not. They suggest this is supported by the evidence presented by Christine Cox on behalf of the Applicant in her examination of aerial photography. Further, they contend that up until August 2000 there is nothing in the aerial photographic evidence that established on a balance of probabilities use of any other part of the Northern Quadrant.
- 6.20. In considering the expert aerial photography evidence it should be noted that: this was carried out in isolation from the other evidence with the stated aim of achieving an objective assessment; it is recognised that it was subject to uncertainty as to the origins of some markings and just because certain activities may not be shown or be clear from a photograph does not necessarily mean that they did not take place. The analysis is deemed useful but must be considered with care and alongside all the other evidence to obtain a picture of the likely nature and extent of use over the qualifying period. Christine Cox concluded that: the evidence itself showed a persistent network of pedestrian tracks and accesses, following generally the same pattern since 1998; these tracks were supplemented by many small tracks some of which come and go; and the evidence indicated use for leisure pedestrian access throughout the relevant period.
- 6.21. In addition to the aforementioned evidence forms, 32 witness statements were provided to the Inquiry and the Inspector heard in-person evidence from 25 local witnesses. The Objector called two witnesses to give evidence at the Inquiry. The Inspector's Report should be referred to for a summary and assessment of the evidence given.
- 6.22. As the Northern Quadrant is the contested area it is now considered in more detail and the following key points should be noted.
- i. It is not fenced or gated and any difficulty of access arises due to vegetation, weather and season at any given time during the qualifying period.
 - ii. There is no dispute over the presence of two well established tracks.
 - iii. The area was more open at the start of the qualifying period than at the end.
 - iv. There was debate over the interpretation of the small tracks shown on the aerial photography particularly between 1998-2002 and that evidence must be considered with all other evidence for that period.
 - v. Evidence was heard at the Inquiry from several residents with knowledge of the contested time (1998-2002).
- 6.23. In his assessment, the Inspector considered that the evidence from local residents paints a clear overall impression of use of the Northern Quarter at the contested time (1998-2002), not just on two established tracks but beyond the tracks and for lawful sports and pastimes. He did not find the argument convincing that before the area became more overgrown, there were no features of interest to attract people off the

main paths and it seems very unlikely that people, especially children and dogs would have stuck to the established tracks as is supported by the evidence.

- 6.24. It is acknowledged that the characteristics of the area and of use changed over time, but that does not negate any earlier use and the claim under section 15(2) provided that the criteria are satisfied throughout the qualifying period. The use appears such that any reasonable landowner would not have considered use as the assertion of a right of way, but as a right to enjoy lawful sport or pastimes. Given the setting and characteristics of the Northern Quadrant, this was so even though some and even many may have kept to established paths for at least much of the time.
- 6.25. The reference to camps/dens in the area was treated by the Inspector with caution in recognising that they are likely to be hidden. Nonetheless, even discounting the camps, a reasonable landowner would have observed the children on the land getting to/from the camps and playing in the vicinity. However, he emphasised that, even without actually discovering the camps, a reasonable landowner should have been aware of the assertion of a wider recreational right over the whole Taylor Wimpey Land including the Northern Quadrant throughout the qualifying period.
- 6.26. Whilst drawing particular conclusions about the Northern Quadrant, it should be kept in mind that any landowner would have looked at the use of this area and One Tree Hill as a whole and also noticed its close relationship with the Borough Council Land. The landowners would or should have recognised the qualifying recreational use beyond public rights of way on One Tree Hill and it is highly unlikely that a reasonable landowner would not have been alerted to the assertion of a wider recreational (village green) right on the wider Taylor Wimpey Land including the Northern Quadrant.
- 6.27. The Inspector concluded on the basis of the evidence that use of the Northern Quadrant alone, on the balance of probabilities clearly satisfies the requirements in section 15(2) of the Commons Act 2006. He commented that was the case even though assessing it in isolation is, in his view, artificial and that the conclusion becomes even more compelling when One Tree Hill and the Northern Quadrant are considered together as one.

The Locality and Neighbourhood Within a Locality Issue

- 6.28. For an application to meet the statutory requirements an applicant must identify either a locality or both a neighbourhood within a locality AND a locality from which the inhabitants are using the land for qualifying purposes.
- 6.29. A locality must be defined by reference to administrative division known to law. For example: Parishes, electoral wards, boroughs etc. A neighbourhood need not be such a unit, but must have some distinct boundary or character, whether it be physical or societal, which gives it a degree of cohesiveness.
- 6.30. Whilst there was some confusion initially on behalf of the Applicants as to the locality and neighbourhood case put forward, the Objector did not contend that the requirements could not be met, so this is not an issue between the parties. Nevertheless, this point should be addressed.
- 6.31. To meet the requirement of a locality or neighbourhood within a locality, the Applicants had suggested six alternatives in their applications:
- i. The locality of the ecclesiastical parish of St. Mary in Long Ditton; alternatively
 - ii. The locality of the ecclesiastical parish of St. Christopher in Hinchley Wood; alternatively

- iii. The locality of the electoral ward of Long Ditton (of the Elmbridge Borough Council); alternatively
- iv. The locality of the electoral ward of Hinchley Wood & Weston Green (of the Elmbridge Borough Council); alternatively
- v. The neighbourhood of Long Ditton and the neighbourhood of Hinchley Wood within the locality of the County of Surrey; alternatively.
- vi. The neighbourhood of Long Ditton and the neighbourhood of Hinchley Wood within the (a) localities of the ecclesiastical parishes of St. Mary in Long Ditton and St. Christopher in Hinchley Wood or (b) localities of electoral wards of Long Ditton and Hinchley Wood & Weston Green.

The neighbourhoods of Hinchley Wood and Long Ditton are shown on Map B in both applications (Annex C)

- 6.32. At the Inquiry, the Applicants put the case primarily on the basis of two neighbourhoods of Long Ditton and Hinchley Wood, within the localities of the electoral wards of Long Ditton and Hinchley Wood. Alternatively, if there was a problem with that they would rely upon the entire County of Surrey or Elmbridge Borough Council as locality.
- 6.33. The changing electoral wards and the rule against plural localities outlined by case law complicates the situation. Further, it is doubtful whether a County can qualify as a locality given the likely lack of connection of the land and the neighbourhoods with the County, given the scale, in this case, of the County.
- 6.34. In the Inspector's view, both Long Ditton and Hinchley Wood satisfy the statutory criteria for neighbourhood, being distinctive areas with important community facilities. The evidence in his opinion, showed that a significant number of inhabitants of both neighbourhoods had used the areas of One Tree Hill and the Northern Quarter for lawful sports and pastimes throughout the qualifying period. With regard to locality, the Inspector considered that the appropriate locality is the administrative area of the Borough Council, within which both neighbourhoods sit.

7. CONCLUSIONS

7.1 The Inspector's Report contained the following conclusions and recommendations:

Land to be considered

- 7.2 The majority of the Elmbridge Borough Council Land, largely comprising the Nature Reserve was registered voluntarily as a TVG under CRA reference 1890 pursuant to section 15(8) of the Commons Act 2006.
- 7.3 The Applicants indicated that they did not wish to pursue registration of the remaining Borough Council Land, including the Cemetery Extension Land and agreed that this land should be withdrawn. The Inspector concluded that the Applications should be amended to exclude the Borough Council Land. As a result of this, Application 1880 in substance becomes of no effect and should be considered withdrawn, as should that part of Application 1882 covered by 1880.
- 7.4 Nevertheless, the CRA should consider whether it would be appropriate to accept these withdrawals having regard to the views of the Applicants, the Objector and the wider public interest. No person raised objection to the withdrawal at the Inquiry. Whilst the Borough Council did not attend the Inquiry, they had previously indicated that the

Cemetery Extension Land could not be registered as a TVG as it is held for a statutory purpose in relation to the cemetery. If the proposed withdrawal is not accepted, the Borough Council would need to be given the opportunity to make representations.

- 7.5 The Inquiry proceeded on the basis that it was only the Taylor Wimpey Land to be considered.
- 7.6 The parties agreed that the Cultivated Rose Garden part of the Taylor Wimpey Land could not be registered, as there was no qualifying use prior to 2002/3. The Inspector considered the evidence on this to be compelling and taking into account the wider public interest, it would be appropriate, fair and necessary to exclude this area from Application 1882.
- 7.7 The following conclusions then relate to that part of Application 1882 which remains should the above be accepted.

The qualifying use issue.

- 7.8 The Objector only contested qualifying use over the Northern Quadrant and in particular for the period between 1998/9 – 2002 but it is considered that the whole of the amended Application (One Tree Hill and the Northern Quadrant) qualifies for registration as TVG under section 15(2) of the Commons Act 2006. This includes that slither of unregistered land between the western part of the north edge of the Northern Quadrant and the Borough Council Land.

The locality and neighbourhood within a locality issue

- 7.9 Both suggested neighbourhoods, Long Ditton and Hinchley Wood satisfy the requirements of “any neighbourhood” within section 15(2) as interpreted by the courts and fall within the qualifying locality of Elmbridge Borough Council. Use of all of the sections remaining under consideration (One Tree Hill, the Northern Quadrant and the slither of land) has been shown to have been by a significant number of inhabitants from those neighbourhoods throughout the qualifying period up to 17 December 2018.

Inspector’s Recommendations

- 7.10 Accordingly, the Inspector’s recommendation to the CRA is that the Application 1882 is amended to:
- i. Exclude the land owned by Elmbridge Borough Council; and also
 - ii. Exclude the Cultivated Rose Garden Area as shown on plans ID16A and ID16D; so as
 - iii. To cover only the One Tree Hill Area and the Northern Quadrant as so shown on plans ID16A, ID16C and ID16B at Annex F but also including the slither of land.
- and on that basis it is recommended that the land in amended Application 1882 is registered as a TVG.
- 7.11 The Inspector’s recommendation to the CRA is that Application 1880 should be treated as withdrawn.

8. RECOMMENDATION

- 8.1 Officers concur with the Inspector’s findings and recommend:
- i. That the land in Application 1882 is amended as set out in paragraph 7.10; and

- ii. that the land in amended Application 1882 is registered as a TVG in accordance with section 15(2) of the Commons Act 2006 for the reasons given in the Inspector's Report.
 - iii. That Application 1880 should be treated as withdrawn.
- 8.2 If members do not agree with the Inspector's conclusions in paragraph 7.9 on the locality / neighbourhood issue, it is recommended that the opportunity is given to the Applicant to seek to address this issue before dismissing Application 1882 by reason of the locality / neighbourhood issue.
- 8.3 If members agree with the Inspector's conclusions on the locality / neighbourhood issue but:
- i. do not agree with the proposed amendment of the Application 1882 to exclude the Borough Council Land and the withdrawal of Application 1880, it is recommended that the applications are deferred to allow the Borough Council to make representations, as they did not take part in the non-statutory Inquiry;
 - ii. do not agree with the Inspector's conclusions on including the Northern Quadrant in the area to be registered as a TVG, it is recommended that the One Tree Hill Area is registered as a TVG as the evidence is compelling in support of this being registered even on its own.

CONTACT

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BACKGROUND PAPERS

The documents relating to Application No.1880 and 1882 can viewed by appointment with the contact officer at Merrow Depot, Guildford.

- i. All documents referred to in the report.
- ii. The Applications (1880 and 1882) and all supporting documentation
- iii. Legal discussions regarding correctly made applications and trigger/terminator events.
- iv. Taylor Wimpey UK Limited objection
- v. Elmbridge Borough Council objection
- vi. Other representations to the Applications
- vii. Applicant's response to objections
- viii. The Inquiry documentation from all parties.