

Committee: Commons and Village Green Registration Panel
Date: 15 May 2024
By: Director of Communities, Economy and Transport
Title: Request to withdraw application to register land at Bodiam Castle grounds including carriageway as a town or village green
Applicant: Mr David N Gilbert
Application No: TVG 1364
Contact Officer: Michael Walsh, 01273 337053
Local Member: Councillor Paul Redstone

Recommendation: The Panel is recommended to:

- 1) Accept the request to withdraw the application to register land at Bodiam Castle grounds including carriageway as a town or village green; and**
 - 2) Agree that the County Council takes no further action regarding the application referred to in Recommendation 1 above.**
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1. Background

1.1 On 18 April 2020 East Sussex County Council (the Council), in its capacity as Commons Registration Authority, received an application under Section 15 of the Commons Act 2006, for the registration of land at Bodiam Castle (the Land), Bodiam, as a town or village green (TVG). The application sought to register the Land on the basis that it had been used by a significant number of the inhabitants of a locality for lawful sports and pastimes 'as-of-right' for at least 20 years up until the time that a deposit of statement was submitted by the landowners (The National Trust) in May 2019. The application was accompanied by 24 user evidence questionnaires. In addition to the objection received from the landowner, one further objection was received from a member of the public.

(see Appendix 1 for a location map).

1.2 In an email dated 11 April 2023 Mr David Nicholas Gilbert, the Applicant, requested that the application be withdrawn. An arrangement had been agreed with the landowners granting certain access rights to members of the public within the locality of the site (see appendix 2).

1.3 Having considered the Applicant's request to withdraw the application, along with all other available information, officers consider that it is reasonable for the request to be accepted.

2. The Law

The legislation setting out the conditions required to register land as a TVG is Section 15 of the Commons Act 2006. The Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 stipulate the procedure that must be followed by all parties when an application is made and processed. The legislation does not contain a procedure or provision for the withdrawal of applications nor is the registration authority able to abandon a TVG application.

3. Guidance

A TVG application raises a matter of public interest, in that it claims that a public right has been established, albeit in relation to recreational use that would be restricted to the residents of a neighbourhood or locality. The Council has a statutory duty to determine such applications. Therefore, whilst the Applicant has determined to withdraw their application, the Council as registration authority must consider whether it will permit that withdrawal.

The registration authority would need to be fair to those persons whose interests may be affected by its decision, namely those members of the public within the locality associated with the site. As such it is recommended that requests for a TVG application withdrawal be advertised by the registration authority.

4. Action taken

On 5 May 2023, a Notice detailing the Applicant's request to withdraw the TVG application was placed on site, in the Rye & Battle Observer, the Hastings Observer, and on the Council web site. A copy of the withdrawal application was also sent to all parties including the landowners. The Notice asked that any person wishing to object to the withdrawal should do so by 21 June 2023. No such objection was received, and the landowners did not request that the application be determined in any event.

5. Conclusion and Reason for Recommendation

The Applicant has applied to withdraw the application, and following publication of Notices stating this, no objection has been received.

RUPERT CLUBB

Director of Communities, Economy and Transport

BACKGROUND DOCUMENTS:

Application and Plan, Letters of Objection and Responses, email requesting withdrawal and notices.