

Report of:	Director of Regeneration of Culture: Richard Horniman Executive Member for Regeneration: Councillor Ashley Waters
Submitted to:	Executive - 16 March 2021
Subject:	Voluntary Registration of Land at The Avenue, Nunthorpe as a Village Green

Summary

Proposed decision(s)
That Executive approves an application seeking the voluntary registration of land at The Avenue, Nunthorpe as a Village Green.

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Decision	No	No	No

Contribution to delivery of the 2018-22 Strategic Plan		
Business Imperatives	Physical Regeneration	Social Regeneration
Registration as a Village Green will make most effective use of the land in support of the Council’s physical and social regeneration agendas	Registration as a Village Green will provide improved facilities that will assist in enhancing the quality of life of residents living in the area.	Registration as a Village Green will protect a valued asset that will help improve the physical, mental, and social wellbeing of the community,

Ward(s) affected
Nunthorpe ward.

What is the purpose of this report?

- To seek approval to submit an application seeking the voluntary registration of land at The Avenue, Nunthorpe as a Village Green.

Why does this report require a Member decision?

2. The decision to change the status of Council owned land to that of a Village Green, and to submit an application seeking the same, is not an officer decision and is not covered by the scheme of delegation. As a consequence it requires an Executive decision.

Report Background

3. The Avenue site is a Council owned open space of 2.74 Ha (6.76 acres). It is used for informal recreation, and forms a valuable amenity space serving the Nunthorpe community. The site is protected as primary open space within the Councils Local Plan (2014). In recognition of the importance of the open space to the local community approval is now sought to voluntarily designate the site as a Village Green.
4. Section 15(8) of the Commons Act 2006 makes provision for landowners to voluntarily seek to have their land registered as Village Green if they so wish. The process for doing so involves submitting to the registration authority the required application form, with accompanying site plan and a statutory declaration that the applicant is the landowner. The required application form and accompanying documentation is included as Appendix 1 to this report. An application for voluntary designation cannot be rejected by the registration authority. The Council is the registration authority and any application for designation will need to be considered by the Licensing Committee.
5. Once registered as Village Green the land will be protected from development or change. Registration of land as a Town or Village Green means that the residents of the locality will have the right to use the land for lawful sports and pastimes. The piece of land will be recorded in a legal document known as the Register of Town or Village Greens. As such it is a criminal offence to:
 - wilfully cause injury or damage to any fence on a green;
 - wilfully take any cattle or other animals onto a green without lawful authority ;
 - wilfully lay any manure, soil, ashes, rubbish or other material on a green;
 - undertake any act which causes injury to the green;
 - undertake any act which interrupts the use or enjoyment of a green as a place of exercise and recreation;
 - encroach on a green; or
 - enclose a green.

Such constraints may prevent planting or the placement of structures on the Village Green, so provided that the continued enjoyment of the registered land as a place of exercise and recreation is not interrupted then so form of limited planting which maintains this role such as the management of woodland areas may be acceptable.

6. A search of the Title Deeds reveals that there are two sewers which cross the site and rights exist to maintain these and other drainage. Works required to maintain the drainage would be considered a criminal offence as stated in paragraph 5 above. As such it is proposed to exclude these parts of the site from the Village Green registration.

What decision(s) are being asked for?

7. That Executive approves an application seeking the voluntary registration of land at The Avenue, Nunthorpe as a Village Green.

Why is this being recommended?

8. The land at The Avenue, Nunthorpe is a valued open space resource that benefits the local community. Village Green status recognises its importance and role in the local community and represents the most appropriate course to seek to protect it in perpetuity.

Other potential decisions and why these have not been recommended

9. Two alternative options were considered
 - i. to retain current designation and status of the land without Village Green registration; and,
 - ii. that the land is designated as Local Greenspace in the forthcoming Local Plan review. Whilst this offers more protection than the current status of the land, the designation could be removed via a subsequent review of the Local Plan.

Impact(s) of recommended decision(s)

10. The principal impact of the registration as Village Green will mean that the land is in effect protected in perpetuity from development. The legislation does allow for the deregistration of Village Greens, this process involves extensive consultation and any decision to deregister will be taken by the Secretary of State. As part of this process an alternative site must be identified to replace the land it is proposed to deregister,

Legal

11. The application to voluntarily register the land as Village Green is made in accordance with the provisions of section 15 (8) of the Common Land Act 2006. As the registration is being sought voluntarily the freehold of the land remains with the Council. Parts of the site are subject to wayleave and access to drainage covenants. Given the rights that these covenants provide the area of land to which they apply are excluded from the application for registration.

Financial

10. There are no financial implications for the Council over and above existing obligations for the maintenance of the land. As registration prevents the site from being developed the land will have no development value in the short and long term. The site is not identified for disposal and as such is not factored into the Council's MTFP. The land is held on the Council's Asset Register as 'public open space' at a value of £xxx,xxx reflecting its lack of development potential. This figure will not be affected by its registration as Village Green.

Policy Framework

11. The decision to voluntarily register the land as Village Green is in accordance with the Council's adopted Local Plan (2014) which protects it as green wedge and primary open space.

Equality and Diversity

12. The registration of the land as a Village Green has been subject to an initial Impact Assessment (IA), which accompanies this report (see Appendix 2). This identifies that a full IA is not necessary.

Risk

13. Protection of the land as Village Green will deliver on the Mayor's pledges with regards to the protection of key green spaces. The principal risk associated with not seeking to protect the land from development as a Village Green is one of reputational damage with the community.
14. There is a risk that such a designation will lead to pressure for the designation of further sites within Council ownership for Village Green status. Each will need to be considered on its own merits and an assessment made of the role of the open space, including the community it serves and the appropriate method of protection.

Actions to be taken to implement the decision(s)

15. On approval the application form attached at Appendix 1 to this report will be submitted for consideration by the Licensing Committee.

Appendices

Appendix 1: Application form to seek voluntary registration as a Village Green

Appendix 2: IA

Background papers

No background papers were used in the preparation of this report.

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