Cabinet Meeting: **Monday, 17 March 2025**

Question from: **Ed Greenwood**

Question to: **Councillor Dacre, Cabinet Member with responsibility for Resources**

QUESTION

Village Green application reference no. 2972

On behalf of a local community, an application to register a village green was submitted to Calderdale M.B.C. in November 2017, over seven years ago.

The Community requested registration in recognition of Calderdale M.B.C. declared objectives   Community Cohesion, Inclusivity and Public Health.
Initially the application was refused in order to allow an appeal to a failed planning application, subject to timescales defined in Schedule 1A of the Commons Act 2006, Section 15(1)(c). The 'trigger' and 'termination event' so referred passed with no appeal. The application was resubmitted, accepted by the lead Officer of Licensing and Regulatory and by the corporate lead of Planning, Mr Seaman.

All legal obligations were met in respect of over 100 community members in support of registration and zero objections, acknowledged by the allocated Legal and Democratic Services solicitor, Gurpreet Sohanpal .

It should be noted that the Village Green in question is designated in the Local Plan as a Local Green Space, reference LGS30.

Despite the acceptance by the responsible solicitors in Legal and Democratic Services, I am now being asked *"(to) proving that the land in question has become a village green rests with the Applicant"*. As you will appreciate this is difficult as the application is for it *"to be a village green"*.

I have offered to be contacted and/or be available to discuss the blockers being presented by C.M.B.C. To no avail.
On behalf of the children who use the Green for outdoor activities and the elder citizens who use the Green for 'a rest stop' . The Community have provided a seat for such a purpose. May I request that the responsible Cabinet member and the responsible Officers expedite this application to a satisfactory conclusion.

Response

Thank you for your question.

No blockers have been presented by the Council.

Ian Hughes, Head of Legal and Democratic Services, has been in correspondence with you and has been clear about the requirement for appropriate evidence to be provided for the application to be progressed.

In particular I have copied below the advice he sent you in his letter of 28th November 2023.

"As you know the burden of proving that the land in question has become a village green rests with the Applicant. The standard of proof is the balance of probabilities.

One aspect of the proof required is in connection with its locality or neighbourhood within a locality and case law is clear that either locality cannot be created simply by drawing a line on a plan.

Counsel's advice is that the Application Form in part 6 fails to identify the specific locality or neighbourhood relied upon save to state that it is "as per attached map". That map appears to be that attached to the Statutory Declaration dated 22nd June 2018 and it does not outline the particular area relied upon so as to enable its boundaries to be ascertained and nor does it identify whether that area relied upon is contended to comprise a locality or a neighbourhood within a locality.

There is also an Ordnance Survey Map marked "Exhibit A" which, it is assumed, is the Map A referred to in the evidence questionnaires but it makes reference to a statutory declaration dated 23rd November 2018 which we appear not to have seen.

Clarification is therefore sought from the Applicant as to whether it is contended that the qualifying area is a locality or a neighbourhood within a locality and the evidence in support of the area being either a locality or neighbourhood.

Clarification of the boundary of the area is needed to ascertain whether a significant number of inhabitants of that identified area have used the Application Land for recreational purposes."

I attach two documents from the Government website which offer guidance and include links, although I anticipate you have already considered these.

I note the Local Plan designation but, as you know, this was a separate process.