

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO COUNCIL

10 MARCH 2010

### REPORT OF THE MONITORING OFFICER

#### APPLICATION TO REGISTER LAND KNOWN AS THE PLAYING FIELDS ADJOINING FFORDD YR EGLWYS, NORTH CORNELLY AS A TOWN OR VILLAGE GREEN

##### 1. Purpose of Report.

- 1.1 The purpose of this Report is to assist the Council to make a decision in respect of an application dated 25 June 2008 to register land known as the playing fields adjoining Ffordd Yr Eglws, North Cornelly, as a Town or Village Green.

##### 2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 The objectives of *Realising The Potential of Our Major Towns* and *Valuing our Valleys* are the most pertinent.

##### 3. Background.

- 3.1 An application dated 25 June 2008, made pursuant to the Commons Act 2006, was received by the Council to register land known as the playing fields adjoining Ffordd Yr Eglws, North Cornelly, as a Town or Village Green. The location of this land is shown in heavy black edging on the plan attached as Appendix 1. The Council in its capacity as landowner raised objections to the application. Section 15 (2) of the Commons Act 2006 provides that an application may be granted where a significant number of the inhabitants of any locality, or of any 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 and they continue to do so at the time of the application.
- 3.2 The Council's objection was based on the assertion that the land in question was designated as an open space and that the public had exercised **a lawful right** to use the land for sports and pastimes. Accordingly, it was asserted that the public use was **a lawful right** and the land was not used **as of right**, which implies a form of open trespass, and so did not satisfy the requirements of the Commons Act 2006.
- 3.3 On 25 February 2004 Council adopted a procedure for dealing with Village Green applications (minute number 459 refers). Amongst other matters the procedure provided that where an objection has been raised, and cannot be removed by agreement, that a Public Inquiry will be held, particularly where the land was owned by the Council. The guidance issued by the Open Spaces Society recommends that in contested or difficult cases it is good practice for the registration authority to appoint an inspector, usually experienced Counsel, to hold a public inquiry.
- 3.4 Due to the fact that there was an objection which could not be settled by way of agreement and in accordance with Full Council's earlier resolution a non statutory Public Inquiry was arranged. . Mr Emyr Gweirydd Jones of Counsel was instructed to be the Inspector of the Public Inquiry which took place in the Council Chamber on

15<sup>th</sup> and 16<sup>th</sup> September 2009. Both the Applicant and the Objector were represented by Counsel at the Inquiry.

**4. Current situation / proposal.**

- 4.1 The Inspector made his report in respect of the Public Inquiry on the 10<sup>th</sup> February 2010. A copy of that report is attached to this report at Appendix 2. The recommendation of the Inspector is that Bridgend County Borough Council, as Commons Registration Authority, should reject the application to amend the Register of Town and Village Greens made by Cornelly Community Council on 28 June 2008.

**5. Effect upon Policy Framework& Procedure Rules.**

- 5.1 The recommendation will have no impact upon the Policy Framework and Procedure Rules.

**6. Legal Implications.**

- 6.1 These are fully explained in the body of the report at Appendix 2.

**7. Financial Implications.**

- 7.1 None.

**8. Recommendation.**

- 8.1 That the Council resolve to reject the application to amend the Register of Town and Village Greens made by Cornelly Community Council on 28 June 2010, and that the provisional registration be removed from the register of common land.

**ANDREW JOLLEY**  
**ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES**  
**15<sup>th</sup> FEBRUARY 2010**

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**Background documents**

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