

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 22nd September 2009

CONTACT OFFICER: Elizabeth Jenkins, Solicitor, Head of Property and Contracts
(for all enquiries) (01753 875033)

WARD : Britwell

PORTFOLIO : Neighbourhoods and Renewal – Councillor Swindlehurst

PART I **NON-KEY DECISION**

APPLICATION TO REGISTER GARAGE COMPOUND AND PLAY AREA IN UPPER LEES ROAD AS VILLAGE GREEN

1. Purpose of Report

The purpose of this report is to seek approval for the Council as former landowner to lodge an objection to an application to register the Play Area at Upper Lees Road, Britwell, as shown edged red on the plan annexed to this report (“the Land”), as a village green under the Commons Act 2005. An urgent decision is required because any objections to the application must be received by the Registration Authority (the Council) by the 23rd October 2009.

2. Recommendation

The Cabinet is requested to resolve:-

- (a) That the Council as a former landowner object to the application for village green status at the Land.
- (b) That the objection to the application and the details thereof be delegated to the Deputy Borough Solicitor in consultation with the Assistant Director of Property Services.

3. Community Strategy Policies

- **Being Safe, Feeling Safe**
The installation of new play equipment in the play area will contribute to the safety of children using the said area.
- **A Cleaner, Greener place to live, work and play**
The provision of seven new family homes will provide seven families with clean, new homes. This will also reduce the housing waiting list.

4. Other Implications

(a) Financial

Slough Borough Council has transferred the Land to A2 Dominion South Limited (A2) for a nominal monetary consideration of £1. However A2 are

bearing the financial cost of constructing the houses and related ancillary works. The Council will retain nomination rights and thus exercise some control over the tenants of the new houses. A2 are providing the sum of £20,000 towards new play area equipment, with another £20,000 being provided by the Council. The maintenance of the play area will be the responsibility of A2 for a period of ten years thereby saving the Council the cost of maintenance. After ten years the responsibility for maintenance will revert to the Council.

(b) Risk Management

There is a low level risk.

(c) Human Rights Act and other Legal Implications

Land which is registered as a village green restricts the development potential/use of the land although the de-registration of village greens is now possible under the Commons Act 2006.

There are no Human Rights Act or other Legal Implications.

(d) Workforce

There are no workforce implications.

5. **Background/Supporting Information**

5.1 The Council transferred the Land to A2 on the 6th August 2009.

5.2 Planning Permission has been granted to A2 for the demolition of existing garages and the erection of seven three bedroomed houses with parking. The development involves a reduction in size of the play area. The sale contract and transfer impose an obligation on A2 to construct the play area and pay £20,000 towards the play equipment.

5.3 On the 18th August 2009 the Council as Registration Authority received an application for the registration of the Land as a Town or Village Green. The application was made under Section 15(1) of the Commons Act 2006 and in accordance with the Commons (Registration of Town or Village Greens)(Interim Arrangements)(England) Regulations 2007.

5.4 As required by the Regulations referred to in paragraph 5.3 above the Council acting as the Registration Authority has published notice of the application. The Registration Authority is required to allow at least six weeks for the receipt of objections or other representations. The last date for making such representations is 23rd October 2009.

5.5 There are various factors required to be satisfied for an area to be registered as a village green and on the face of the application, some of the factors are satisfied. However, one of the factors is that the Land must have been used for sports and pastimes "as of right", or without the overt permission, of the landowner for at least the twenty years immediately preceding the application.

- 5.6 The Council was the landowner until the 6th August 2009 and it is considered that the Authority should would object to the application on the basis that the use was not “as of right” and any other factors that might arise as a result of officers’ enquiries into the history of the Land.
- 5.7 It appears from initial research that the Land has been used as a play area since the construction of the Britwell Estate during the late 1950s/early 1960s. The Council has always cut the grass and maintained the play equipment. The play equipment was removed some eighteen months ago as it was no longer fit for purpose. Furthermore two leases for this area have been granted for the play area. The first lease was granted by The London County Council (the predecessors in title to the Council) to Burnham Parish Council for a term of 21 years expiring on the 24th March 1984. The second lease was granted by the Council to Britwell Parish Council for a term of 21 years expiring on the 24th March 2005 .
- 5.8 The fact that the second lease was granted would seem to indicate that the Land was used as a play area with the permission of the Council until 24th March 2005 thereby rebutting the claim the Land was used “as of right”.
- 5.9 In light of the above it is recommended the Council should register an objection to the application on the grounds set out in paragraphs 5.7 and 5.8 and any other reasons that may arise as a result of further enquiries of the officers.

6. **Comments of Other Committees**

This matter was considered by the Planning Committee on the 17th March 2009. The Committee debated this matter at some length because of the proposal to reduce the size of the play area. In the event, because new play equipment was to be provided, along with the much needed social housing, the Committee resolved to delegate the matter to HPSP to agree minor amendments to the application and planning permission has subsequently been granted.

7. **Conclusion**

This development is desirable because of the seven new family homes to be offered to people on the Council’s waiting list and because of the revamped play area which will provide children with a more pleasant and safer area in which to play. It is not considered that the play area qualifies for village green status.

8. **Appendices Attached**

“1” Plan showing the land edged in red.

“2” Minutes of the Planning Committee of 17th March 2009.