

Application 2718 – Commons Act 2006, section 15, Form 44**Application for the registration of land at
Warfelton Green, Saltash as a Town Green**

- 1) Application was made on 7th May 2008 seeking to register approximately 3.261 hectares of land at Warfelton Green as a Town Green, by the Saltash Town Council. The land comprised an enclosed football ground and an open sports ground. The land is in the ownership of Cornwall Council, formerly Caradon District Council, with the football ground being leased. The application is supported by 177 evidence questionnaires completed by local residents.
- 2) It is the view of the Cornwall Council's Commons and Greens registration officer that the application is bound to fail. The legislation requires that use of the land for a town or village green is 'as of right', i.e. without the express permission of the landowner, i.e. use akin to trespass.
- 3) It is considered that both the football and sports grounds use is with the express permission of the landowner, i.e. 'by right' rather than 'as of right', to be used for sports and pastimes.
- 4) Applications cannot be refused unless parties to the application are afforded opportunity to present oral representations. This usually results in a public hearing with an experienced barrister presiding over the hearing to make a recommendation to the Council to grant or refuse the application.
- 5) Since the application was made, there are other factors which help protect the current status of the land as a recreational facility. It is considered there is sufficient protection for open space and recreation within the National Planning Policy Framework (NPPF), first published 2012, at paragraphs 98 and 99 of the current document, reproduced below:
- 6) **"98.** Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and

recreational provision is needed, which plans should then seek to accommodate.

- 7) **99.** Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- (a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - (b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - (c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”
- 8) In light of the above, it is requested by the commons registration office at Cornwall Council that the Saltash Town Council consider withdrawing their application No. 2718 seeking to register the land as a town green.

Thank you for kind attention.

Martin Wright

Commons and Greens Registration Officer, Cornwall Council

13th October 2022

Cc: Mike Eastwood, Countryside Rights of Way Team leader, Cornwall Council
Jon Mitchell, Public Space Team Leader, Cornwall Council