

Report to: **Mike Eastwood
Countryside Access Team Leader,
for determination.**

Date: **9th November 2017**

Title: **The Commons Act 2006
Section 15 – new town and village greens

The Commons Registration (England)
Regulations 2014

Application 2943 - 0.048 hectares of land
at Lawton Close in the parish of Newquay**

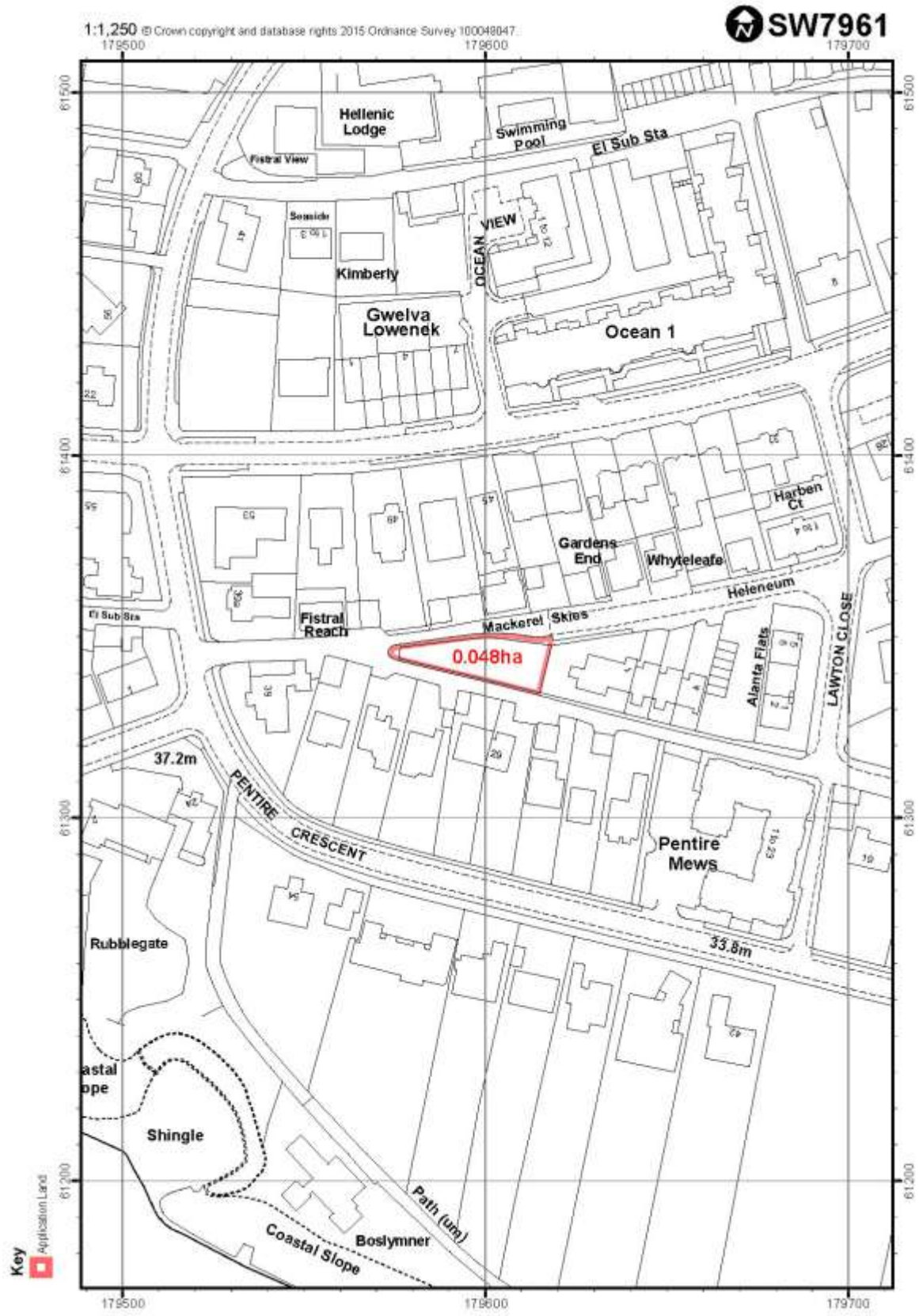
Divisions Affected **Newquay Pentire**

Author: **Martin Wright** Role: **Commons and Greens
Registration Officer**

Contact: **Tel: 01872 224773 E-mail: mwright@cornwall.gov.uk**

Recommendation:

1. The application is approved



Cornwall Council

1. Introduction:

Cornwall Council has a duty under Section 4 of the Commons Act 2006 to keep a register of common land and a register of town and village greens. Cornwall Council also has a duty under paragraph 26 of the Commons Registration (England) Regulations 2014 to determine applications to amend the registers of common land and town and village greens, unless the registration authority has an interest in the outcome of the application such that there is unlikely to be confidence in the authority's ability impartially to determine it.

Commons Registration Application No. 2943 was made by Cornwall Council seeking to register 0.048 hectares of land known as Lawton Close Green as a town or village green under section 15(8) of the 2006 Act.

This report examines the evidence for and against whether the application meets the statutory tests set out in Section 15(8) of the Commons Act 2006.

The application has been prepared to be presented to a delegated officer. The delegated decision is to consider whether to accept, refuse or refer the matter to an independent inspector to make a recommendation to accept or refuse the application under section 15(8) of the Commons Act 2006.

2. Background and Corporate Objectives:

The legislative background, section 15(8) of the Commons Act 2006, allows for the owner of any land to apply to the commons registration authority to register the land as a town or village green.

3. Decision and Supporting Information (Including Options):

It is recommended that the available evidence is sufficient for the Council to approve the application.

4. Contributions to Corporate Priorities:

In determining the application the Council is performing its statutory duty set out in sections 6 to 17, 19 and 22 of the Commons Act 2006 to determine applications seeking to amend the registers of common land and of town and village greens.

5. Financial Implications and Budget:

The process of determining whether the application is accepted or rejected is met from existing budgets.

Cornwall Council

If the application is successful, the owner of the land will continue to be responsible for the ongoing maintenance of the town or village green.

6. Other Resourcing Implications:

None.

7. Legal Implications:

Cornwall Council has a statutory duty set out in paragraph 26 of the Commons Registration (England) Regulations 2014 to determine applications to amend the registers of common land and town and village greens.

8. Equality Impact Assessment:

It is not considered that an Equality Impact Assessment is required or that there is likely to be any equality impact as a consequence of this decision.

9. Significant risks:

Should the Council make a decision which is opposed there may be a risk of judicial review. These costs can be significant and can represent a financial risk to the Council, though this should not allow this information to influence the decision about whether the application should be accepted or rejected, as such decision should be based on the evidence before it.

10. Consultation including Overview and Scrutiny Committee and Local Member Representation:

10.1 Overview and Scrutiny Consultation/Comments:

As this is a regulatory matter and not a matter of strategic importance the Environment Overview and Scrutiny Committee has not been consulted.

10.2 Local Division Member Comments:

Mrs Joanna Kenny CC has been consulted and fully approves of the decision to grant village green status to the piece of land at Lawton Close.

11. BACKGROUND

- 11.1 An Application was received on 13th June 2017 from Cornwall Council for the registration of a town or village green under Section 15(8) of the Commons Act 2006, for 0.048 hectares of land at Lawton Close in the parish of Newquay.
- 11.2 Paragraph 16 of the Commons Registration Regulations 2014 requires an application to be made in accordance with, amongst other things, Schedule 4 of the Regulations. Section 10 of Schedule 4 of the Regulations refers to applications made under section 15(8) of the 2006 Act.
- 11.3 The following describes where the application meets and does not meet the legislative requirements for registration as a town or village green.

LEGISLATIVE REQUIREMENTS

12 Section 15(8) of the Commons Act 2006 and Paragraph 10(1)(a) of Schedule 4 to the Commons Registration (England) Regulations 2014

The owner of any land may apply to the commons registration authority to register the land as a town or village green. The application must include evidence that the applicant is the owner of the land in respect of which registration is sought.

Cornwall Council is named in Note 2 of the application as the applicant. The applicant has provided a copy of Land Registry title No. CL317912 as evidence of ownership of the land.

13 Section 15(9) of the Commons Act 2006 and Paragraph 10(1)(c) of Schedule 4 to the Commons Registration (England) Regulations 2014

An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land. The application must show that any consents which are required under section 15(9) of the 2006 Act have been obtained.

The application confirms that there is no leaseholder or proprietor of any relevant charge over the land.

14 Paragraph 10(1)(b) of Schedule 4 to the Commons Registration (England) Regulations 2014

The application must contain a description of the land.

The land is described as Lawton Close Open Space.

15 Paragraph 10(2) of Schedule 4 to the Commons Registration (England) Regulations 2014

The application may include a description of the locality or neighbourhood within a locality of which the inhabitants are to have the right to indulge in lawful sports and pastimes on the land.

Note 6 of the application refers to the locality as the electoral ward of Newquay Pentire.

16 Method of Determining Application

The Commons Regulations (England) Regulations 2014 state that:

*"21 Registration authority's duty to publicise application
21(1) As soon as reasonable practicable after receiving an application complying with regulations 16 and 17 (making an application and application fees), the registration authority must:
(a) Publish a notice of the application on its website
(b) Serve a notice of the application by e-mail on anyone who has previously asked to be informed of all applications; and
(c) Subject to paragraphs 21(2) and (3), serve a notice of the application on each of the persons specified in Schedule 7 in relation to an application of that kind."*

The Registration Authority gave notice of the application on 31st July 2017, inviting representations by 15th September 2017. It is confirmed that no such representations were received.

17 CONCLUSION

For an application to succeed it must satisfy all of the legislative criteria for registration as a town or village green. It is considered that this application meets all of the relevant criteria.

18 DECISION

The application is approved as it meets the criteria as set out in the Commons Registration (England) Regulations 2014 relating to applications made under section 15(8) of the Commons Act 2006.

Name: *Mike Eastwood*

Title: Countryside Access Team Leader

Date: 9th November 2017

20 Background Papers:

Application 2943

The Commons Act 2006:

<http://www.legislation.gov.uk/ukpga/2006/26/contents>

The Commons Registration (England) Regulations 2014:

<http://www.legislation.gov.uk/uksi/2014/3038/contents/made>

Guidance to commons registration authorities and the Planning Inspectorate for the pioneer implementation (version 2.0, December 2014) (Defra)

<https://www.gov.uk/common-land-management-protection-and-registering-to-use>