

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

Decision Maker	Jonathan Woods – Strategic Manager (Access and Wellbeing)
Title	Application for registration of land at Orchard Close, in the Parish of New Alresford, as town or village green (Application No. VG 271)

Email: harry.goodchild@hants.gov.uk

1. The decision:

- 1.1. In 2018 Hampshire County Council, in its capacity as Commons Registration Authority for Hampshire, received an application under Section 15 of the Commons Act 2006, to register land at Orchard Close, New Alresford, as a town or village green (see Appendix 1 for a location map).
- 1.2. Due to a backlog of applications, this matter was not picked up for investigation until February 2024, at which point it was advertised in line with statutory requirements. During the consultation period the County Council received forty-eight expressions of support from local residents, and one representation from Winchester City Council (WCC), which has managed the application land as public open space since it was created in the late 1980s.
- 1.3. The framework for the decision is set out in the accompanying Decision Report, which analyses the evidence submitted in support of the application and considers relevant case law. Having taken all of this into account, it is recommended that the application is refused.

2. Reason(s) for the decision:

- 2.1. For land to be registered as a green, it must be shown that it has been used 'as of right' by a significant number of the inhabitants of a locality (or of any neighbourhood within a locality), for lawful sports and pastimes for a period of at least 20 years. In this instance, the application specified that such use had indeed taken place on the land and that this use had continued up until the submission of the application in 2018.
- 2.2. The open space at Orchard Close has been maintained as public open space by Winchester City Council since the estate was built in 1987. It is common ground

between all parties that the land has been heavily used for lawful sports and pastimes by local inhabitants. However, in its representation, WCC asserted that use by local inhabitants has not been ‘as of right’, citing the Supreme Court decision in *R (on the application of Barkas) v North Yorkshire County Council and another (2014)*, which held that public use of land held as open space could not be ‘as of right’.

2.3. Officers agree that the principle established in *Barkas*, as well as *Naylor v Essex County Council (2014)*, is engaged in this case, and it is therefore considered that the application fails to meet all of the statutory tests set out in Section 15, as set out in the report. It therefore follows that the application should be refused.

3. Other options considered and rejected:

3.1. None.

4. Supporting information:

4.1. Appendix 1 - Location Map
 Appendix 2 – Representations of Winchester City Council

Approved by:	Date: 19/09/2024
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Jonathan Woods – Countryside Strategic Manager	
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On behalf of the Director of Culture Communities and Business Services	

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	no
Corporate Improvement plan link number (if appropriate):	

Hampshire safer and more secure for all:	no
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
File: VG271, Orchard Close	Countryside Access Team The Castle Winchester SO23 8UL

IMPACT ASSESSMENTS:

1 Equalities Impact Assessment:

N/A

2. Impact on Crime and Disorder: N/A

3. Climate Change:

How does what is being proposed impact on our carbon footprint / energy consumption?

N/A

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? **N/A**