

Cabinet Planning and Parking Panel  
22 June 2023

## WELWYN HATFIELD COUNCIL

\* Reporting to Cabinet

Minutes of a meeting of the WELWYN HATFIELD COUNCIL CABINET PLANNING AND PARKING PANEL held on Thursday 22 June 2023 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors K.Thorpe (Chairman)  
R.Platt (Vice-Chairman)  
S.Bonfante, S.Goldwater, R.Grewal, T.Kingsbury,  
G.Michaelides, L.Musk, A.Hellyer, J.Cragg (In place of  
C.Stanbury), D.Panter (In place of P.Zukowskyj),  
R.Trigg (In place of J.Boulton) and S.Tunstall (In place  
of S.Thusu)

### OFFICIALS

PRESENT: Chris Barnes, Director (Place)  
Chris Carter, Assistant Director (Planning)  
Matt Wilson, Planning & Policy Implementation Manager  
Clare Cade, Governance Services Manager

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#### 43. SUBSTITUTIONS

The following substitutions were received:

- Councillor Panter will be substituting for Councillor Zukowskyj
- Councillor Roger Trigg for Councillor Jonathan Boulton
- Councillor Julie Cragg for Councillor Craig Stanbury
- Councillor Stan Tunstall for Councillor Sunny Thusu

#### 44. APOLOGIES

Apologies for absence were received from Councillors Zukowskyj, Boulton, Stanbury and Thusu.

#### 45. MINUTES

The minutes of the meeting held on 16 February 2023 were agreed.

#### 46. NOTIFICATION OR URGENT BUSINESS TO BE CONSIDERED UNDER ITEM 7

There were no items of urgent business.

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47. DECLARATION OF INTERESTS BY MEMBERS

Councillor Kingsbury declared a non-pecuniary interest as a County Councillor.

48. PUBLIC QUESTION TIME AND PETITIONS

The below question was received from a member of the public:

“Singlers Marsh in Welwyn Village is the subject of an application to register it as a Village Green. This application is opposed by the owner of part of the land, namely Welwyn Hatfield Borough Council, despite this being at odds with the wishes of a huge number of local residents.

In the three years since the application was made, Welwyn Hatfield Borough Council has reluctantly produced a series of explanations to justify its opposition to the application. These include:

- An (unspecified) incompatibility with its existing Local Nature Reserve and Local Wildlife Site status
- A claim that, in 2000, there was signage leftover from a council body that ceased to exist in 1974 but which is somehow still relevant now
- An opinion that a landowner cannot consent to its land becoming a Village Green if the legal criteria are not met, despite there being a straightforward process for “voluntary registration”
- Past requests for use of the land for community events constituting proof of use “by right”, when the claimed requests were not actually made, and when they wouldn’t be relevant if they had been
- Fear of loss of control by Welwyn Hatfield Borough Council about how it manages the land in future
- Risk of opening the land up to traveller settlement
- Risk of unfettered grazing rights for horses (based, we know, solely on one Google search by a former Welwyn Hatfield Borough Council head of planning)
- Requirement for construction of boundary fences all around the land
- Danger of inappropriate cricket pitches being laid down on the land
- Parked cars for community events blocking dog walkers

Village Green law is 200 years old, and well understood by lawyers who specialise in the subject. Not a single one of the many reasons given for Welwyn Hatfield Borough Council’s objection survives expert scrutiny. We have repeatedly asked to debate these points constructively with the council, but have been rebuffed throughout.

We had understood that WHBC had received specialist advice on these matters, apparently confirmed in an email dated 12th September 2022 which said that it had “*taken legal advice [...] so [its objections are] certainly more robust than just officer’s opinion or misunderstanding.*” However, in its response to FOI request #9034, Welwyn Hatfield Borough Council told us that it had not procured any external advice on the Village Green application from any specialist solicitors or planning consultants, and that the various claims set out in its press release on 27th February were simply views held by the council’s officers.

The FOI response also divulged that Welwyn Hatfield Borough Council has spent £17,000 on a barrister’s fees to represent it at the public inquiry into the application. As an aside, I note that the annual income from WHBC’s allotment holders (a recently

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controversial subject) was just £14,500 in the last financial year. We expect WHBC's barrister's fee if the inquiry continues to be of the order of a further £100,000.

The community in Welwyn has funded its own legal costs for the application from residents' pockets. A team of volunteers have put, and continue to put, considerable time and effort into supporting this application.

This all begs the following questions:

- Why does Welwyn Hatfield Borough Council persist in objecting to the application when none of its objections stand up to scrutiny?
- Why does Welwyn Hatfield Borough Council refuse to take external specialist advice to give it assurance that Singlers Marsh becoming a Village Green will be positive for the community?
- Why does Welwyn Hatfield Borough Council think that objecting to the application, despite residents' wishes and the flimsiness of its objections, is a good use of taxpayers' money?
- Will Welwyn Hatfield Borough Council now consider preserving this delightful green space as an environmental treasure for future generations by exploring the option of voluntarily registering it as a Village Green (at no further cost to anyone)?

The below response was provided in response to the above question:

In 2002 an application was made to Hertfordshire County Council, the relevant 'Registration Authority', to register Singler's Marsh as a Town and Village Green. The outcome of the application was a decision, by the Registration Authority, to refuse the application. In October 2020 a second application was made to register Singler's Marsh as a Town and Village Green and in July 2022 a third application was submitted. There are, currently, two applications which are being considered by the Registration Authority in respect of Singler's Marsh.

Because Welwyn Hatfield Borough Council ("the Council") is an owner of Singler's Marsh, the Registration Authority invited the Council to reply to each of the two 'live' applications.

In the Council's view, neither application meets the legal criteria for registration as a village green. One criterion is that use of the land, during the relevant period of time, has taken place without permission or any right to use the land. The Council believes that, as a minimum, whether expressly or impliedly, permission has been given to use the land.

As the landowner, the Council does not think that it would be right to allow village green status to be granted in circumstances where the legal criteria are not met. The Council has, therefore, submitted objections to each of the applications on the basis that the applications do not meet the legal requirements for registration. The Council must have regard to its responsibilities to act in the interests of all residents of the borough. Singler's Marsh has always been well managed by the Council with public access both permitted and made pleasant.

In addition, Singler's Marsh is both a registered Wildlife Site and a Local Nature Reserve. The Council does not believe that registration as a village green would

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be compatible with the status of the site as a Wildlife Site and a Local Nature Reserve. The Council believes that it is best placed to control the site and its use – including its use as a Nature Reserve and Wildlife Site – on behalf of all residents, which its current status enables it to do.

The current applications, and the expense associated with them, is not of its making, but the process is one with which the Council must engage because of the two applications now being pursued despite the rejection of a similar application previously. That there are not one but two applications, the first of which has previously been amended, adds further complication.

For these reasons the Council is continuing its objections to the two ‘live applications’. The Council has received and is continuing to receive independent specialist expert legal advice to inform its position. It does not consider that it is necessary to incur further costs in obtaining additional advice from external solicitors and/or external planning consultants, The Council is satisfied that its objections to the applications have been made appropriately and in accordance with the correct procedure.

Whilst matters are on-going, the Council will not be able to comment further. Ultimately, having considered all the matters put forward both for and against registration, it will be for the Registration Authority to make the decision as to whether or not to register Singler’s Marsh as a village green.

49. SUCH OTHER BUSINESS AS, IN THE OPINION OF THE CHAIRMAN, IS OF SUFFICIENT URGENCY TO WARRANT IMMEDIATE CONSIDERATION

There were no other items of business which required immediate consideration.

50. LEMSFORD VILLAGE CHARACTER ASSESSMENT AND CONSERVATION AREA DESIGNATION

The Panel received the report of the Assistant Director (Planning).

A review of the Lemsford area had been undertaken by the Council’s heritage consultant, Essex Place Services, and a Draft Character Assessment was produced. The assessment identified areas of special architectural or historic interest within the Lemsford area and included a discussion on the suitability of conservation area designation as well as a suggested conservation area boundary. Existing assets such as listed properties would remain in place and the conservation area would act as an extra protection.

A six-week consultation was carried out on the Draft Character Assessment. Letters were written to 140 addresses in the area, 40 statutory consultees and 3 local resident groups were contacted as part of the consultation. Seventeen responses were received in response with the majority being overwhelmingly in support of the conservation area designation.

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The comments received have been considered by officers in conjunction with Council's consultant Place Services, and a final version of the Character Assessment has been produced and included an amendment to the conservation area boundary.

It was clarified that conservation area designation is a matter that would need to be taken into account in deciding a planning application or on an appeal against a planning decision. Also, should the area be designated a conservation area, alterations/works that have already been carried out will not be the subject to retrospect assessment.

**RESOLVED:**

- 1) That the results of the public consultation which took place for six weeks in February and March 2023 be noted; and
- 2) That the Panel recommends to Cabinet and Council that Lemsford Character Assessment is to be adopted and Lemsford is designated as a new conservation area.

Meeting ended at 8.20pm