

BROMYARD COMMON

PORTFOLIO RESPONSIBILITY: COMMUNITY SERVICES

CABINET

14TH DECEMBER, 2006

Wards Affected

Bromyard and Bringsty

Purpose

To consider the proposed action in terms of future management and governance of Bromyard Common.

Key Decision

This is not a Key Decision.

Recommendations

- THAT (a) the plan of action in relation to Bromyard Common be agreed;**
- (b) the Head of Legal and Democratic Services together with the Director of Adult and Community Services be permitted to review the governance and maintenance arrangements for Bromyard Common and for Counsel to be instructed to consider views of all parties and set out recommendations for future governance of the Common to the Council; and**
- (c) a further report be brought to Cabinet to review the recommendations of Counsel.**

Reasons

1. Bromyard Common is currently managed through the Bromyard Common Management Committee which is a sub-committee of the Brockhampton Group Parish Council. The management of the Common was delegated by this Council's predecessor Malvern Hills District Council to the Brockhampton Group Parish Council by an Agreement dated 22nd May 1991 ("the Agreement"). As a result of local government reorganisation Herefordshire Council is the successor authority to the agreement which places the ownership of the Common in the Council. The Council have continued to operate the scheme of delegation in accordance with the above mentioned Agreement.
2. There have been ongoing issues with regard to the governance of the Common to the extent that a Bromyard Commons User Group has been formed. A request has been received by the Council to determine whether or not the management committee is fulfilling its functions towards the Common and the representation of that committee in accordance with the Agreement

Further information on the subject of this report is available from
Alan McLaughlin, Head of Legal & Democratic Services on (01432 260200)

3. The Council is required under the Scheme of Delegation to determine such grievances in a manner in which it may determine. The Head of Legal and Democratic Services sets out a proposed plan of action in order to review the governance and maintenance of the Common.

Considerations

1. Herefordshire Council is the owner of the Common and has delegated the management of it to the Brockhampton Parish Group Council, the scheme requires the Council to determine grievances brought by any person and failure to do so may lead to an application for judicial review to ensure that the Council exercises its functions under the Agreement dated 22nd May, 1991.
2. The Action plan seeks to review the governance and maintenance of the Common and for Counsel to be instructed to make recommendations to Cabinet for the future governance, representation and operation of the Scheme of Delegation under the Agreement.

Risk Management

1. The risk is that if the Council does not comply with its duty under the Agreement it may lead to an application for judicial review and an award of costs which could have been avoided by complying with its obligations.
2. Reputational risks to the Council is that under the Agreement we have placed the governance arrangements with the Brockhampton Group Parish Council and that concerns regarding the governance and maintenance of the Common have been longstanding. It is ultimately the responsibility of the Council. If the Council does not carry out the review the risk to reputation would be significant.

Alternative Options

To do nothing would be to invite litigation against the Council on which it is unlikely to be successful and a risk to the Council's reputation.

Consultees

None

Appendices

Appendix 1 – ACTION PLAN

Background Papers

Agreement dated 22nd May 1991.