

<b>APPLICANT'S NAME</b>	Newton Farm Town Green Action Group.
<b>APPLICATION TYPE</b>	The registration of land as a Town Green.
<b>COMMITTEE MEMBERS</b>	Councillor JW Hope MBE (Chairman) Councillors CM Bartrum, Mrs SPA Daniels, JHR Goodwin, RC Hunt, Brig. P Jones CBE, PJ McCaull, A Seldon and JD Woodward
<b>DATE OF MEETING</b>	11th January, 2011

Members of the Council's Regulatory Committee met to determine whether land at Argyll Rise, Belmont, Hereford should be registered as a Town Green. The Council is the Registration Authority for determining applications to register land as town or village greens.

At the meeting all the details about the application, the relevant legal aspects and the alternatives that were available to the Council, together with a recommendation that the application should be approved, were given careful consideration.

The circumstances which had led to the application being made to the Council were noted. The land was part of a larger area which had been purchased for housing purposes in 1959 by the former Hereford City Council under the powers of the Housing Act 1957 and was subsequently laid out as open space as part of the surrounding housing development during the 1970s. In November 2002 the land was one of a number of open spaces included in a transfer of the Council's housing stock to Herefordshire Housing Limited.

Mr C Whitmey addressed the Committee on behalf of the Newton Farm Town Green Action Group and Ms M Ellis QC on behalf of Herefordshire Housing Limited which was contesting the application. The Committee was advised by Mr V Chapman QC.

The Committee determined the application as follows:

- 1. The Regulatory Committee rejects the application to be found in Appendix 8 of the Agenda for the meeting, under Section 15 of the Commons Act 2006.**
- 2. The application is rejected because the Committee is not satisfied that use of the application land during the 20 year period relied upon was "as of right". The Committee considers that the application land was a "recreation ground" and/or an "open space" laid out and maintained for public use under the Housing Act 1957 Sections 93 and/or 107 and the Housing Act 1985 Sections 12 and/or 13 to which the users had a statutory right of access. Use for lawful sports and pastimes was therefore "by right" or "of right" rather than "as of right".**
- 3. The Committee has weighed carefully the issues raised which go towards the possibility of deferring its decision in the light of the pending judgement on the Court of Appeal case of Leeds Group plc v**

**Leeds City Council or to seek the directions of the Court. Given its decision to reject the application however, the Committee does not consider it appropriate in the public interest to defer its decision for either reason.**

- 4. The Committee places on record its gratitude to the advocates in the Case for their clear detailed and careful work which has enabled this decision to be made.**

Signed.....Councillor JW Hope MBE, Chairman of the Regulatory Committee, 11 January, 2011