



**Notice of a public meeting of  
Gambling, Licensing & Regulatory Committee**

- To:** Councillors Douglas (Chair), Boyce (Vice-Chair), Aspden, Crisp, D'Agorne, Funnell, Gillies, Gunnell, Hayes, Hunter, Mason, Mercer, D Myers, Orrell and Richardson
- Date:** Monday, 13 March 2017
- Time:** 4.00 pm
- Venue:** The Snow Room - Ground Floor, West Offices (G035)

**AGENDA**

**1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

**2. Minutes** (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 6 February 2017.

**3. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Friday 10 March 2017**.

## **Filming or Recording Meetings**

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/download/downloads/id/11406/protocol\\_f\\_or\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

## **4. Application to Register Land as a Town or Village Green** (Pages 5 - 28)

This report seeks Members' determination of an application to register land known as Holgate Community Garden and Play Park (also known as Upper St Paul's Terrace play area) as a town or village green.

## **5. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Laura Clark

Contact Details:

- Telephone – (01904) 554538
- E-mail – [Laura.Clark@york.gov.uk](mailto:Laura.Clark@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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City of York Council

Committee Minutes

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Meeting	Gambling, Licensing & Regulatory Committee
Date	6 February 2017
Present	Councillors Douglas (Chair), Boyce (Vice-Chair), Aspden, Crisp, D'agorne, Funnell, Gillies, Hayes, Hunter, Mason, Mercer, D Myers and Richardson
Apologies	Councillors Gunnell and Orrell

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**19. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

**20. Minutes**

Resolved: That the minutes of the meeting held on 7 November 2016 be approved as a correct record and then signed by the Chair.

**21. Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme on the following item:

**5. Unmet Demand Policy**

Mr Saf Din spoke on behalf of the York Hackney Carriage Association in support of the Unmet Demand Survey. He suggested that the timescale be reviewed so that the survey would take place on a 5 yearly cycle, in order to save on costs. He also requested that the results be shared with the Taxi trade once available.

**22. Renewal of Sex Establishment Licence**

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sexual Entertainment Venue (SEV) which had been made under the Local Government (Miscellaneous Provisions) Act 1982,

Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.

The Licensing Officer provided a brief background to the application and in response to Member questions stated:

- The 'premises' only referred to the area of the building where licensable activities take place. As such the condition of dressing areas and rest areas cannot be given consideration as part of the application for a licence renewal.
- Staff welfare would be covered within the new Sex Establishment Policy.
- During the drafting of the new policy several councils had been consulted in order to look at best practice and the new policy was robust and comprehensive.

Legal officers clarified that there would have to be clear grounds for refusal of this application. It had to be considered against the current policy and due weight should be given to the fact that a previous licence had been granted and no complaints had been received in that time.

During debate Members raised concerns surrounding the working conditions of staff, the issue of earlier opening hours on race days and the general state of the building.

Resolved: Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.

In coming to their decision of approving the above Option 2 the Committee imposed the following additional condition:

Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times. The documents detailed in this condition will be displayed in the dressing rooms.

Reason: To consider renewal of the sexual entertainment licence as required by the legislation.

### **23. Unmet Demand Policy**

Members considered a report seeking approval to undertake an unmet demand survey in relation to hackney carriage provision within the authority area.

Officers provided a brief background to the report and in response to Member questions they stated:

- The Council was following Department for Transport (DfT) guidance in conducting an Unmet Demand Survey every three years. To not do so could leave CYC open to legal challenge.
- The Licensing Department had written to two York MP's asking them to lobby parliament in relation to Taxi Licensing.
- If the survey did show there was a need to issue new licences, CYC could stipulate that these be wheelchair accessible vehicles.
- In response to points raised by the public participant, Officers clarified that the results of the survey would be brought before this Committee and would therefore be publicly accessible.

Resolved: That Members authorise officers to engage a transport consultancy to undertake an unmet demand survey, and once completed bring the results of the survey to this committee.

Reason: To allow the Council to undertake an unmet demand survey, in line with best practice guidance issued by the Department for Transport (DfT), in relation to the provision of the hackney carriage service.

### **24. Licensing of Sex Establishments - Licensing Policy**

Members considered a report seeking support for the approval of the Council's Licensing Policy, relating to the licensing of sex establishments. It advised them of the consultation undertaken and the amendments made to the draft policy following the consultation.

Officers gave Members a brief background to the report. It was reported that North Yorkshire Police had responded to the consultation and, taking into account their comments, the policy had been amended to state that variations would come to committee, rather than being delegated to Officers.

Members stated that they felt it was important that all applications relating to Sex Establishments came to either Committee or a sub-committee. The Licensing Officer stated that the schedule of delegation at Appendix B (page 18) of the policy would be updated to reflect this.

Resolved: That the policy be approved, subject to the amendments to the schedule of delegation, and it be recommended to the Executive that the Licensing Policy be adopted.

Reason: To allow the Council to introduce a more robust Licensing Policy relating to the licensing of sex establishment.

Councillor Douglas, Chair

[The meeting started at 4.00 pm and finished at 5.00 pm].





## **Gambling, Licensing & Regulatory Committee**

13 March 2017

Report of the Assistant Director - Planning and Public Protection

### **Application to Register Land as a Town or Village Green**

#### **Summary**

1. This report seeks Members' determination of an application to register land known as Holgate Community Garden and Play Park (also known as Upper St Paul's Terrace play area) as a town or village green.
2. The Council is the Commons Registration Authority under the Commons Act 2006 ("the Act") and administers the Registers of Common Land and Town or Village Greens. Under Section 15 of the Act the Council is able to register new land as a town or village green on application. The determination of an application must be based on whether the statutory criteria for registration are fulfilled.

#### **Background**

3. An application to register land at Holgate Community Garden and Play Park (also known as Upper St Paul's Terrace play area) as a town or village green was received by the Council on 14 September 2016 on behalf of Friends of Holgate Community Garden. The land is identified on the plan appended to the application.
4. If the land is registered as a village green, it will be subject to statutory protection and give local people the right to indulge in sports and pastimes over it on a permanent basis. The land must be kept free from development or other encroachments and nothing should be done which will interfere with these activities. Registration can therefore be destructive of the value of land to its owner, as the owner is severely restricted in what future use can be made of the land.
5. The relevant legislation for this particular application is the Act and its associated Regulations. Under the Regulations, the Council is under a duty to advertise an application that is duly made and notify the landowner (if known) and any person known to have an interest in the land. A period of time is allowed for objections to be lodged. If any

objections are received, the applicant is given the opportunity to comment on them. At the end of the consultation process, the evidence submitted for and against the application has to be considered and a decision taken on whether the application satisfies the statutory requirements for registration.

6. For the application to succeed, the Applicant has to prove, on the balance of probabilities, that certain statutory criteria set out in section 15(2) of the Act have been met. These are as follows:
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and
  - (b) they continue to do so at the time of the application.
7. It is for the applicant to establish that all the elements of the statutory criteria for registration are met. One of the criteria is that the usage of the land is required to be 'as of right' (and not 'by right' i.e. not by permission). This is an essential ingredient in an application for registration. An applicant must be able to show that the users of the land had no legal right to use the land but nevertheless did so as if they had such a right.
8. The Council as landowner of the application site and the proposed developer of the application site have objected that application to register should be rejected, as the use of the land has been 'by right' i.e. permissive, and not 'as of right'. This is on the basis that that the application site has been held by the Council since 1979 for the specific purpose of being open space pursuant to its statutory powers as landowner.
9. The applicant was provided with a copy of the objections and given an opportunity to comment. The applicant responded that it accepts the objectors' submission that the use of the land has been by right and not as of right at and that being the case, it does not wish to take its application for registration further.
10. The handling of the application and the objections has been kept strictly apart by Officers.

## Consultation

11. The application was formally advertised and an objection was received from the Council in its capacity as freehold landowner of the application site. An objection was also received on behalf of the York Central Partnership as promoters of the York Central site which comprises the application site.
12. A comment was received in support of the application (after the end of the statutory consultation period).

## Options

13. Option 1 - Refuse the application.  
  
Option 2 – Not to determine the application.

## Analysis

14. The Supreme Court has held that where land is held and laid out as public recreational land by a local authority pursuant to e.g. Public Health Acts or the Open Spaces Act, the public have a statutory right to use that land for recreational purposes. Therefore, their use is pursuant to that statutory right to do so, and so is 'by right' rather than 'as of right' i.e. it is regarded as a use with permission.
15. The Council acquired the site in 1973 through use of compulsory purchase powers. In 1979 the Council resolved to appropriate the site for the purposes of s.120 (1)(b) of the Local Government Act 1972. Section 120(1) (b) of the Local Government Act 1972 allows a principal council to acquire land by agreement for the benefit, improvement or development of the area. In 1979 the Secretary of State for the Department of the Environment and Transport consented to the appropriation by the Council of the site under section 47 of the Housing Act 1957 for the purpose of open space. The Council appropriated the site in November 1979 for the purpose of being open space and has since then held the site for open space.
16. The effect of this factual position is that members of the public are legally entitled to use the land 'by right'. On the facts of this case therefore, as usage of the land is 'by right' and not 'as of right', the statutory criteria for registration cannot be met.
17. Defra guidance states that applicants do not have an automatic right to withdraw applications and that the registration authority has discretion

either to take no further action on the application, or to go ahead and determine the application, based on the evidence available.

18. Given that one of the objectors to the application is the Council itself, Officers on the part of the registration authority consider that it is appropriate for the application to be formally determined even though the applicant does not wish to progress the application.
19. It is common practise for a registration authority to appoint an independent person to advise it (usually by way of a public inquiry) as to whether an application should be accepted or refused when there are objections or other concerns about the fulfilment of the statutory criteria for registration. There is particular merit in this approach when the Council is both objecting as the landowner and sitting in a quasi-judicial capacity to determine an application, as it removes any perception of adverse conflict of interests.
20. Although it may be that there is an arguable case in respect of all the other statutory criteria which could be tested by an independent person, Officers on the part of the registration authority consider it unnecessary to undertake this process in this particular case, as regardless of the determination of other elements of the test, the requirement for usage 'as of right' cannot be satisfied. That being the case, the land does not fall to be registered as a town or village green.
21. Therefore, it is recommended that the application be refused because the statutory criteria for registration cannot be met. Option 2 is not recommended.

### **Council Plan**

22. This report supports the council plan priorities of "*a prosperous city for all; a focus on frontline services; a council that listens to residents*". In particular, through following the correct procedures for this application the council has engaged with the local community.

### **Implications**

23. The implications arising directly from this report are:

**Financial** - N/A

**Human Resources (HR)** – N/A

**Equalities** – N/A

**Legal –**

Officers' recommendations and conclusions are based on relevant legal principles and case law.

Under the Act, there is no statutory right of appeal to the Secretary of State against the Council's decision and the only challenge to a decision made by this Committee would be through the process of judicial review.

**Crime and Disorder – N/A**

**Information Technology (IT) – N/A**

**Property – N/A**

**Other – N/A**

**Risk Management**

24. Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
25. The report details the options available to the Committee in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report there are no known risks involved with this recommendation.

**Recommendation**

26. To refuse the application.

Reason: As one of the statutory criteria for registration has not been met.

**Contact Details**

<b>Author:</b>	<b>Chief Officer Responsible for the Report:</b>		
Sandra Branigan Senior Solicitor (01904) 551040	Michael Slater Assistant Director Planning & Public Protection (01904) 551300		
	<b>Report Approved</b>	✓	<b>Date</b> 3 March 2017

<b>Wards Affected:</b> Holgate
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**Annexes:**

Annex 1 - Application by the Friends of Holgate Community Garden for the Registration of Land as a Town or Village Green received 14<sup>th</sup> September 2016

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:



Application number: [ ]

Register unit No(s): [ ]

VG number allocated at registration: [ ]

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1-6 and 10-11.
• Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7-8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
• Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

CITY OF YORK COUNCIL
WEST OFFICES
STATION RISE
YORK YO1 6SA

Note 1
Insert name of registration authority.

**Note 2**

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

**2. Name and address of the applicant**

Name:

\* COMMITTEE MEMBER OF FRIENDS OF HULGATE COMMUNITY GARDEN

Full postal address:

Postcode

Telephone number: (incl. national dialling code)

Fax number: (incl. national dialling code)

E-mail address:

**3. Name and address of solicitor, if any**

Name:

Firm:

Full postal address:

Post code

Telephone number: (incl. national dialling code)

Fax number: (incl. national dialling code)

E-mail address:



**Note 4**

*For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.*

*\* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

**4. Basis of application for registration and qualifying criteria**

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

**Section 15(2)** applies:

**Section 15(3)** applies:

**Section 15(4)** applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)\*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

**5. Description and particulars of the area of land in respect of which application for registration is made**

Name by which usually known:

MOLGATE COMMUNITY GARDEN & PLAY PARK  
(ALSO KNOWN AS UPPER ST PAULS TERRACE PLAY AREA)

Location:

PLEASE SEE SECTION 5 OF SUPPORTING DOCUMENT.

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) \*

**6. Locality or neighbourhood within a locality in respect of which the application is made**

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

PLEASE SEE SECTION 6 OF SUPPORTING DOCUMENT

Tick here if map attached:

**Note 5**

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable to it to be clearly identified.

\* Only complete if the land is already registered as common land.

**Note 6**

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

**7. Justification for application to register the land as a town or village green**

**Note 7**

*Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.*

*This information is not needed if a landowner is applying to register the land as a green under section 15(8).*

PLEASE SEE SECTION 7 OF SUPPORTING DOCUMENT

**Note 8**

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

**Note 9**

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

**Note 10**

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

THE SITE IS OWNED BY CITY OF YORK COUNCIL.  
THE LAND HAS BEEN RECOGNISED AS AN ASSET IN THE COUNCIL'S ASSET REGISTER (LAST UPDATED MAY 2016) & HAS THE FOLLOWING ASSET IDENTIFICATION NUMBERS:  
UNIQUE ASSET ID: EQ0062/B01  
UNIQUE PROPERTY REFERENCE NUMBER: 200004776489

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

NONE

10. Supporting documentation

PLEASE SEE THE ATTACHED SUPPORTING DOCUMENT

**11. Any other information relating to the application**

**Note 11**

*If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.*

PLEASE SEE SECTION 11 OF THE SUPPORTING DOCUMENT

**Note 12**

*The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.*

Date:

13<sup>TH</sup> SEPTEMBER 2016

Signatures:

  
DAVID BARRETT

**REMINDER TO APPLICANT**

**You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.**

**Data Protection Act 1998**

*The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.*

### Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

<sup>1</sup> Insert full name (and address if not given in the application form).

I DAVID BARRETT,<sup>1</sup> solemnly and sincerely declare as follows:—

<sup>2</sup> Delete and adapt as necessary.

1.<sup>2</sup> I am ((the person (~~one of the persons~~) who (has) (~~have~~) signed the foregoing application)) ((~~the solicitor to~~ (the applicant) (~~<sup>3</sup>one of the applicants~~)).

<sup>3</sup> Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

<sup>4</sup> Complete only in the case of voluntary registration (strike through if this is not relevant)

4.<sup>4</sup> I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

<sup>4</sup> Continued

been received and are exhibited with this declaration; or  
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said DAVID BARRETT

at [Redacted]

this 13<sup>TH</sup> day of SEPTEMBER 2016

[Redacted Signature]

Signature of Declarant

Before me \* LUKE JOHNSON

Signature:

[Redacted Signature]

Address:

[Redacted Address]

Qualification:

Solicitor of the Higher Courts of England and Wales.

\* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

**REMINDER TO OFFICER TAKING DECLARATION:**

Please initial all alterations and mark any map as an exhibit

**Application for the registration of land as a Town or Village Green - Supporting Documentation (Maps and Photographs)**

**Section 5: Description and particulars of the area of land in respect of which application for registration is made**

Location:

The black line map below shows the boundary of Hoigate Community Garden and Play Park and it is this area that this application relates to.



The boundary marks the land in public ownership, which includes, a hard surface basketball court (marked as Play Area on the map), a community garden (comprised of large, raised, circular beds and borders) and children's play equipment (a seesaw, a climb on train with slide, and a climbing frame).

The land is recognised as an asset in the Council's asset register (last updated May 2016) and has the following asset identification numbers:

Unique asset ID: E00062/B01

Unique Property Reference Number: 200004776489

The Council have also recognised the Community Garden and Play Park as an Asset of Community Value (decision made 12.09.2016).

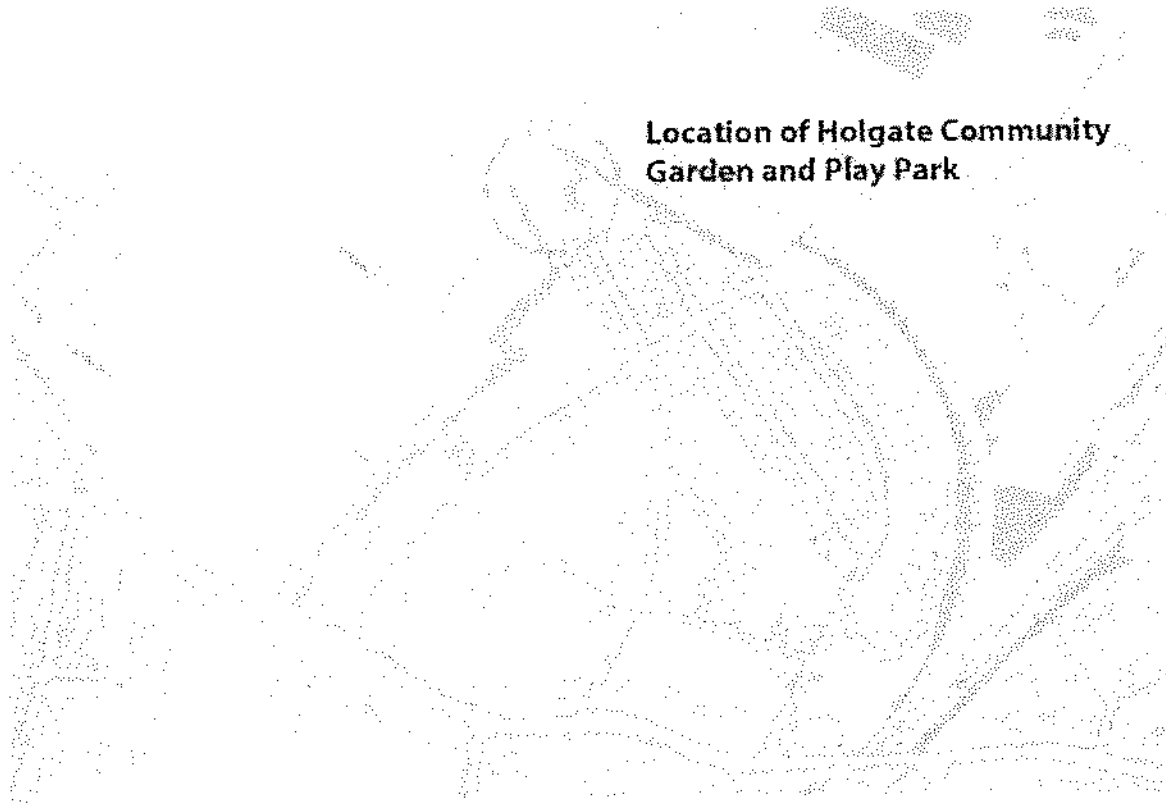
**Holgate Community Garden and Play Park**



**Application for the registration of land as a Town or Village Green - Supporting Documentation (Maps and Photographs)**

**6. Locality or neighbourhood within a locality in respect of which the application is made**

The locality in which the application is made is Holgate. Please refer to the map below which shows the location of Holgate Community Garden and Play Park in relation to Holgate Ward.



**Holgate Community Garden and Play Park**

4

**Application for the registration of land as a Town or Village Green - Supporting Documentation (Maps and Photographs)**

**Section 7 - Justification for the application**

Holgate Community Garden and Play Park is a green haven for inner city dwellers in York, in particular Holgate residents. For many local residents, this is their only garden; a central point for exercising, gardening and socialising. Residents in this part of Holgate have tiny yards that are not suitable for exercising children or pets. The garden and basketball court are therefore well loved and actively used on a daily basis by families, dog walkers, picnickers, urban explorers, gardening enthusiasts and other groups.

In the mid-1970s a row of terrace houses, known as Cleveland Place, were demolished. This site became what is now Holgate Community Garden and Play Park shortly after. Photographic evidence of the play park in use in 1995 is included below, however local residents who have lived in Holgate all their lives have shared their experiences of using the play park when it was first created circa late 1970s.

In 2011, local resident, Julie Fern, galvanised the local community to further improve this space into a beautiful, tranquil site filled with flowers, vegetables and well cared for play equipment.

The local residents have generously invested large sums of their own time and money in this project and carried out the work as a collective team. The result has been a transformation. It is a beautiful place that residents are proud of and use daily with great enthusiasm.

The trees that surround and form part of Holgate Community Garden and Play Park are protected by 16 Tree Preservation Orders (TPOs) and species of tree include: Sycamore, Rowan, Himalayan Birch and Whitebeam, which is not commonly found outside formal gardens & parks. The green space is also home to wildlife and acts as corridor for wildlife that utilise green and unmanaged wild areas. Evidence of this can be seen at night when the areas nocturnal animals emerge. Bats are resident in the area of the Community Garden and Play Park and have been observed by many local people. In addition, residents have seen: squirrels, hedgehogs, woodpeckers, slow-worms to name just a few examples. The flourishing Community Garden attracts many insects including bees and dragonflies.

The Community Garden is part of the Edible York movement, and this extract from the Edible York website entry for Holgate Community Garden gives a feel for the type of fruit, vegetables and flowers that are grown there:

*"We have six raised beds, one dedicated to herbs and black and red currants, another filled principally with edible flowering plants: giant globe artichokes, dwarf sunflowers, and bergamot (but also with supremely pollinator friendly flowers, such as Allium sphaerocephalon, Erysimum 'Bowles Mauve', and Knautia 'Melton Pastels'). In the four remaining beds in this, our first season, we have grown a mix of edible flowers and fruit and vegetables: peas, strawberries, broad beans, spinach, lettuces, chives, Nasturtiums, calendulas, violas, dwarf purple French beans, runner beans (grown up a teepee with heavily scented heirloom sweet peas), beetroot, purple sprouting*

**Holgate Community Garden and Play Park**

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**Application for the registration of land as a Town or Village Green - Supporting Documentation (Maps and Photographs)**

*broccoli, radishes, rainbow chard, the fabulous custard white Zucchini, pumpkins, tomatoes, cut and come again lettuces, rocket, cauliflower, beetroot, curly kale, raspberries, celeriac, parsley, cilantro, borage..."*

The community garden and play area provides the neighbourhood's children with a safe, enclosed green space which many can access without crossing a road. For decades the park has been a fundamental space for play, where generations have grown up, learning independence and confidence due to it being encircled by a fence and wall. The basketball court is used regularly by St Paul's Primary School and Out-of-School Club for physical education and forest school sessions throughout the year. This surface is perfect for children learning to walk, run, ride a bicycle and roller skate. On occasions it has also been used as a giant canvas for outdoor chalks, promoting creativity, imagination and role-play.

The growth in community that Holgate Community Garden and Play Park has engendered has been the resounding surprising success of the project. The park is played in daily by neighbourhood children who delight in helping with watering and planting and especially in picking their own fresh peas and strawberries; a place where adults come to relax with a book in the sun.

On 12th September 2016, Friends of Holgate Community Garden were delighted that City of York Council formerly listed Holgate Community Garden and Play Park as an Asset of Community Value (under the Localism Act 2011).

**Statements of support:**

The following statements of support were made at the City of York Council Decision Session - Executive Member for Finance & Performance, 12 Sept 2016. A webcast of the meeting can be viewed here: <http://www.york.gov.uk/council/decision-session/12-sept-2016>

**Richard Knowles**, Headmaster of St Pauls C of E Primary School:

*"The garden area of the community park provides a valuable learning resource for our younger children who use it as a forest school location. Apart from it's use to our school the community park also provides a valuable resource to local community groups, in particular St Pauls Out of School Club, a number of our parents have held events there, one example being a recent Basketball Tournament and picnic on 10th July..."*

**Mary Cannon**, Holgate Ward Councillor:

*"Holgate Community Garden is a godsend to the local community... it means that people can get together for activities. Next Sunday there is a Scarecrow Festival, there has been a Basketball Tournament, there have been picnics and all sort of things going on there, where people can get together, so the social well being of the local community is a communal thing. There is a play area, and I know there are children who have learnt to ride their bike there, football is played there,*

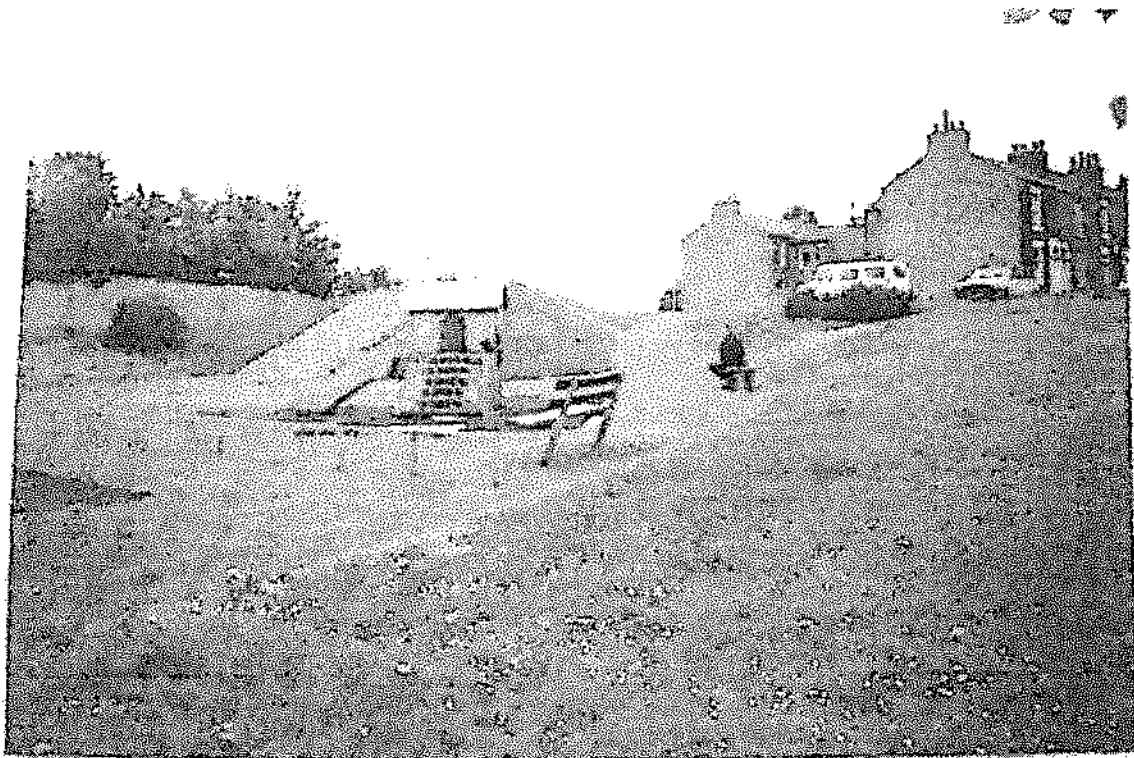
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*basketball...there is a tarmaced area and it's much used. Reference has been made to the play area with equipment, children on see saws and climbing frames, and we all know that for young children that kind of thing is essential. And then there's the edible garden, we were pleased last year to give a grant to the edible garden from the Holgate Ward Committee funds so more things could be planted and more people could get involved."*

Photos of Holgate Community Garden and Play Park:



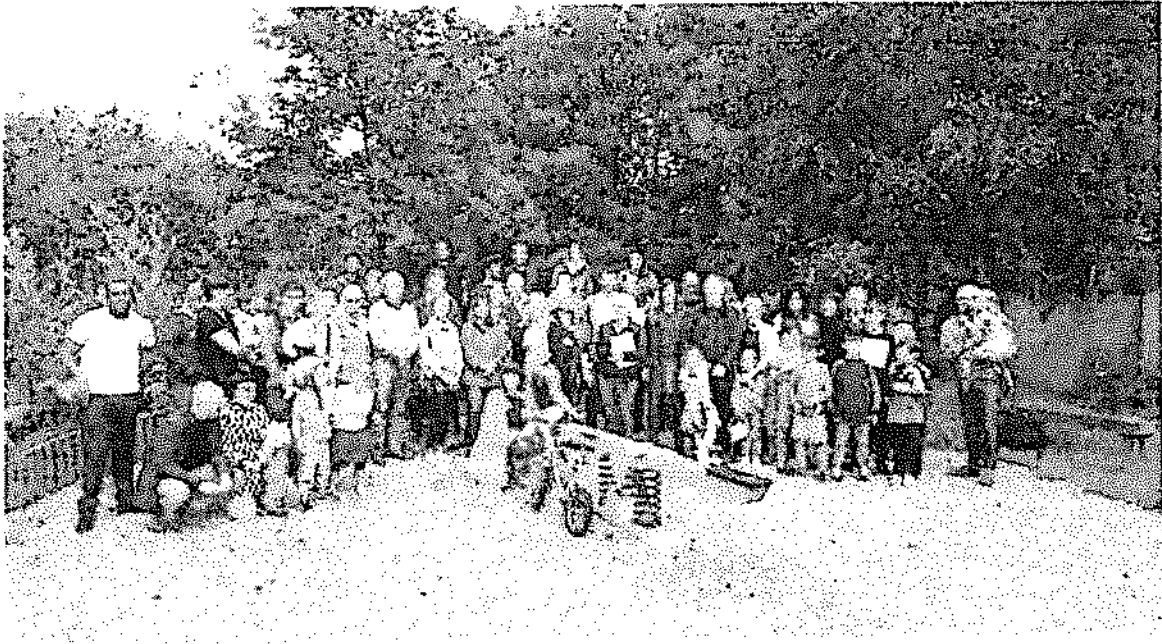
Upper St Paul's play area, Holgate, 1995/96 Photo: Lisa @YorkStories

Photograph courtesy of York Stories, circa 1995/1996 showing the climb on train with slide which has since been relocated to the top of the mound and renovated.

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Recent (summer 2016) photograph of local residents and supporters of Holgate Community Garden, many of which follow the Group's progress on social media or at local events or are active members of the Group.

Holgate is fortunate to be recognised as an area of special character in a Council sponsored project called the Characterisation Project. This joint initiative of City of York Council and English Heritage seeks to protect this area.

The Community Garden and Play Park fall within the boundary of the Holgate Character Area and is recognised as a classic Victorian terrace streetscape with associated amenities. The Community Garden and Play Park site has existing, in various forms for decades. It is this historic value that I think it also worth recognising as part of this application.

The Characterisation Project Report extensively describes the profile of Holgate Character area, however the following recommendations from the report is particularly apt:

*"Great care should be paid to the retention of socially valued buildings and spaces, with appropriate weight given to local opinions."*

This recommendation calls for local opinion to be taken into account and the Friends of Holgate Community Garden can report that there is overwhelming support from the local community to recognise this area as a Village Green.

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**11. Any other information relating to the application**

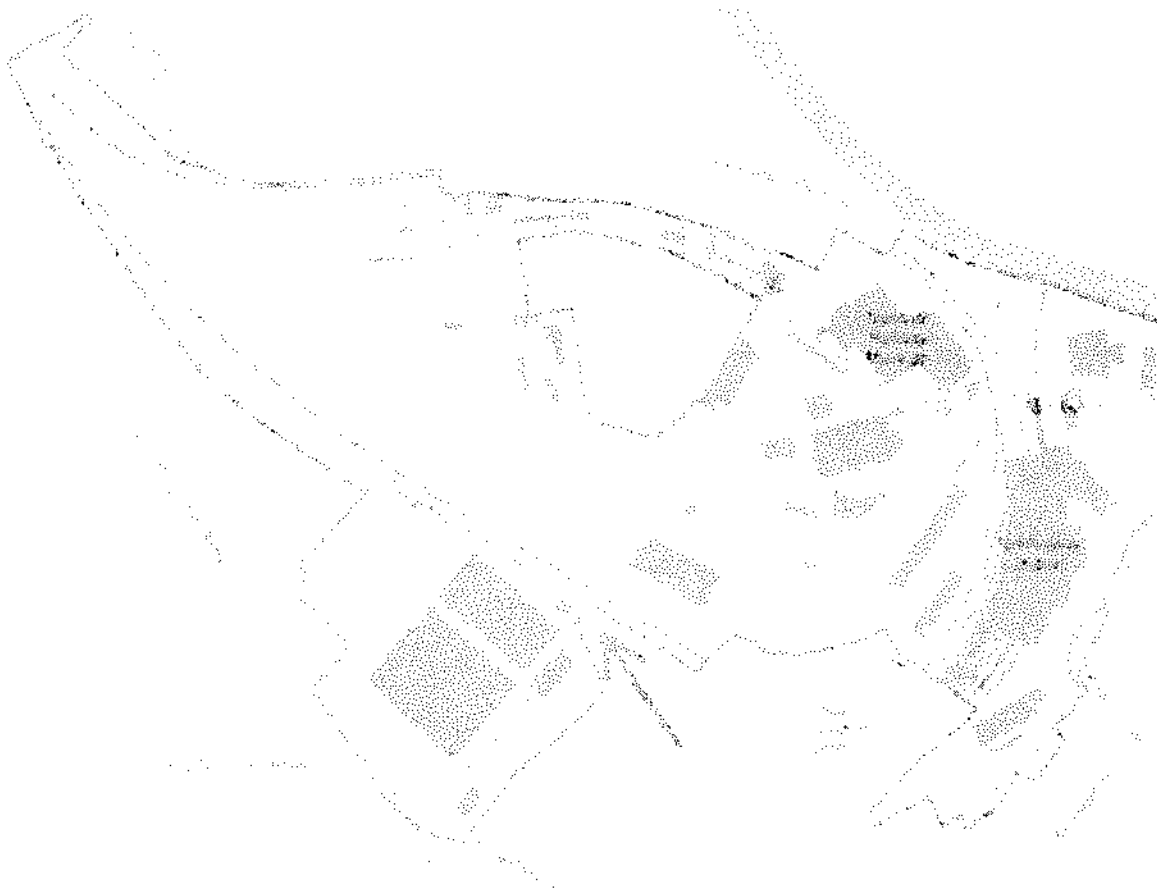
We believe our application for Village Green status may be challenged by City of York Council as they have indicated that Holgate Community Garden and Play Park might be destroyed to make way for an access road and bridge to serve the York Central site. We do not believe though, that any of the trigger events listed under Schedule 4 of the Growth and Infrastructure Act 2013 have occurred. In fact, City of York Council have recently assured the Friends of Holgate Community Garden Group that no decision has been taken over the access route into York Central and no planning application has been submitted.

York Central is included in recent (2016) draft Local Plan, currently out for consultation, however the access road route over Holgate Community Garden and Play Park is clearly NOT included within the site designation map for York Central.

Local Plan Preferred Sites Consultation (2016) Document:

<https://www.york.gov.uk/media/2016/09/Local-Plan-Preferred-Sites-Consultation-Draft-2016.pdf>

York Central Consultation Boundary Map (ref. ST5, Page 126) - below



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The arrow (in blue) shows the location of Holgate Community Garden and Play Park, which is outside the site boundary for York Central.

**Referral to the Planning Inspectorate**

Guidance issued to Commons Registration Authorities by the Department for Environment, Food & Rural Affairs on 17 November 2015 (updated 18 November 2015) states:

“You must refer the following types of application and proposal to the Planning Inspectorate if you have an interest in the outcome to the extent that if you made the decision it would be seen as being biased (eg if your authority owns the land and wants to develop it).”

*(The following types of application and proposal are referred to the Planning Inspectorate.)*

We therefore ask the City of York Council to refer our application for Village Green to the Planning Inspectorate, as City of York Council own the land, and may want to develop it.

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