

## **Commons and Town Greens Sub-Committee**

Meeting to be held on 22 September 2011

Electoral Division affected: None
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### **Consultation by the Department for Environment Food and Rural Affairs (DEFRA) on the Registration of New Town or Village Greens** (Appendices 'A' and 'B' refer)

Contact for further information:  
Jane Turner, 01772 532813, Office of the Chief Executive,  
Jane.turner@lancashire.gov.uk

#### **Executive Summary**

This report sets out the proposals and questions by DEFRA from their consultation on the registration of new town or village greens. The consultation ends on 17 October 2011.

#### **Recommendation**

The Sub-Committee is asked to:

- i. Consider the proposals and questions raised in the consultation;
- ii. Agree responses to all questions raised in the consultation in order for the County Council to provide its response to DEFRA before the consultation closes on 17 October 2011.

#### **Background and Advice**

On 25 July 2011, DEFRA issued a consultation seeking views on proposals to reform the system for the registration of new town or village greens. The full consultation document is attached at Appendix 'A'. However, this report sets out the proposals which are suggested and the questions DEFRA want a response to along with some matters the Sub-Committee may wish to consider and comment on.

It is understood that around 185 applications for the registration of new town or village greens were made in 2009. As a result of this, DEFRA felt that the volume of applications, the character of the application land, the controversy the applications attracted, the cost of the determination process on all parties and the impact of registration on a landowner had given rise for increased concern.

The Government has already announced its intention to introduce a Local Green Spaces designation through the planning system and this Consultation now presents other proposals of reform to achieve an improved regulatory balance between protecting high quality green space valued by local communities and enabling

development to occur at the right place at the right time. There is also a desire to reduce the burden on authorities and landowners. There is the option to leave the present system as is. DEFRA ask Question 1 (see Appendix 'A').

The proposals are as follows:

- Proposal 1  
To stream line the sifting of applications to ensure that weak or vexatious applications are filtered out at early stage by introducing an initial stage for applications having invited comments from owners. The authority would be empowered to reject. Given that applicants can have up to 2 years to put their application together, it is expected that applications will be as good as they can be and this would enable rejection because evidence is insufficient.

It is advised however that some Greens have successfully been registered on very little user evidence and so using this power may be difficult to justify using in reality.

DEFRA ask Q2 and Q3 (see Appendix 'A').

- Proposal 2  
Enabling an owner to make a declaration and deposit a map with the authority for a fee, (having to renew it every 10 years) that any use for sports and pastimes cannot be treated "as of right" and will be an interruption and will counter town green user evidence. DEFRA think local communities will need to be aware of this challenge.

This may lead to a flurry of claims on learning about these declarations being made but in the long run will mean that land cannot be claimed.

DEFRA ask Q4 and Q5 (see Appendix 'A').

- Proposal 3  
DEFRA think that there is a popular perception of a "green" but there is not a test that the land has to be of a particular "character" at the moment. The proposal is that land cannot be registered unless open, unenclosed and uncultivated possibly also looking at how central it is to a community, commemorative structures, functional community structures, historic characteristics or evidence of former grazing.

DEFRA consider that land can be "unenclosed" when it is bounded by highways or by dwellings built to overlook it whereas land enclosed by fencing or where dwellings do not overlook but are divided by tall fencing would not and feels that fields, public parks and playing fields would be likely to fail the character test.

DEFRA ask Q6 and Q7 (see Appendix 'A').

- Proposal 4  
That land proposed for development - having full or outline planning permission or protected by Local Greens designation in an adopted or published neighbourhood or local plan- should not be able to be registered.

It is noted that Landowners would not be able to protect land by getting planning permission but then letting it expire without an application then being able to be made.

DEFRA ask Q8 and Q9 (see Appendix 'A').

- Proposal 5  
The cost to an authority can be many thousands to adjudicate an application. It is proposed that applicants pay a fee, possibly refundable if their application succeeds.

This may preclude vexatious applications. There may have to be only a partial refund if only some land is registrable.

DEFRA ask Q10, Q11 and Q12 (see Appendix 'A').

- Proposal 6  
The package of proposals all affect the number or type of applications. DEFRA discuss the cumulative effect and ask if all should be made  
DEFRA ask Q13 (see Appendix 'A').
- Proposal 7  
At the moment an owner can "dedicate" a green. The proposal is that a "character" test also apply to such land.  
DEFRA ask Q14 (see Appendix 'A').
- Further questions asked by DEFRA Q15, Q16 and Q17 (see Appendix 'A')  
invite further suggestions to help deliver the objectives and ask if the reforms should go further.

It is hoped that a response to each question can be decided on by the Sub-Committee at the meeting. DEFRA is seeking responses from Consultees by 17 October 2011.

### **Consultations**

DEFRA has sought responses from the Consultees listed in Appendix 'B' attached.

### **Implications:**

This item has the following implications, as indicated:

### **Risk management**

It is not thought that by replying to a consultation the authority is placed at risk.

**Local Government (Access to Information) Act 1985**  
**List of Background Papers**

Paper	Date	Contact/Directorate/Tel
DEFRA Consultation on the Registration of new town or village Greens	July 2011	Jane Turner, Office of Chief Executive, 01772 532813
Reason for inclusion in Part II, if appropriate		
N/A		