

Appendix 3

NOTE RE THE OPEN SPACES SOCIETY'S RESPONSE TO DEFRA'S CONSULTATION ON THE REGISTRATION OF NEW VILLAGE GREENS

The Open Spaces Society campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them. The Council has a much broader role in respect of its responsibilities as commons registration authority for village greens and also as landowner with a responsibility for managing and maintaining green space provision and public access across the district. There is therefore the potential for a conflict of interest and/or a disparity of views with the Council in its capacity as landowner where there is the possibility of an application being made to register land owned by the Council as a village green.

There are a number of proposed changes set out in the Defra consultation document which the Open Spaces Society are opposing, but which officers would recommend are supported by the Council. The main ones are summarised below :-

Proposal to streamline the initial sifting of applications

The Society recognises that this could be improved, but only supports a basic evidence test by which applications are rejected on grounds of insufficient evidence as long as an applicant can submit a better substantiated claim within a specified period. Officers recommend that as landowner, and as commons registration authority, the Council supports a basic evidence test without conditions. If an application is substantially defective then it should be rejected – the applicant always has the ability to make a further application.

Proposal to introduce a character test that land is “unenclosed, open and uncultivated”

The Society opposes the introduction of a “character test” which is proposed to ensure that greens accord with the popularly held traditional character of such areas. They also oppose the proposed wording of the test, namely whether the land is “unenclosed, open and uncultivated”. In addition, the Society opposes the adoption of additional criteria (as set out in the consultation document) to determine if land should be registered or not.

Officers recommend that as a landowner, the Council supports the principle of introducing a “character test”, which would allow applications for traditional greens and greens which are perceived to be traditional in character e.g. greens which are the focal point of the community and easily accessible. The wording of such a test would need to be clear and specific to ensure that it was not open to interpretation and officers would recommend that the proposed wording of “unenclosed, open and uncultivated” is refined and includes further criteria, including a criterion that the land is needed by the local community and will be of benefit to them. Officers consider that the introduction of a character test would ensure that the village green application process remains available to communities in appropriate cases, whilst allowing the Council as guardian of a significant amount of green space, managed and maintained for the wider public use, to carry out that role without the potential for

that broader use to be diminished or restrained as a result of registration as a village green.

Proposal to rule out making a greens registration application where a site was designated for development in a proposed or adopted local or neighbourhood plan

The Society opposes this proposal. Officers recommend that as a landowner, the Council supports this proposal - provided that the designation of the land is sufficiently well publicised and that there is a period of time for consultation before the designation comes into effect during which an application to register the land could be made. This proposal would act to clarify the status of the land and enable any proposals for the development of the land to proceed to a natural determination.

Proposal that an application to register land could not be made after an application for planning permission has been submitted until either planning permission has been refused or implemented or had expired

The Society opposes this proposal. Officers recommend that as a landowner, the Council supports this proposal – again, this proposal would act to clarify the status of the land and enable any proposals for the development of the land to proceed to a natural determination.

Proposal to charge a fee for applications (suggested ceiling of £1,000)

The Society opposes the principle of a fee, but without prejudice to that, their case is that if a fee is to be imposed then a ceiling of £200 should be set. As a landowner, and commons registration authority, officers recommend that the Council supports this proposal – the introduction of a fee would deter spurious or vexatious applications. From recent experience, the cost to the Council of dealing with a contested application, (including the holding of a non statutory inquiry) has been in the region of £30,000, and officers recommend that the cost and administrative burden of processing such applications is a relevant consideration which Members to should have regard to.