



AGENDA ITEM 15

HENGROVE AND STOCKWOOD NEIGHBOURHOOD PARTNERSHIP

20 JUNE 2012

Report of: Richard Fletcher

Title: Outline Procedure to Applications Town or Village Greens

Contact Telephone Number: 0117 922 3896

RECOMMENDATION

To:

Note the outline procedure to Applications Town or Village Greens

Context

- The Council has produced for its Public Rights of Way and Greens Committee an outline procedure for the registration of Town and Village Greens.
- This does not set out how to make an application as this information is publicly available from DEFRA or the Open Spaces Society.
- The procedure sets out the process once the application is received by the Commons Registration Authority.
- The procedure has been largely adopted by the Public Rights of Way and Greens Committee.
- However there are two recent amendments/additions that are yet to be adopted.
- These are highlighted in red in the copy of the procedure provided.

- It is anticipated that the Committee will decide whether to agree these additions at its meeting on the 25th June 2012.

Appendices:

Appendix A - Registration of Town and Village Green – Outline Procedure

Background Papers:

None

APPLICATIONS FOR REGISTRATION OF TOWN OR VILLAGE GREENS

**THE COMMONS ACT 2006
THE COMMONS (REGISTRATION OF TOWN OR VILLAGE GREENS)
(INTERIM ARRANGEMENTS) (ENGLAND) REGULATIONS 2007**

(TIMESCALE – the entire process can take about a year)

OUTLINE PROCEDURE

An application to register land as a town or village green (TVG) can be made by anybody on any land. The effect of registration is that the land can only ever be used as a town or village green.

1. If anyone enquires about how to make an application to register a TVG they are sent a letter referring them to DEFRA, and to the Open Spaces Society as all the information they need is available on these websites.

2. Receipt of application:

On receipt of application Form 44, the Commons Registration Authority (CRA) allocates an application number, stamps the application using the CRA stamp and sends a letter acknowledging receipt together with the notice giving the reference number.

3. The CRA checks the application documents:

Ensures the form complies with the Regulations and is procedurally correct, relevant sections are completed, all supporting documents referred to are present, and that the plan complies with Regulation 10. It then gives preliminary consideration (Regulation 5(4)) to the application and to the evidence and reaches a decision as to whether to:

- (a) reject the application at this stage due to it being incomplete or not in compliance with the regulations;
- (b) reject the application at this stage based on the evidence;
- (c) call for additional information;
- (d) proceed with the application.

Before any application is rejected under clause 3(a) the applicant will be given a reasonable opportunity of taking action to put the application in order. Before any application is rejected under clause (3)(b) the applicant will be given a reasonable opportunity to put forward further evidence or arguments which the CRA will then consider. The CRA will give reasons for the rejection under clause 3(b) to the applicant. If the applicant does not accept the CRA rejection the application will be referred to PROWG by the CRA. Having considered the report of the CRA and any representations from the applicant PROWG may decide to allow the application to proceed to the full process or confirm the rejection.

4. Publicity:

- (a) any known owner, potential objector or other interested party to be served with notice;
- (b) notice posted at site, if reasonably practicable;
- (c) notice published in newspaper;
- (d) relevant ward Councillors notified;
- (e) copy of application papers on deposit at the Council House

(f) notice published on Council's website.

5. Any objections are referred to the applicant (Regulation 6(3)) for comment. If necessary, the CRA will ask for any further information or documents to enable the application to be determined.

6. All applications will be determined in accordance with the legal test set out in the Commons Act 2006 and as soon as possible after the date by which statements of objection to an application have been required to be submitted (regulation 6(1)).

- a) Straight-forward cases where there is no significant conflict of evidence, or no significant objection will be dealt with on the paperwork. The decision will be taken by the delegated officer (strategic director of corporate services) or PROWG as appropriate. **Whether or not an independent inspector needs to be appointed prior to determination, particularly where the Council is the landowner, is a matter for PROWG.**
- b) In other cases there will be a public inquiry, ie. a hearing, open to the public, where both sides are able to present their evidence and make representations. Depending on the circumstances and the nature of the case, the inquiry will be heard by either a council legal officer, PROWG (or a sub-committee of PROWG) with advice from a council legal officer, or an independent legally-qualified inspector. Where the Council is landowner the inquiry will be conducted by an independent legally-qualified inspector **otherwise PROWG will decide who is to conduct the inquiry.**
- c) Whoever is holding the inquiry may carry out a site visit during the inquiry process. The parties are normally invited to attend the site visit but are not permitted to make any further representations.
- d) Following an inquiry hearing, there will be a report to PROWG summarising the evidence and facts with a recommendation as to whether or not the application should be accepted. This report will be prepared as follows:
 - o Where the inquiry is held by a council legal officer, by that officer;
 - o Where the inquiry is held by a committee (either PROWG or its sub-committee), by the council legal officer who advised the committee;
 - o Where the inquiry is held by an inspector, by that inspector.
- e) Following an inquiry, the application will be determined by PROWG on the basis of the report prepared at stage d) above.

When conducting an inquiry, which is a quasi judicial process, the CRA will ensure that the rules of natural justice are met.

8. Applicants and objectors are informed of the decision.

9. Application papers are returned to unsuccessful applicants, or land is registered in the case of successful applications.