

BRISTOL CITY COUNCIL

PUBLIC RIGHTS OF WAYS AND GREENS COMMITTEE

20 February 2012

Report of: Strategic Director of Corporate Services

Title: Report on public consultation on the Procedure for determination of applications for registration of new Town and Village Greens in pursuance of the Commons Act 2006, Section 15

Ward: Citywide

Officer Presenting Report: Anne Nugent

Contact Telephone Number: 0117 922 3424

RECOMMENDATION

To consider the outcome of the public consultation which ended on 13 December 2011 and then approve the proposed procedure with amendments

Summary

This report considers the outcome of the consultation on the procedure for determination of applications for registration of Town and Village Greens in pursuance of the Commons Act 2006, Section 15 and makes recommendations on changes to the procedure in the light of that consultation.

The significant issues in the report are:

See Context and Proposals sections

Policy

1. There are no specific policy implications arising from this report.

Consultation

- **Internal**

This report has been prepared in consultation with the Registration

3. External

The Council, upon the instruction of PROWG, and as resolved by it in April 2011, consulted with the wider community on the proposed new procedures. The questionnaire and accompanying document (applying to register a town and village green which includes the proposed procedure) are attached as Appendix 1. The consultation started on 1st November 2011 and closed on 13th December 2011 after running for 6 weeks. Written submissions were received from the Bristol Parks Forum and Avon Wildlife trust (Appendix 2). Further detail on the extent of the consultation are set out in the Findings report, Appendix 3. The Findings of the consultation process by equality grouping are set out in Appendix 4.

Context

4. The purpose of revising the procedures is to improve the existing procedures. There are advantages to all parties to have a procedure which saves time, is cost effective and remains fair to all involved. It is recognised that there are circumstances in which it would be reasonable for the Council to appoint an external inspector to make recommendations on the application.
5. It is anticipated that as much as £10 000 per application can be saved by adopting the new procedure.
6. The Council has as part of the efficiencies process already conducted a procurement exercise to obtain external legal advice on town and village greens at a fixed rate.

Proposal

7. That the Committee adopt the procedure as consulted upon subject to some amendments. The procedure for applying to register a Town and Village green with proposed changes in red is contained in Appendix 5.
8. Paragraph 3(a) takes into account the comments from Bristol Parks Forum and refers expressly to the requirement of Regulation 5(4).
9. New Paragraph 4(f) to require the CRA to also publish on its website.
10. Introduction to paragraph 6 has been amended to make it clear that the application must be determined as soon as possible in accordance with Regulation 6(1).

11. Paragraph 6(b) has been amended to make it clear that if an inquiry is to be held and the Council is landowner then the inspector needs to be independent of the Council.
12. Conclusion to paragraph 6 has been amended to make it clear that the inquiry process is a quasi judicial process which requires the Council to comply with the rules of natural justice. The reference to speed of decision making and costs has been removed.

Other Options Considered

13. No other options have been considered as the consultation is a voluntary process and there is no legal requirement to have a written procedure.

Risk Assessment

14. The Council is at risk of legal challenge if it does not follow the regulations and if it does not follow a fair procedure.

Public Sector Equality Duties.

- 9 Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
 - i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
- tackle prejudice; and
 - promote understanding.

Legal and Resource Implications

Legal

The City Council in its capacity of Commons Registration Authority has responsibility, under the Commons Act 2006 to determine applications for registration of a new Town or Village Green.

The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 sets out the procedure for the processing of applications for the registration of town and village greens. There is limited statutory instruction on the determination of applications made under section 15(1) of the Commons Act 2006. There is no provision for an inquiry to be held but the courts have indicated that where there is a dispute on the evidence an inquiry should be held. The Council has a discretion as to the procedure to be followed if it decides to hold an inquiry. That discretion must be exercised in a manner which is fair to both applicant and objector. What fairness requires by way of procedure will depend on the circumstances. Consulting on and then publishing its procedure indicates open and transparent government.

(Legal advice provided by Anne Nugent, Senior Solicitor

Financial

Land

Not applicable

Personnel

None

Appendices:

Appendix 1 – Consultation Questionnaire including accompanying document Applying to register a town and village green and the proposed procedure for applying to register a Town and Village green

Appendix 2 – Written Responses from Bristol Parks Forum and Avon Wildlife Trust

Appendix 3 – Findings of the consultation process including findings by equality grouping

Appendix 4 – Findings of the consultation process by equality grouping

Appendix 5 - Procedure for applying to register a Town and Village green with proposed changes in red

Appendix 6 - The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers:

None

26 January 2012
JD5.349



Town and Village Green Application Process

Consultation Questionnaire

We are consulting on proposals to revise our process for determining Town and Village Green applications and welcome your views.

Please see the accompanying document (*Applying to register a town and village green TVG*) for background details.

1. Do you agree the City Council, acting as Commons Registration Authority, should adopt the proposed process for dealing with applications to register a town and village green?

yes

no

If no, please give reasons

2. Do you think the process could be improved?

yes

no

If yes, please give suggestions

3. Have you been involved in a current or previous TVG application?

as applicant or supporter of an application

as objector

other capacity

In any other capacity, please state

4. What is your Postcode?

Equalities monitoring

Equalities monitoring enables the council to check that everyone in the city is accessing the services to which they are entitled and that no-one is discriminated against unlawfully. All questions are voluntary. Please answer the following questions by considering how you would describe yourself.

5. Your age

- under 18
- 18 - 65

- 65+
- prefer not to say

6. Gender

- male
- female

- prefer not to say

7. Transgender

- yes
- no

- prefer not to say

8. Ethnicity

- white British background
- other white background

- black and minority ethnic background
- prefer not to say

9. Do you have a Religion/belief?

- yes
- no

- prefer not to say

10. Disability. Are you disabled?

- yes
- no

- prefer not to say

11. Sexual orientation

- lesbian, gay or bisexual
- heterosexual (straight)

- prefer not say

THANK YOU

Please return by 13th December 2011 to:

**Lucy Fleming
Democratic Services
Council House
Bristol
BS1 5TR**

BRISTOL CITY COUNCIL

Applying to register a town and village greens (TVGs)

We are consulting on proposals to revise our process for determining TVG applications

What are town and village greens?

They originate in customary law, where long-standing recreational use of land by the local inhabitants came to be recognised and protected by the courts. Greens are areas of land where local people have for many years indulged in lawful sports and pastimes, which might include organised or informal games, picnics, fêtes, dog walking and similar activities. A green can be in private ownership but many greens are owned or maintained by local councils.

How is a town and village green registered?

Land can be registered as a green if it has been used by local people for recreation 'as of right' (*i.e.* without permission, force or secrecy) for at least 20 years. For an application to succeed, the applicant must establish that the land in question comes entirely within the s.15(2) Commons Act 2006 definition, ie.

- (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.

Who can apply to register land as a town and village green?

Anyone can apply to have land registered as a green if it meets the statutory criteria. In addition, under section 15(8), the owner of land may voluntarily apply to register that land as a green for use by local people (without any need to show previous use of the land for sports and pastimes). However, if the land is leased for more than a seven-year term, or subject to a charge (or mortgage), then the consent of the leaseholder or chargeholder must first be obtained.

How is an application made?

Any person may apply to their commons registration authority. The registration authority for the Bristol area is Bristol City Council. The applicant must provide evidence of the nature and extent of use of the land sufficient to satisfy the registration criteria.

How does the commons registration authority make its decision?

In its capacity as commons registration authority, the City Council has to decide whether the land comes within the s.15(2) Commons Act 2006 definition. It must consider objectively and impartially all applications for registration on their merits, taking into account any objections and any other relevant considerations.

The law does not lay down a statutory process for determining these applications. This means it is up to the City Council to decide what process to follow. It is essential that this process is fair to both applicants and objectors.

Except in very straightforward cases, the usual practice of the City Council has been to instruct a legally qualified inspector to consider the application. The inspector considers the evidence and advises the commons registration authority as to whether or not the land should be registered as a town and village green. In particularly complex cases, the inspector holds an oral inquiry to consider disputed evidence. The final decision is then

taken by the council's Public Rights of Way and Greens Committee (PROWG) which takes into account the inspector's recommendations. PROWG is a committee of councillors from all political groups represented on the council.

Why is the City Council reviewing it's process?

There has been a huge increase in the number of applications. The City Council is currently dealing with 14 applications. This makes it necessary to streamline our process and reduce the costs of the determination process. Our aim is to have a process that is cost-effective as well as clear and fair to both applicants and objectors,

What is the proposed revised procedure?

The outline procedure can be viewed here [LINK](#)

In summary:

1. Straight-forward cases where there is no significant conflict of evidence, or 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.
2. 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 a legally-qualified inspector.
3. Whoever is holding the inquiry may carry out a site visit before the inquiry hearing.
4. Following the 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.
5. Following an inquiry, the application will be determined by PROWG on the basis of the report prepared at stage 4 above.

Why is the City Council consulting?

We are inviting local people to give us their views on the proposals to revise our process for dealing with applications for town and village greens.

How to respond to the consultation

Please give us your views on the proposals by completing the on-line questionnaire [LINK](#). If you would prefer to complete a paper copy of the questionnaire, please telephone 0117 9222289 or email democratic.services@bristol.gov.uk to request a copy.

Address for postal responses:

TVG consultation
Legal services
Bristol City Council
PO Box 2156, The Council House
Bristol BS99 7PH

What is the consultation period?

All responses must be received by 12 December 2011.

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)

PROPOSED 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 eg. if the forms are incomplete or it is clear that the land is obviously not registrable;
- (b) call for additional information;
- (c) proceed with the application.

4. Publicity:

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

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.

- a) Straight-forward cases where there is no significant conflict of evidence, or 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.

- 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 a legally-qualified inspector.
- 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 4 above.

The CRA will ensure that the rules of natural justice are met and considerations such as speed of decision making and cost of processing the application will be taken into account when deciding how to deal with an application.

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.

20 October 2011
JD5.349

Statement from Bristol Parks Forum

Town and village green application process PROPOSED OUTLINE PROCEDURE

BPF Response to Consultation

Bristol Parks Forum Committee objects to the proposed procedure as set-out in the consultation. While we accept that it is reasonable to consider reducing the time taken and cost arising from applications, we believe that this proposal will mean that the rules of natural justice will not be met in making these decisions.

In Bristol, many Town Green applications relate to Bristol City Council owned land, others relate to land where the Council supports proposed development. In these cases there will often be a conflict of interest between the wishes of the Council (or particular Councillors or officers) and the registering of the site. Where this is the case it is even more important that the council can demonstrate that it has considered the matter objectively and given due weight to the evidence and the arguments. We believe that this requires input into the process from an independent person.

This change is being justified on cost grounds. However, some of our members have expressed the view that it has come about because independent inspectors have not supported the Council's view in recent cases. There is an appearance that the Council is changing the procedure because it is starting to lose cases and is trying to avoid losing further cases in the future. The process needs to be fair and to be seen to be fair to all parties. The proposed procedure makes it more likely that decisions will be subject to legal challenge and will therefore actually increase the cost to the Council of dealing with these cases.

The following points relate to specific clauses in the procedure:

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.

No comment

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.

No comment

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 eg. if the forms are incomplete or it is clear that the land is obviously not registrable;
- (b) call for additional information;
- (c) proceed with the application.

We object to the inclusion of cases where 'the land is obviously not registrable' in this part of the procedure. This initial phase should be purely administrative and should not involve any judgement of the case. The procedure should make it clear what happens if the application is rejected. If the rejection is due to incomplete forms or more information being required the applicant should be given the opportunity to send completed information within an agreed timescale without it being considered as a new application. Having considered the completeness of the application, there should then be a separate part of the procedure where issues such as whether 'the land is obviously not registrable' are considered by the CRA. At this stage the CRA will be making a judgement on the application. If the CRA concludes that the application should be rejected at this stage then the reasons, together with copies of the evidence on which the conclusion is based, should be sent to the applicant for further comment. The CRA should not reject the application until any further comments or evidence from the applicant has been considered. All decisions should be confirmed by the PROWG committee and applicants should have a further right of appeal to the committee if they do not accept the CRA decision. The PROWG should be able to instruct that the application is considered through the full procedure if they do not agree with the CRA.

4. Publicity:

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

Publicity should include a notice being placed on the Council's website and the application site being shown on the Council's online mapping system. The BPF and the Open Spaces Society should be notified as 'interested parties' for any applications.

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.

No comment

6. All applications will be determined in accordance with the legal test set out in the Commons Act 2006.

- a) Straight-forward cases where there is no significant conflict of evidence, or significant objection will be dealt with on the paperwork. The decision will be taken by the by the delegated officer (strategic director of corporate services) or PROWG as appropriate.

All decisions (however straight-forward) should be taken by the PROWG committee meeting in public. Any objection by the landowner should be considered as a significant objection in this context.

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 a legally-qualified inspector.

To ensure that justice is seen to be done and to avoid possible conflict of interest, a legally qualified and independent inspector should be used in all cases where land is owned by Bristol City Council or where the Council has an interest in any development proposals for the land. We question whether members of the PROWG would be able to set aside sufficient time to sit through a public inquiry. Inquiries in the past have run for a number of days and the length of time required is unpredictable. There would be difficulties if, for example, a hearing before the PROWG had to be adjourned and then could not be rescheduled before an election took place.

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.

No comment.

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 subcommittee), by the council legal officer who advised the committee;
- o Where the inquiry is held by an inspector, by that inspector.

No further comment.

e) Following an inquiry, the application will be determined by PROWG on the basis of the report prepared at stage 4 above.

No comment.

The CRA will ensure that the rules of natural justice are met and considerations such as speed of decision making and cost of processing the application will be taken into account when deciding how to deal with an application.

The CRA's decision making process needs to be transparent and open to scrutiny. All decisions on how to deal with an application should be reported to the PROWG committee. Considerations of natural justice should over-ride cost and time considerations.

8. Applicants and objectors are informed of the decision.

No comment.

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

No comment.

We are pleased that the PROWG committee supported our call in April for a consultation on this issue. We believe that the changes we propose above would result in a process that would be fair and be seen to be fair without putting a burden on the public purse. The BPF committee would welcome the opportunity to be involved in further discussions on this procedure once the consultation is completed.

Bristol Parks Forum Committee

29th November 2011

info@bristolparksforum.org.uk

Bristol Parks Forum

Bristol Parks Forum was established by Bristol Parks as an umbrella organisation for community park groups and organisations in the city with an interest in their local parks and green spaces. The forum is supported by Bristol City Council but acts independently and is the only 'community voice' that is dedicated to all of Bristol's green spaces.

The forum's three main roles are to:

- offer an opportunity to share ideas and experience
- act as a consultation body for the Bristol Parks service and other agencies
- influence decision-making, including the allocation of resources

Bristol Parks Forum www.bristolparksforum.org.uk

Response from Avon Wildlife Trust

Dear Joanna,

Please see below for the Avon Wildlife Trust's response to this consultation:

The Trust supports the need for the current application to be made less complicated while 'making sure that the decision making remains fair and objective'. However, at present the proposed changes are not fair and could result in subjective, politicised and unfair decisions. There should be more than one decision maker, once any objections have been made (6a and b), with an independent review present when the application goes to public enquiry.

Whilst it is important that the process is as efficient as it can be, the phrasing "speed of decision making and cost of processing the application will be taken into account when deciding how to deal with an application" may reduce the weight given to whether the space meets the requirements for Green status, and lead to the dismissal of applications unfairly.

Thank you,

Becky Pullinger

Planning & Policy Volunteer

Community Team

Report on the Findings of the Consultation on the Town and Village Green Application Process

Background

Bristol City Council consulted on proposals to on its process for determining Town and Village Green applications.

The consultation started on 1st November 2011 and closed on 13th December 2011 after running for 6 weeks.

Details of the consultation were placed on the council's Consultation Finder webpage http://www.citizenspace.com/bristol/consultation-research-intelligence/tvg_application_process and a press release '*Consultation starts on Town and Village Green applications*' was released on 02/11/2011 <http://www.bristol.gov.uk/press/environment/consultation-starts-town-and-village-green-applications>. The press release gave details of how to participate in the consultation.

The following details were provided on the Consultation Finder entry:

1. Relevant background information held on the BCC web site: 'Common land and village greens' and 'Registering town and village greens'
<http://www.bristol.gov.uk/page/common-land-and-village-greens>
2. The proposed outline procedure
<http://www.bristol.gov.uk/node/9036>
3. A link to the Open Spaces Society
<http://www.oss.org.uk/village-greens/>
4. A link to relevant DeFRA pages
<http://www.defra.gov.uk/rural/protected/greens/>
5. An online questionnaire (see appendix 1 to main report)
6. The contact name and details in Legal Services: Joanna Roberts (Solicitor).

Responses

- 41 complete online returns were received
- 28 partially completed online returns were received
- 1 email return was received (from Avon Wildlife Trust) and 1 paper statement from the Bristol Parks Forum Committee, who also completed the online questionnaire (see appendix 2 to main report)

The analysis shown below includes responses form all the returns.

Findings

The response to each question is shown below. When percentages are shown the 'base' (ie number completing the question) is also given.

A breakdown of the responses to each question by equalities grouping is shown as appendix 4 to the main report.

Question 1

Do you agree the City Council, acting as Commons Registration Authority, should adopt the proposed process for dealing with applications to register a town and village green?

Table 1. Agreement with the proposed process

Base (51)	Yes % (number)	No % (number)
	19.6% (10)	80.4% (41)

- Vast majority disagreed with adopting the proposed process
- Notable proportion (1 in 5) agreed with adopting the process

Question 1b

If no, please give reasons

The following reasons were given for not agreeing with the proposal:

1. The executive members of the city council cannot be trusted to be impartial in any dealings with community facilities (such as land, property or assets) which have a chance of being sold off to anyone to play along the party lines of the particular interest group they support. Little interest appears to be given by them to the better good of the majority who they should be working for! Most employees have no interest in their fellow citizens of Bristol or the city, who pay their salaries. Having no interest in their employed task to protect and ensure the future benefit of open spaces for the people of the city of Bristol. Open spaces are the lungs of the city and allow the city people to have a life away from commercial and social pressures, to relax and enjoy what is a wonderful gift from the past citizen of this once great city.
2. I do not object to the proposed procedure for straight-forward cases (para 6(a)). I object to the proposed procedure in para 6 (b). I am unclear as to whether or not an independent inspector will ever hear an inquiry. Do the words "depending on the circumstances and the nature of the case" mean

that in certain circumstances, an independent inspector will be used? The words in 6(d) "where the inquiry is held by an inspector" seem to envisage this. If this is correct, then Para 6(b) should say so. In any case, I do not believe that a public inquiry should be heard by anyone other than an independent inspector. I do not believe that either a council legal officer or PROWG (or subcommittee) possess the necessary expertise. I also think it is important that the inquiry should be seen to be conducted by an independent person. I suggest you change the words "qat stage 4 above" in 6(e) (since the stages are not numbered) to "in accordance with para 6(d)". Where is para 7?

3. It would be inappropriate to change the process at this time when the Department for the Environment, Food and Rural Affairs consultation on the review of village green legislation only closed on 17 October 2011 and a response from Defra is awaited. Various changes have been proposed to try and make the system more transparent and cost effective. Further changes may be necessary and it would save public funds to deal with any changes in one go rather than in a piecemeal way. We believe straightforward cases can already be dealt with, without the need for an inquiry.
4. Independent inspector ruled in favour of Ashton Vale residents' application
5. The Council will not be independent when dealing with any Town Village Green Applications when they themselves own the land. The law as it stands is quite adequate and fair to deal with Town Village Green Applications and the use of independent inspectors ensure that these applications are dealt with fairly and in line with the legal process.
6. Looking at the record of BCC in TVG applications, they cannot be trusted to provide an unbiased opinion.
7. It's impossible (and surely illegal?) for the council to be both the objector to the TVGs and an impartial judge on the issue. Independent bodies/persons as the inspectors are essential to maintaining a balanced view with as few vested interests as possible (though presumably the council are able to appoint independent inspectors they know are more than likely to agree with the councils views?). A better way to cut the cost of TVG applications might be to simply approve more of them, instead of instigating legal battles.
8. In at least three recent cases (Ashton Vale, Knowle and Whitchurch), Bristol City Council has done everything in it's power to avoid agreeing with an independent Inspector, or creates delaying tactics to put off the registration decision when it appears to go against their wishes. Bristol City Council also appears to choose a particular Inspector who has a known bias against village green status. In the case of Ashton Vale, this Inspector had already been retained by the developers before the Council could call him, thus frustrating their desired outcome, regardless of the true facts in the case.
9. Not independent and objective.

10. It does not publish details promptly enough and in places accessible to the majority of interested people. More often than not, the council members seem to put their political aspirations above the wishes of the public. (Shirehampton Daisy Fields and Lamplighters Field as examples)
11. Far too many people in the Council have vested interests in local matters and an independent person being presented with evidence can look at such evidence with an independent and fairer opinion. The safe guards of the Green Belt have been drastically reduced by the last Labour Government and the present Town Green Status rules are the only independent way of protecting the Green Belt. This is only being suggested by Councillors as THEY gave permission for BCFC to build on Green Belt land, NOT because it was the only land available at the time, but because it was the only land that the club chairman already owned.
12. The process needs to be shown as unbiased. Council officers can be swayed in their judgement by political views. After all a councillor is head of the department.
13. Independent inspector ruled in favour of Ashton Vale residents application.
14. They would not be able to act independently in cases where Bristol City Council owns the land. The law as it stands is quite adequate to deal with Town Village Green application and the use of an Independent Inspector who is trained and a member of the legal establishment should continue.
15. Town and Village Green Applications should be dealt with by an Independent Legally Qualified Inspector who is experienced in dealing with Town Village Applications. This is a fair way of dealing with applications as she/he goes on all the evidence provided by both sides and decides the outcome on that evidence. The Independent Inspectors report should be adhered to. If the Council dealt with the applications they wouldn't be fair as they could be biased if they wanted the land for something themselves or if it was their land. Any council owned land is owned by tax payers, this should be remembered and not given away to private companies which has happened recently without the say of tax payers. Greenbelt land and Town Village Greens should be kept for future generations to enjoy. Once it is built on it will be lost forever. People come to Bristol to enjoy the countryside etc. If places are built on then less people will come to Bristol.
16. As seen this year with the town green application for Ashton Vale, an independent inspector recommended to grant town green status which Bristol City council wrongly ignored. And instead took new unproven evidence into consideration. This was not a fair decision and would not be beneficial to the residents of Bristol. This decision is now costing Bristol tax payers even more money with the pending JR. Lets keep it independent !
17. BCC and its PROW committee have shown that they do not consider the evidence before them impartially and in accordance with the 2006 Act, when that evidence is produced independently. Decisions of this nature need to be seen to be taken fairly and impartially.

18. Open to bias and political influence
19. If land is owned by Bristol City Council then they are not able to make impartial judgements about their own land. E.g. local people have applied for the Wellington Hill Playing Field to be a Village Green. The council own the land and, surprise surprise, they were the only objector to the land becoming a Village Green. I think it is a good idea to be able to make decisions without the expense of external inspectors who do not have local knowledge or feeling for the local environment.
20. It is fine as it is
21. If the green areas in question are wanting to be a town / village green and has been used as a very well used green space for 20 years then they should be able to be made a town / village green.
22. I think the streamlining process would more than likely reduce its democratic value as more decisions would be made 'in house' with the councillors chairing the whole process.
23. Local people should be part of the consultation process & have a input into any decision that will affect the local community
24. The proposal presupposes that BCC has no investment in the TVG application process and can act as neutral arbiter. The current proposal in no way commits BCC,'s council legal officer, PROWG (or a sub-committee of PROWG) with advice from a council legal officer, or a legally-qualified inspector' to any kind of rigorous or transparent consultation process.
25. Because they do not live locally and have no idea how we as locals use the space.
26. The new process being proposed removes the impartial safeguards currently in place. The system being proposed does not offer adequate objectivity of decision-makers.
27. Your only trying to change things because you didn't get your own way to sell off public land to your preferred bidders (friends)
28. I think the proposals detract from the democratic process. Council officers are not always completely in touch with either the facts or the local opinions and should not be charged with making these decisions unilaterally. For example, in the case of Wellington Hill Playing Fields council officers would have sold this off by now as they judged independently it to be unused and only good for dog walkers.....local people proved that this resoundingly not true and that they felt passionately about this piece of land. Council officers got this wrong, LOCALISM means LOCAL PEOPLE MUST HAVE A SAY.
29. I am concerned as to how 'significant' will be defined and whose definition/agreement of this will be considered to be acceptable. An officer employed by the CRA & potentially therefore subject to other pressures from the employer cannot be expected to be (or considered to be) wholly objective.

There will always be a question mark over this which may mean that these changes to the process simply lead to increased challenges on these specific grounds, and therefore do not reduce costs whilst being seen to reduce impartiality.

30. There needs to be an impartial inspector on all Village Green Applications, not just 'in-house' advisors. Local communities should be given ample time and means to comment on applications and a full survey should be carried out on the use of the site.
31. The suggestion that an officer will make an objective decision regarding registration of land owned by the Council is not fair to the applicant.
32. Applications to register a town and village green must be looked at and decided upon, by people who are impartial - where there is no possibility of conflict of interest.
33. It is unfair to change the way in which the village green / town greens are done when there are some already in process.
34. Leave things the way they are ...
35. The proposal suggests that: Straight-forward cases where there is no significant conflict of evidence, or 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. I do not believe that it is possible for somebody employed by the CRA and potentially the landowner to be objective. If BCC wants to employ an independent decision maker this would be preferable, but one of its own officers doing this is not fair or acceptable.

1) It is not right that the Strategic Director of Corporate Services, who has responsibility for finance and value for money should take decisions in this area, because it could lead to conflict of interest, particularly in the case of council owned land, whose monetary value would be decreased if it became a TVG. 2) I cannot see why a landowner should have the right to object to the posting of a notice on any conceivable TVG.

Table 2 shows that high levels of disagreement were shared by all categories of respondent: ie Applicant or supporter of an application, Objector or 'Other'

Table 2. Agreement with adopting proposed process by Involvement in a current or previous TVG application

Base (32)	Involvement	Yes % (n)	No % (n)
19	As applicant or supporter of an application	5.3% (n=1)	94.7% (n=18)
5	As objector	20% (1)	80% (4)
8	Other capacity	12.5% (1)	87.5% (7)

Question 2

Do you think the process could be improved?

Table 3. Agreement that process could be improved

Base (48)	Yes % (n)	No % (n)
	81.3% (39)	18.8% (9)

- Of those who said the process could not be improved 5 had involvement as an applicant or supporter of an application and 2 as an objector.

Question 2b

If yes, please give suggestions

The following suggestions on how the process could be improved were given:

1. Don't sell off anymore open spaces to out of town building companies. They have no interest in the city and probably don't within 50 miles of Bristol
2. Get on more quickly with the process
3. The process can be improved and will email you separately the response submitted by the society to the Defra review. Time scales should be introduced throughout the process and further clarification of the evidence required to satisfy the statutory elements.

4. Make independent inspectors' decision binding on local councils
5. The Council should accept the Independent Inspectors report and not get into any further issues about it. If the land owner/s wish to appeal then they are quite entitled to, but the same Independent inspector should again be used to listen to any further evidence provided.
6. By the "process" do you mean the existing or the proposed process. I feel very important, the final decision should be made by locally elected officers NOT by an unelected person with no local knowledge.
7. Stop wasting money and time after paying for independent inspectors reports then disregarding the outcome you paid for. If you pay for a report then you should stick to the result of that report.
8. The council could consider following the advice of the expensive independent reviewers instead of ignoring them and following contradictory council officer advice anyway. Properly following the system as it stands would be a good start, before trying to devise a new one.
9. I think some decisions of what constitutes significant number of local people should be made to aid the decision process. For example, some people drive by cars to a nice spot to walk a dog. As these local? or is only walking distance? What is significant? a percentage of users in relation to the local population. Evidence of morning, day and evening use and school holidays etc. to give a balanced picture.
10. Let the Planning Inspectorate provide the Inspector 'at random', avoiding any suggestion of 'legal nepotism'. If an Inspector agrees that an area meets TVG criteria, then agree with the Inspector. This will save millions of taxpayer's money - far more than BCC will save by not involving qualified and expert Inspectors and deciding on pseudo-political grounds, thus opening themselves up to expensive legal actions.
11. Yes, by the council accepting the view of the inspector rather than fighting it when it goes against them and awards Town Green status
12. Define the area in question. Ask those living there if they want it. If a vote of 40% want it, give it to them. Simple, Cheap, and Democratic. Isn't this how our civilisation is supposed to work?
13. Instead of going straight into the enquiry phase it would be a good idea for an officer to see if there is any compromise that may be agreed between the two parties. this should however be time limited so as not to drag out the process
14. Be less politicised; the Bristol City mess was clearly a political decision and not a legal one
15. Good Intelligence from the outset that individual or vested groups are not using TVG to torpedo legitimate development. There is also a need for close

liaison and consultation with officers, members and community groups where proposed development will be a sensitive issues at the very beginning so any disagreement and conflicts are ironed out at the early stages resulting better outcome and not a TVG application to scupper the whole development process.

16. Make inspectors decision binding on local councils
17. Bristol City Council should accept the Independent Inspectors decision immediately and not get drawn into any further discussions etc. The owner/s of the land or the Applicant is/are quite entitled to appeal against an Inspectors decision if they wish to. If they do so and provide new evidence then the same Independent Inspector must be used because he/she has listened to all of the previous evidence.
18. If there is new evidence given then it should go back to the Independent Inspector where this evidence will be looked at. All witnesses for the new evidence should be questioned by both Barristers & by the Independent Inspector. So that both sides have a fair hearing.
19. Listen to your voters and not the Evening Post
20. The Bristol Disability Equality Forum wish to make the following suggestions.
 1. Direct decision-makers to take into account how far away the next nearest open space is (and how accessible it is) when deciding on an application as this is an important factor in meeting Disabled people's needs.
 - ii. No minimum and maximum timescales are given. Without this it is difficult to comment however, we strongly suggest that the period where notices are put up regarding the proposals it should be at least the same as that agreed in the Bristol Compact.
21. The process itself is probably satisfactory, it just needs to be correctly implemented.
22. Agree with the inspectors rather than waste ratepayer's money in courts.
23. Very much more consultation about town and village green applications with local people, especially if the land is council owned. If the land meets the criteria and local people want it to be town or village green then the process will be streamlined. Anyone who is involved must be able to show that they have been a local resident for at least 20 years and therefore have local knowledge.
24. The process can be improved and attached is the response submitted by the society to the Defra review. Time scales should be introduced throughout the process and further clarification of the evidence required to satisfy the statutory elements.
25. I think it currently works quite well

26. Consultation with local residents and not decisions made by Councillors who have not only no local knowledge but are guided by others who are only interested in financial gain
27. Any changes to status or decision on common and should be advertised in a clearer fashion
28. See above re: inclusion of rigorous and transparent consultation process
29. Involve local residents in the consultation process and decision making- especially groups such as Friends of Horfield Common etc
30. I am unsure if this question refers to the current or proposed process. I believe that the current process is lengthy, but is fair whereas the proposed system appears to open up the potential for significant conflicts of interest & I lack confidence in it's fairness.
31. Stop the sale of public land and have a public inquiry into every sell off public land, paid for by the applicant.
32. I am not an expert, presumably there could be measures to speed up the whole process whilst retaining local democracy and saving money.
33. See above. Applicant & CRA both agree outcome (e.g voluntary dedication of land by owner) then the changes to the process can be acceptable, not otherwise.
34. Local residents should be allowed to be part of the decision making process. Potential village greens are for local communities and they should be involved in the process as fully as possible.
35. The process of an officer making a decision should only be used if the land owner agrees that the land can be registered & this can speed up the process of registration. If the landowner objects - it should only be decided by an independent assessor who can take an objective view.
36. The Commons Registration Authority should have a balanced, impartial membership, containing a good percentage of local residents.
37. Employ an independent decision maker if you insist on going ahead with the initial step, otherwise this is heavily biased to BCC to find against applicants if it is BCC-owned land.
 - 1) The role of the Strategic Director of Corporate Services could be limited to acceptance TVG applications. 2) The words "if owner agrees" should be excised in 4b.

Question 3

Have you been involved in a current or previous TVG application?

Of those responding (32):

- 19 (59.4%) said they had been involved as an applicant or supporter of an application
- 5 (15.6%) said they had been involved as a objector
- 8 (25%) said they had been involved in as 'Other capacity'

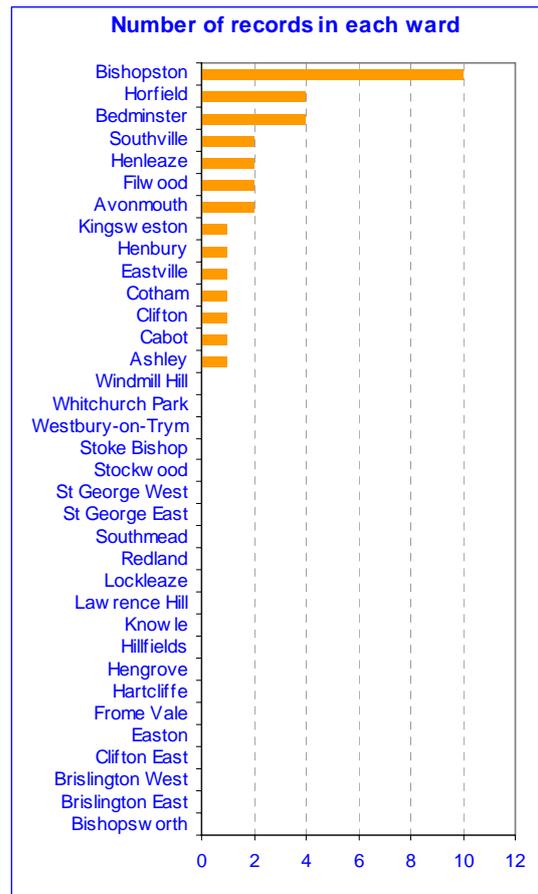
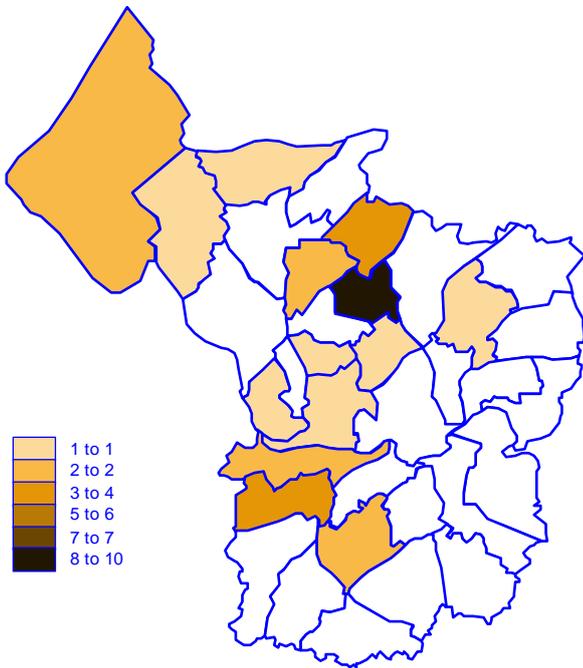
Note: Those who indicated they had been involved as 'Other capacity' identified their involvement as:

1. The Open Spaces Society (formally the Commons, Open Spaces and Footpaths Preservation Society) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them. We assist members who wish to make applications and publish Getting Greens Registered a practical guide to the process.
2. Independent, viewing the political process versus the communities.
3. The Open Spaces Society (formally the Commons, Open Spaces and Footpaths Preservation Society) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's right to enjoy them. We assist members who wish to make applications and publish Getting Green Registered, which is a practical guide to the process
4. Local resident who does not think that this process is appropriate to safeguard the rights of all people to access spaces which are by right able to be registered according to the law.
5. As a local resident

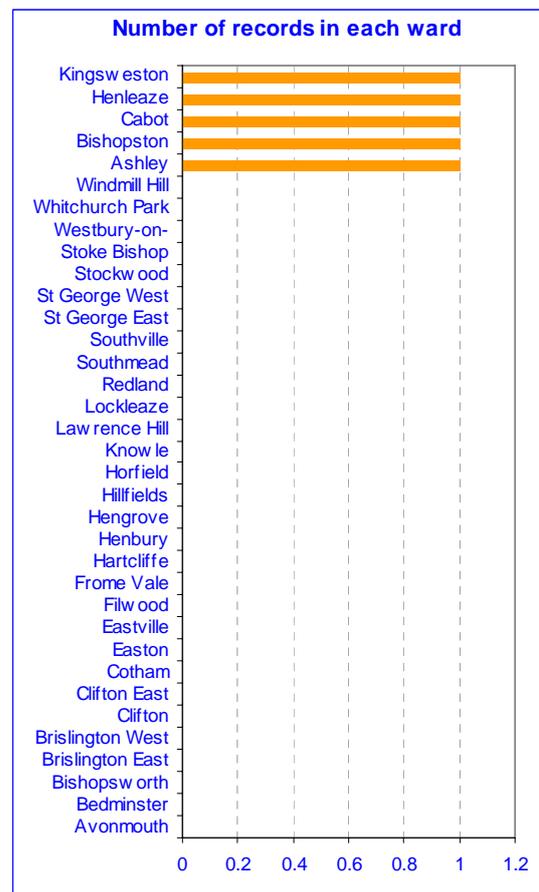
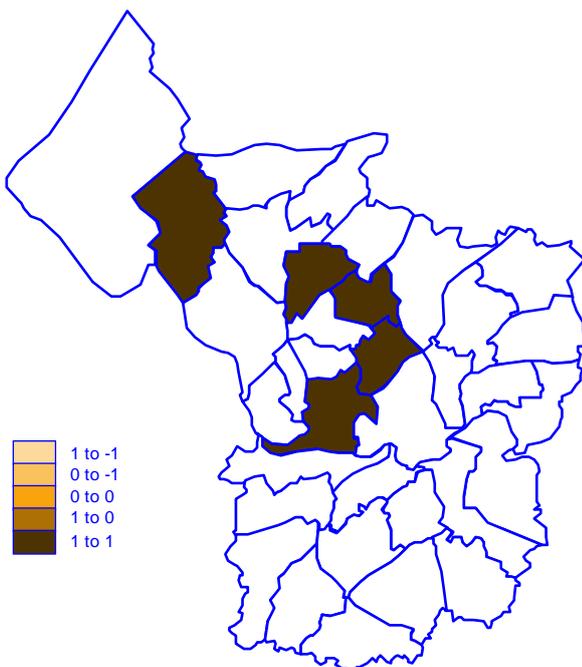
As an observer of a number of these being sent in across the city (including a relatively local one in Horfield) - reported in local press.

Postcode Analysis

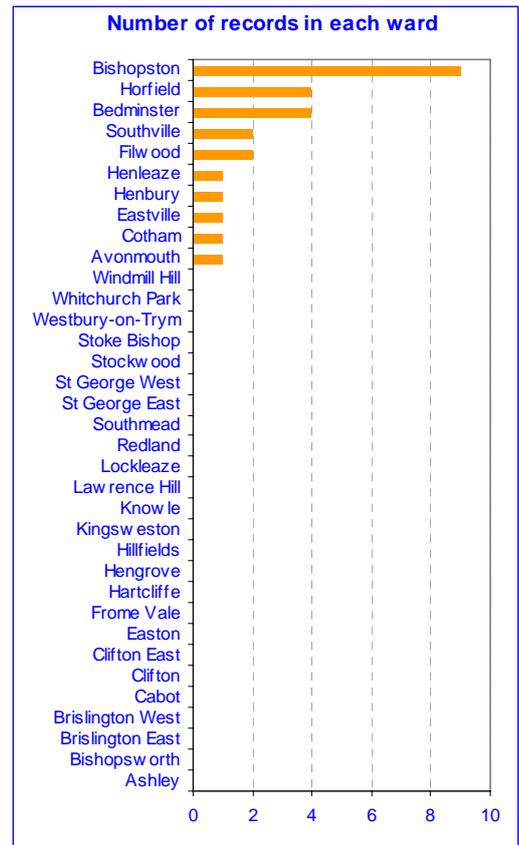
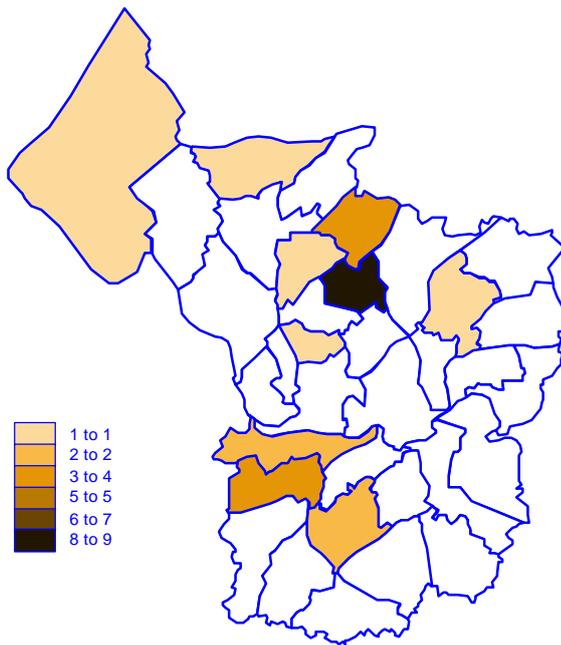
All Responses (where postcode given)



Those agreeing with the proposal



Those disagreeing with the proposal



Summary

1. Most respondents (all of the 32 who responded to the question) had been involved in a current or previous TVG application
2. The vast majority (80.4%) of respondents did not agree that the council should adopt the proposed process for dealing with applications, however approximately 1 in 5 did agree. Those agreeing were mainly from central wards but it should be noted that the numbers were low (n=10). Of those that had been involved 94.7% did not agree with the proposal
3. The vast majority agreed that the process could be improved, however approximately 1 in 5 disagreed
4. 35 reasons for not agreeing with the proposal were given. Whilst these were varied the main theme concerned **impartiality, independence and trust**
5. The vast majority (81.3%) agreed that the process could be improved although a notable proportion (1 in 5) disagreed.
6. 37 suggestions for improvement were given. Whilst these were varied the main themes concerned **accepting independent advice, better consultation with local people and improved use of intelligence**; it was suggested that these would reduce related costs
7. There was no notable difference in responses were between the various equalities groupings

APPENDIX (7) 4

Town and Village Green Application Process Consultation Responses by Equalities Groupings

Do you agree the City Council, acting as Commons Registration Authority, should adopt the proposed process for dealing with applications to register a town and village green?

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	42	7 16.7%	35 83.3%
Your age			
under 18	-	-	-
18 - 65	33	6 18.2%	27 81.8%
65+	5	1 20.0%	4 80.0%
prefer not to say	4	-	4 100.0%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	41	7 17.1%	34 82.9%
Gender			
male	22	5 22.7%	17 77.3%
female	14	2 14.3%	12 85.7%
prefer not to say	5	-	5 100.0%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	28	4 14.3%	24 85.7%
Transgender			
yes	-	-	-
no	22	4 18.2%	18 81.8%
prefer not to say	6	-	6 100.0%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	42	7 16.7%	35 83.3%
Ethnicity			
white British background	28	5 17.9%	23 82.1%
other white background	1	-	1 100.0%
black and minority ethnic background	2	1 50.0%	1 50.0%
prefer not to say	11	1 9.1%	10 90.9%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	42	7 16.7%	35 83.3%
Do you have a Religion/belief?			
yes	17	3 17.6%	14 82.4%
no	13	3 23.1%	10 76.9%
prefer not to say	12	1 8.3%	11 91.7%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	42	7 16.7%	35 83.3%
Disability. Are you disabled?			
yes	5	1 20.0%	4 80.0%
no	27	5 18.5%	22 81.5%
prefer not to say	10	1 10.0%	9 90.0%

Counts Analysis % Respondents	Total	Do you agree the City Council, acting as Commons Registra...	
		yes	no
Base	38	7 18.4%	31 81.6%
Sexual orientation			
lesbian, gay or bisexual	1	-	1 100.0%
heterosexual (straight)	24	6 25.0%	18 75.0%
prefer not say	13	1 7.7%	12 92.3%

Do you think the process could be improved?

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	38	31 81.6%	7 18.4%
Your age			
under 18	-	-	-
18 - 65	31	28 90.3%	3 9.7%
65+	4	1 25.0%	3 75.0%
prefer not to say	3	2 66.7%	1 33.3%

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	38	31 81.6%	7 18.4%
Gender			
male	22	19 86.4%	3 13.6%
female	12	9 75.0%	3 25.0%
prefer not to say	4	3 75.0%	1 25.0%

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	25	20 80.0%	5 20.0%
Transgender			
yes	-	- -	- -
no	20	16 80.0%	4 20.0%
prefer not to say	5	4 80.0%	1 20.0%

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	38	31 81.6%	7 18.4%
Ethnicity			
white British background	25	20 80.0%	5 20.0%
other white background	1	- -	1 100.0%
black and minority ethnic background	2	2 100.0%	- -
prefer not to say	10	9 90.0%	1 10.0%

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	38	31 81.6%	7 18.4%
Do you have a Religion/belief?			
yes	15	12 80.0%	3 20.0%
no	12	8 66.7%	4 33.3%
prefer not to say	11	11 100.0%	- -

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	38	31 81.6%	7 18.4%
Disability. Are you disabled?			
yes	5	4 80.0%	1 20.0%
no	24	19 79.2%	5 20.8%
prefer not to say	9	8 88.9%	1 11.1%

Counts Analysis % Respondents	Total	Do you think the process could be improved?	
		yes	no
Base	35	31 88.6%	4 11.4%
Sexual orientation			
lesbian, gay or bisexual	1	1 100.0%	- -
heterosexual (straight)	22	19 86.4%	3 13.6%
prefer not say	12	11 91.7%	1 8.3%

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)

PROPOSED 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 ~~eg. if the forms are incomplete or it is clear that the land is obviously not registrable;~~ but not without first giving the applicant a reasonable opportunity of taking action to put the application in order.

(b) call for additional information;

(c) proceed with the application.

4. Publicity:

(a) any known owner, potential objector or other interested party to be served with notice;

(b) notice posted at site, ~~if owner agrees;~~ 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.
- 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.
- 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. ~~and considerations such as speed of decision making and cost of processing the application will be taken into account when deciding how to deal with an application.~~

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.

JD5.349

Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007

Citation, commencement and application

1.—(1) These Regulations may be cited as the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 and shall come into force on 6th April 2007.

(2) These Regulations apply to England.

Scope and Interpretation

2.—(1) These Regulations apply to applications made to a registration authority under section 15(1) or (8) of the 2006 Act to register land as a town or village green.

(2) In these Regulations—

“the 2006 Act” means the Commons Act 2006;

“concerned authority”, in relation to an application to a registration authority, means a local authority (other than the registration authority) in whose area any part of the land affected by the application lies and “local authority” means a county council, a district council, a London borough council or a parish council;

“form 44” and “form 45” mean the forms so numbered in the Schedule to these Regulations, or those forms with any variations that the circumstances may require;

“the General Regulations” means the Commons Registration (General) Regulations 1966, and “General Regulation” followed by a number means the regulation so numbered in the General Regulations;

“registration authority” means a commons registration authority.

(3) Any requirement that a registration authority must send anything to “the applicant” shall, where a solicitor has been instructed for the purposes of an application, be deemed to be satisfied by sending it to the solicitor, or, where two or more persons have jointly made an application and no solicitor has been instructed, to that one of them whose name appears first in the application form.

(4) A requirement upon a registration authority to stamp any document is a requirement to cause an impression of its official stamp as described in General Regulation 3 to be affixed to it, which must bear the date mentioned in the requirement or (where no date is mentioned) the date when it was affixed.

Application to register land as a town or village green

3.—(1) An application for the registration of land as a town or village green must be made in accordance with these Regulations.

(2) An application must—

(a) be made in form 44;

(b) be signed by every applicant who is an individual, and by the secretary or some other duly authorised officer of every applicant which is a body corporate or unincorporate;

(c) be accompanied by, or by a copy or sufficient abstract of, every document relating to the matter which the applicant has in his possession or under his control, or to which he has a right to production;

(d) be supported—

(i) by a statutory declaration as set out in form 44, with such adaptations as the case may require; and

(ii) by such further evidence as, at any time before finally disposing of the application, the registration authority may reasonably require.

(3) A statutory declaration in support of an application must be made by—

(a) the applicant, or one of the applicants if there is more than one;

(b) the person who signed the application on behalf of an applicant which is a body corporate or unincorporate; or

(c) a solicitor acting on behalf of the applicant.

Procedure on receipt of applications

4.—(1) On receiving an application, the registration authority must—

(a) allot a distinguishing number to the application and mark it with that number; and

(b) stamp the application form indicating the date when it was received.

(2) The registration authority must send the applicant a receipt for his application containing a statement of the number allotted to it, and Form 6, if used for that purpose, shall be sufficient.

(3) In this regulation, “Form 6” means the form so numbered in the General Regulations.

Procedure in relation to applications to which section 15(1) of the 2006 Act applies

5.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, the registration authority must, subject to paragraph (4), on receipt of an application—

(a) send by post a notice in form 45 to every person (other than the applicant) whom the registration authority has reason to believe (whether from information supplied by the applicant or otherwise) to be an owner, lessee, tenant or occupier of any part of the land affected by the application, or to be likely to wish to object to the application;

(b) publish in the concerned area, and display, the notice described in sub-paragraph (a), and send the notice and a copy of the application to every concerned authority; and

(c) affix the notice to some conspicuous object on any part of the land which is open, unenclosed and unoccupied, unless it appears to the registration authority that such a course would not be reasonably practicable.

(2) The date to be inserted in a notice under paragraph (1)(a) by which statements in objection to an application must be submitted to the registration authority must be such as to allow an interval of not less than six weeks from the latest of the following—

(a) the date on which the notice may reasonably be expected to be delivered in the ordinary course of post to the persons to whom it is sent under paragraph (1)(a); or

(b) the date on which the notice is published and displayed by the registration authority.

(3) Every concerned authority receiving under this regulation a notice and a copy of an application must—

(a) immediately display copies of the notice; and

(b) keep the copy of the application available for public inspection at all reasonable times until informed by the registration authority of the disposal of the application.

(4) Where an application appears to the registration authority after preliminary consideration not to be duly made, the authority may reject it without complying with paragraph (1), but where it appears to the authority that any action by the applicant might put the application in order, the authority must not reject the application under this paragraph without first giving the applicant a reasonable opportunity of taking that action.

(5) In this regulation, “concerned area” means an area including the area of every concerned authority.

(6) A requirement upon a registration authority to publish a notice in any area is a requirement to cause the document to be published in such one or more newspapers circulating in that area as appears to the authority sufficient to secure adequate publicity for it.

(7) A requirement to display a notice or copies thereof is a requirement to treat it, for the purposes of section 232 of the Local Government Act 1972 (public notices), as if it were a public notice within the meaning of that section.

Consideration of objections

6.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, as soon as possible after the date by which statements in objection to an application have been required to be submitted, the registration authority must proceed to the further consideration of the application, and the consideration of statements (if any) in objection to that application, in accordance with the following provisions of this regulation.

(2) The registration authority—

(a) must consider every written statement in objection to an application which it receives before the date on which it proceeds to the further consideration of the application under paragraph (1); and

(b) may consider any such statement which it receives on or after that date and before the authority finally disposes of the application.

(3) The registration authority must send the applicant a copy of every statement which it is required under paragraph (2) to consider, and of every statement which it is permitted to consider and intends to consider.

(4) The registration authority must not reject the application without giving the applicant a reasonable opportunity of dealing with—

(a) the matters contained in any statement of which copies are sent to him under paragraph (3); and

(b) any other matter in relation to the application which appears to the authority to afford possible grounds for rejecting the application.

Procedure in relation to applications to which section 15(8) of the 2006 Act applies

7. Where an application is made under section 15(8) of the 2006 Act to register land as a town or village green, the registration authority must grant it provided it is satisfied that—

(a) the applicant is the owner of the land; and

(b) any consents which are required by section 15(9) of the 2006 Act have been obtained.

Method of registration

8.—(1) Where the registration authority grants an application, it must make the necessary registration, following as closely as possible Model Entry No. 4 with such variations and adaptations as the circumstances may require, but with the substitution, for the words “(Registration provisional.)”, of the words “(Registration under section 15 of the Commons Act 2006.)”.

(2) The provisions of paragraphs (2) to (6) of General Regulation 10 apply to registrations under these Regulations as they apply to registrations made pursuant to the General Regulations with the following modifications—

(a) in paragraph (2), after the words “Form 2, and”, insert “, to the extent required,”; and

(b) in paragraph (5), the words “for the Register of Common Land shall bear the prefix CL, and every such number” shall not apply.

(3) The provisions of regulation 9 of the Commons Registration (Objections and Maps) Regulations 1968 (changes as to provisional register maps) apply for the purposes of section 15 of the 2006 Act as they apply for the purposes of section 4 of the Commons Registration Act 1965 with the following modifications—

(a) paragraphs (1), (2) and (3) shall not apply;

(b) “new map” means any map taken into use for the purpose of this regulation;

(c) in paragraph (4) for the words “six inches to one mile”, substitute “1:2,500”.

(4) Each new map taken into use must be stamped by, and signed on behalf of, the registration authority, and shall then form part of the register.

(5) Where the land which is the subject of an application is already registered as common land in the register of common land, the registration authority must, in addition—

(a) where rights of common are entered in that register, make a corresponding entry in the register of town or village greens; and

(b) modify the entry in the register of common land so that the land which is the subject of the application ceases to be registered as common land.

(6) Where a registration authority has made a registration under this regulation, it must file the application form and any plan and return all other documents which accompanied the application to the applicant.

(7) In this regulation—

(a) “Model Entry No. 4” means the specimen entry so numbered in Part I of Schedule 2 to the General Regulations; and

(b) “register of common land” and “register of town or village greens” refer to the registers maintained by a registration authority pursuant to section 3 of the 1965 Act.

Information about disposal of applications, and procedure on rejection

9.—(1) When the registration authority has disposed of an application and, if it has granted the application, has made the necessary registration, it must give written notice of the fact to—

(a) every concerned authority,

(b) the applicant, and

(c) every person whose address is known to the registration authority and who objected to the application.

(2) Such notice must include, where the registration authority has granted the application, details of the registration, and, where it has rejected the application, the reasons for the rejection.

(3) A person must be taken to have objected to an application for the purposes of paragraph (1) if he submitted a statement in objection to the application which the registration authority was required to consider under paragraph (2) of regulation 6 or which it did consider under that paragraph.

(4) Where the registration authority has rejected an application, it must return the application form and all accompanying documents to the applicant.

Land descriptions

10.—(1) This Regulation applies to the description of any land which is the subject of an application for registration as a town or village green.

(2) Land must be described for the purposes of any application—

(a) by an Ordnance map accompanying the application and referred to in that application; or

(b) in the case of land already registered as common land, if the application relates to the whole of the land in a register unit, by a reference to that register unit.

(3) Any Ordnance map accompanying an application must—

(a) be on a scale of not less than 1:2,500;

(b) show the land to be described by means of distinctive colouring; and

(c) be marked as an exhibit to the statutory declaration in support of the application.

(4) In this regulation, “register unit” has the same meaning as in the General Regulations.

Barry Gardiner

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

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