

<b>Local Members Interest</b>
N/A

## **Countryside and Rights of Way Panel – 08 November 2019**

### **Commons Act 2006**

#### **Applications for Registration of Various Lands as Town or Village Greens**

#### **Report of Director of Corporate Services**

#### **Recommendations:**

1. That the Panel adopt priority criteria for Town or Village Green applications made under Section 15 of the Commons Act 2006 as set out in Appendix A.
2. That the Panel instructs Officers to advise applicants and landowners of the criteria.

#### **PART A**

#### **Why is it coming here – what decision is required?**

3. The County Council is the Commons Registration Authority responsible for maintaining the Register of Town and Village Greens under the Commons Act 2006.
4. The determination of applications to add an area of land to the Register as a Town or Village Green is delegated to the Countryside and Rights of Way Panel who act in a quasi-judicial capacity.

#### **PART B**

#### **Background**

5. The County Council has number of applications for Town or Village Greens determination. Determining these applications is often an expensive and lengthy process usually requiring the holding of a non-statutory Public Inquiry before a report can be laid before the Panel for a decision.
6. The continued receipt of applications, which when taken with existing workloads and the need to ensure that the process is exercised equitably and properly, complying with all the necessary requirements, has inevitably led to delays in dealing with these matters. This delay has, on occasion led to complaints from interested parties, especially objectors, that matters are not being dealt with promptly.
7. The current budgetary provision, resource allocation and the increase in expenses relating to the holding of a Public Inquiry means only one application per year can be realistically be dealt with by this mechanism.
8. The procedure for dealing with applications to register new town or village greens is laid down in the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007. The mechanisms for dealing with applications form three distinct steps.
9. Firstly, there is a preliminary consideration of the application. This is to ascertain whether the application is valid and the evidence suggests a town or village green may exist.
10. Secondly, if the application is accepted by the Registration Authority, then the application is publicised and objections invited.
11. Thirdly, after the deadline for objections has expired, the Registration Authority should proceed to further consideration, bearing in mind any objections received. It

is at this stage where, if necessary, a public inquiry is held to facilitate an oral hearing of all the evidence.

12. Alternatively, it may be possible to determine an application based upon the documentary evidence alone. This could be, for example, where there is a point of law which means the application fails.
13. At present TVG applications are dealt with in order of receipt. In the circumstance outlined above, where an application can be determined without the need for a public inquiry, Officers are unable to do so until it reaches the top of the list. It may also be the case that one such application could be dealt with in the same financial year as one necessitating a public inquiry.
14. The backlog and inability to determine applications out of order of receipt has led Officers to consider whether the County Council ought to adopt some form of priority criteria to allow for the dealing of applications out of order of receipt. Your Officers considered that there are other circumstances which ought to allow applications to be determined out of Order and that these should be set out in an adopted policy.
15. Officers investigated whether other Registration Authorities had policies which set out how they dealt with these matters and discovered that a number had adopted criteria. Your Officers felt that whilst these policies had criterion that were considered suitable the situation in Staffordshire might require a more bespoke policy.
16. Accordingly, Officers have sought the views and advice of a barrister well versed in this area of law to ascertain whether this is a prudent step and one the Registration Authority ought to put in place.
17. Counsel advised that the County Council could adopt a policy and in discussions with Officers a set of criteria was drafted. These are attached at Appendix A.
18. The criteria would only apply to those applications that are unaffected by the new legislation relating to “trigger events” which nullify an application.
19. Within the criteria provision has been made within paragraph 1 for those instances where:
  - a) planning permission has been obtained
  - b) development has been identified in a development plan and this is delayed or hindered by the application
  - c) where the application can be determined on a point of law without a public inquiry
  - d) where several similar applications which raise the same point of law can be dealt with together.
20. Provision has also been made to deal with the situation where more than one request was made in paragraph 2 of the criteria. The Panel would decide the level of priority to be afforded.
21. Officers would suggest that the policy would apply to all applications made before or after the coming into the effect of this policy. Further that all decisions relating to this policy would be made by the Panel.
22. It was also considered that whilst there are various interested parties in these matters, such as other local authorities, requests ought to be limited to being made by landowners or applicants.

- 22. Your Officers would also suggest that all the affected landowners and applicants are advised of the adoption of this policy in order that they may consider whether they ought to apply for such status.
- 23. A list of applications containing the details of any application and its ranking should be maintained to provide context to any request.

**Recommended option:**

- 24. To accept the report and adopt the policy contained in Appendix A.

**Other options available:**

- 25. To reject completely the concept of having priority criteria and continue to deal with these matters solely on the basis of chronological order.
- 26. To adopt part of the criteria
- 27. To adopt the policy as drafted and add further criterion.

**Legal implications:**

- 28. The legal implications are contained within the report.

**Resource and Financial Implications:**

- 29. There are no direct implications arising from this report.

**Risk Implications**

- 30. The risk implications are contained within the report

**Equal Opportunity Implications**

- 31. There are no direct equality implications arising from this report.

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Appendix A	Copy of suggested policy
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