

A British Property Federation response to:

Consultation on the registration of new town or village greens



Introduction

1. The British Property Federation (BPF) is the voice of property in the UK, representing companies owning, managing and investing in property. This includes a broad range of businesses – commercial property owners, the financial institutions and pension funds, corporate landlords, local private landlords – as well as all those professions that support the industry.
2. We welcome the opportunity to respond to this consultation. The BPF have consistently called for a more streamlined and effective planning system. We support the aim of this consultation to strike a better balance between protecting high quality green space and enabling legitimate development, whilst ensuring a more effective, clearer and less time consuming registration system.

Question 1

Taking account of the Government's plans for the new Local Green Spaces Designation, do you agree that the problems identified with the present greens registration system are sufficient to justify reform – so that the 'no change' option should be rejected?

3. Yes. We consider there are sufficient problems and difficulties with the town and village green (TVG) registration system to warrant substantial reform. Landowners are often wary of allowing local communities access to their land for informal recreational use, for fear of vexatious or frivolous TVG applications. As stated in the consultation document, and as widely reported by landowners and developers, many registration applications concern areas of land that do not fit the traditional image of a village green at all. If landowners are reluctant to make land available for community activities then this will undermine the 'Big Society' that the Government is advocating.
4. We believe that there are additional changes that could be made to the TVG registration system that would ensure swifter protection for those areas that need it, whilst preventing unnecessary delay to legitimate development. These are detailed later in our response.

Question 2

Do you support this proposal to streamline the initial sifting of applications?

5. Yes. We believe that it is crucial to have an initial sifting stage in which comments are invited from the landowner before the registration authority considers whether the registration application is capable of being granted. We believe this initial stage should be expanded further, and that the landowner should be provided with a copy

of the full application at this early stage to ensure that appropriate responses can be made.

Question 3

Do you agree that an initial determination should be made by the registration authority after inviting initial comments from the owner of the land affected by the application?

6. Yes, this would seem to be a sensible approach; it could eliminate insubstantial claims that have little prospect of success at an early stage. It may be a case of the landowner being able to produce convincing evidence that the site of the proposed green has been in active agricultural production at some time during the 20 year period, or that the character test has not been accurately applied. If an initial determination could sift out ill-informed applications, or applications that are not factually correct, then this would be a significant improvement on the current system.
7. We believe too that a power conferred on registration authorities to refuse repeated applications that are not materially different or that are not based on substantiated new evidence would be beneficial, and would prevent repeated vexatious applications delaying legitimate schemes. The process of hearings allows the case for and against the registration to be fully made, enabling the registration authority to be able to make an informed decision.

Question 4

Do you support this proposal to enable landowners to make a deposit of a map and a declaration to secure protection against future applications to register land as a green?

8. Yes.

Question 5

Should landowners or registration authorities be required to take additional steps to publicise a declaration, to ensure that potential users know that they have limited time to make an application to register the land as a green? If so, what steps do you propose?

9. We believe it would make sense for the declaration procedure to mirror those already established in relation to rights of way, as detailed in the consultation document.

Question 6

Do you support a proposal to introduce a character test to ensure that greens accord with the popularly held traditional character of such areas?

10. Yes; however, as acknowledged in the consultation document, village greens have changed in character over the last century. They are no longer traditional areas of land within villages that were used for grazing or informal recreation. Although we recognise that it is difficult to create a set of clear criteria by which village greens should be judged now, we agree with the criteria set out in paragraph 5.5.9 and would add an extra test. We believe that there should be an additional requirement that the area proposed for registration is central to the identity of the community, rather than just peripheral.

Question 7

Do you agree with the character test in paragraph 5.5.9 (that land must be open and unenclosed in character)? Do you support the adoption of additional criteria such as those in paragraph 5.5.11 above?

11. We support the character test in 5.5.9 which sets out what is fundamental to the character of a traditional green. However, as detailed earlier, we feel that 'central to the identity of the community' should be added to the proposed test.
12. We do not believe that the criteria in 5.5.11 should be adopted as part of the core test.

Question 8

Do you support the proposal which would rule out making a greens registration application where a site was designated for development in a proposed or adopted local neighbourhood plan?

13. Yes. Local communities already have the opportunity to be involved in the creation of their Local Plan and therefore to shape their area, and through this mechanism can safeguard green spaces of community importance. There is also more than adequate scope to comment on a planning application during the formal public consultation stage, as well as in very many cases, the opportunity to influence the location, form and content of development pre-application through community participation and engagement.

Question 9

Do you support the proposal that a greens registration application could not be made after an application for planning permission had been submitted in respect of a site, or on which there was statutory pre-application consultation, until planning permission had itself been refused or implemented, or had expired?

14. Yes. It is well-documented that applications are often made to the registration authority after pre-application consultation and engagement has taken place, and all too often after permission has been granted, in order to frustrate development. As the consultation document acknowledges, a TVG application made at a late stage

can cause considerable delay and very extensive costs to developers and landowners.

Question 10

Do you support this proposal to charge a fee for applications?

15. Yes, we support the proposal to charge a fee; however, we are concerned that this measure is unlikely to deter frivolous registration applications.

Question 11

If so, do you support the proposal for refunding the fee where an application is granted?

16. No. There is no precedent for this type of refund, and we are not convinced that with the fees set at such a level, it would make any appreciable difference.

Question 12

Do you agree that the fee should be determined by the registration authority and that a ceiling should be set at £1,000?

17. The registration authority should be able to determine the application fee. We believe that in the current economic circumstances, and following the approach being taken in relation to planning fees payable to local authorities, the registration authority should be able to recoup their full (and accountable) costs. These would, given the time and bureaucracy involved, surely be a significantly larger amount than the capping figure suggested.

Question 13

Do you support the adoption of all the proposals set out in chapter 5.3 to 5.7 above?

18. Yes.

Question 14

Do you support the adoption of the Character text in relation to the voluntary registration of land as a green, under section 15(8) of the 2006 Act?

19. No, this does not seem necessary.

Further information

We would be pleased to clarify or amplify any of the above.

For further information, please contact: Ghislaine Trehearne gtrehearne@bpf.org.uk

