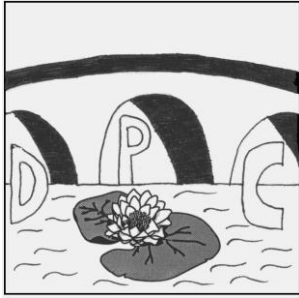


DOGMERSFIELD PARISH COUNCIL



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Sent by e-mail to commonsact.consultation@defra.gsi.gov.uk

Dear Sir

Response to the consultation on the registration of new town or village greens

Dogmersfield Parish Council has studied the proposed package of reforms to the new greens registration system and has a number of significant concerns which are set out in this response.

Dogmersfield is a relatively small rural village community characterised by open green spaces and close interrelationship with the surrounding countryside. In the late 1960s the Council applied to register an open space in the heart of the village as a green but this was unsuccessful. The exact reason for rejection is now unclear but it was probably a technicality. The Council is about to launch a fresh attempt to register this same area as a green and our comments are made from this perspective.

We note that the objectives of the proposed reforms, as set out in paragraph 1,3,5, are to strike a better balance between protecting high quality green space, valued by local communities, to enable legitimate development to occur where it is most appropriate and to ensure that when land is registered as a green, because of the exceptional protection afforded to new greens, the land concerned really does deserve the level of protection it will get.

We are pleased that in paragraph 4.5.4 you recognise our own circumstances. In our case we aim to register an area as a green where ownership is unclear but we wish to afford it long-term protection so that we have increased confidence to manage it in the interests of the community.

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Although the exact impact of the proposals is difficult to judge it appears to us that they are designed to make it more difficult to register a green, that the threshold for registration is to be set higher than before and that there are no obvious offsetting benefits for those wishing to make an application. Although it is suggested that the registering authority will be freed up to concentrate on the more worthy applications, we suspect that the reality will be no quicker service for applicants than at present. If the planned reforms go through the registering authority will simply devote less resource to the issue.

The following sets out our concerns with the individual proposals set out in Chapter 5 of the consultation paper. Our responses to the specific questions raised by the consultation are set out in the Appendix to this letter.

5.3 Initial Sifting of Applications (Questions 2 and 3)

This proposal would introduce an initial sifting stage for applications whereby the registration authority would be empowered to reject the application, or accept it for full consideration, on the basis of the information supplied. Although certain safeguards are to be in place, as now, there would be no appeal from the authority's decision, but either party could seek judicial review of the authority's decision.

We are concerned that there will be insufficient safeguards for applicants when there is potential for objections to registration from within the registration authority organisation. We believe that when an application meets the criteria for registration, in order all of the issues receive full and equal consideration, rejection at initial sifting should not be allowable either on the basis of potential authority objections or on the outcome of a previous submission.

5.4 Landowner Declaration (Questions 4 and 5)

With this proposal a deposit and declaration made by a landowner in relation to land would be treated as an interruption to any use of the land for lawful sports and pastimes as of right.

Although copies of declarations and maps would be sent to the parish council to consider whether the declaration related to land in regular use for recreation we are more concerned with circumstances where ownership of the land is unclear or disputed. We believe that no declaration should be accepted or be effective unless the title to the land is clear and undisputed and that the declaration has been made by or on behalf of the landowner.

5.5 Test of Character (Questions 6 and 7)

This proposal adopts a test of character which would mean that a green could not be registered unless it can be shown that the land is open and unenclosed in character, and recognisably similar to the popular perception of a traditional green.

Our concerns are that taken too literally the new test will eliminate open spaces that fail to live up to the popular perception of a village green in every

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respect. In our own case part of the area has open grass whereas the vegetation and trees have been allowed to mature on another part. This partly wooded area is open for walking sitting and quiet meditation but is not suitable for playing most sports. We believe that the new proposals will fail our community if the only way to secure protection for this public space is to fell the trees so that football can be played.

Incidentally with respect to consideration of additional factors our space is at the heart of the village, it includes a tree with a plaque stating that 'This tree was planted and this green enclosed in commemoration of the jubilee of King George V and Queen Mary. 1935', it includes public seating and the parish council notice board, it is irregular in shape, there is evidence of animal watering in the village stream and of ancient trees. In these circumstances rejection because of lack of suitability for playing sports will be a travesty of natural justice.

5.6 Planning Considerations (Questions 8 and 9)

This proposal would exclude registration of any land proposed for development through a planning application, for which there is an extant planning permission in place or which is earmarked for development within a Local Plan.

Although in principle the proposal appears reasonable we have concerns that it will allow the submission of a planning application to be used to block or delay a legitimate application for registration as a green. Also we would not wish this to be a valid reason to reject an application at initial sifting.

5.7 Registration Fee (Questions 10, 11 and 12)

Under this proposal the applicant for registration of a green should pay a fee set by the registration authority subject to a ceiling prescribed of possibly £1,000.

As a small parish we would have difficulty justifying a fee of £1,000 from our precept but would probably have little difficulty raising this sum from other means. However, most of our community would think it unreasonable that we should pay to have the true status of our green recognised. We are surprised that unworthy applications need to be deterred in this way given that under these proposals they can be rejected at initial sifting. We believe that any fee should be refundable if the application is granted.

Yours sincerely

David Everett
Chairman
Dogmersfield Parish Council

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Appendix

Answers to specific questions raised by the Consultation Paper

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?

We are not averse to reform but it seems from an examination of the proposed policy on the Local Green Spaces designation that it will be very difficult indeed to use this facility. We are also not convinced that the proposals regarding the registration of greens offers any benefits to applicants.

Question 2 – Do you support this proposal to streamline the initial sifting of applications?

Only with additional safeguards

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?

Only when ownership is clear and undisputed

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?

Only when ownership is clear and undisputed

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?

Not needed providing parish councils are notified

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?

No as each application should be considered on its merits

Question 7 – Do you agree with the character test in paragraph 5.5.9 above i.e. 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?

No as each application should be considered on its merits

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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 or neighbourhood plan?

Only with safeguards

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?

Only with safeguards

Question 10 – Do you support this proposal to charge a fee for applications?

No

Question 11 – If so, do you support the proposal for refunding the fee where an application is granted?

Not applicable

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?

The fee should be set by central government and be less than £1,000

Question 13 – Do you support the adoption of all of the proposals set out in chapter 5.3 to 5.7 above?

Not without addressing our concerns. See our responses to each of these in the main body of the letter.

Question 14 – Do you support the adoption of the Character test in relation to the voluntary registration of land as a green, under section 15(8) of the 2006 Act?

Not unless our concerns in relation to the character test are met.

We have chosen not to respond to the further three requests for views.