

# CONSULTATION RESPONSE



## THE REGISTRATION OF NEW TOWN OR VILLAGE GREENS

14 October 2011

Thank you for consulting the Home Builders Federation (HBF) on the above proposed changes to the registration of new town or village greens. The HBF is the principal representative body of the housebuilding industry in England and Wales and our representations reflect the views of our membership of national and multinational plc's, through regional developers to small, local builders. Our members account for over 80% of all new housing built in England and Wales in any one year.

Our members have encountered many of the problems associated with the current system of registration and are, therefore, particularly interested in the possibility of changes as proposed.

### Question 1

We agree with the many problems identified with the present greens registration system and believe that reform is both necessary and desirable. The "no change option" should be rejected.

### Question 2

While we support the proposal to streamline the initial sifting of applications we are concerned about the principle of allowing the registration authority to, in effect, pre-judge applications. This concern would be overcome if there was a simple appeal process in place that allowed applicants the right to challenge the decision of the authority where they had rejected the application. Such a right of appeal exists within the planning system and it ensures that applicants do not consider the authority as judge and jury of their own decisions.

### Question 3

We agree that the registering authority should invite initial comment from the landowner affected by the application before making the initial determination.

### Question 4

We support the 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. However we believe that the consultation paper under estimates the potential impact of such declarations resulting in new greens applications in response to the fear of change.

Many such declarations will be made to ensure free title to land prior to its sale or promotion for potential development. Thus many local community groups will see the declaration process as their “last chance” to stop development of a site and will thus launch a greens application. It is, therefore, vital that this proposal is implemented in tandem with the proposal to streamline the initial sifting of applications to ensure that such “holding” applications do not delay the declaration process.

Given that the proposals suggest a 2 year period in which an application can be made following a declaration it would actually require a 12 year period to grant a landowner 10 years of protection from any application. Declarations should, therefore run for 12 years.

#### Question 5

We believe that the proposals to publicise a declaration as set out in paragraph 5.4.7 are adequate. Information on the declaration process and how to check if such a declaration exists should be contained on the registration form in order to reduce the number of unnecessary applications on sites that are the subject of declarations.

#### Question 6

The application of a character test is an essential part of the consideration of registering land as a “green”. Other changes to planning legislation (through the Localism Bill) will allow communities to register land as a “Local Green Space” rather than a green through this legislation. This new designation is more appropriate for land that does not perform the traditional function of a green. Thus local communities will not be excluded from registering their collective interest and use of open land in their area but will use the most appropriate legislation to do so based upon the function of the land.

#### Question 7

The character test set out in paragraph 5.5.9 of the consultation (that land must be open and unenclosed in character) is supported.

The additional criteria set out in paragraph 5.5.11 are not exhaustive and suggest that, if such criteria are to be included it should be stated clearly that not all of the criteria need be present or that other criteria might be present. Thus, while an indicative list would be helpful to applicants it is not considered essential for the registration process.

#### Questions 8 and 9

We support the proposal which would rule out the ability to make a greens registration application where a site was designated for development in a proposed or adopted local or neighbourhood plan and the proposal that an 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.

The planning system is well placed to address issues regarding the use of land within communities when assessing them against the need for development. The use of the greens application process has, over the last few years, been abused by those seeking to resist development rather than seeking to register a green.

Integration of the greens application process within the planning system will avoid such abuse while still allowing local communities to protect the land of community value within their areas. The newly proposed designation of local green spaces will ensure that only those areas that actually perform the functions of greens (and those with the character of a green, as described above) are registered using the greens legislation while other open land of importance can be designated through the planning system.

#### Questions 10

The charging of a fee for applications would deter those making frivolous or hasty decisions rather than deter genuine applications for registration of greens. The proposal is thus supported.

#### Question 11

The proposal to refund the fee where an application is granted is fair and equitable. Since there is no requirement for local authorities to actively designate land as greens the onus lies with the applicant to make such an application. If an application is successful it should be assumed that the registration is within the public interest and therefore the public must benefit from the registration and should bear the cost. However, where the application is unsuccessful the applicant should make a contribution to the costs of the registration authority (in effect, the public).

#### Question 12

Full fee recovery is likely to deter even the most worthwhile applications given that there is always a risk of a green not being registered. A capped fee is therefore considered to be appropriate and fair.

The HBF would, of course, be more than happy to discuss the proposed new process in greater detail should you find that helpful to do so. I look forward to seeing the government response in due course.

**Andrew Whitaker**  
**HBF Planning Director**