

CABINET MEMBER FOR ENVIRONMENT – 21 NOVEMBER 2013

FEES FOR LANDOWNER STATEMENTS AND DECLARATIONS (PUBLIC RIGHTS OF WAY AND VILLAGE GREENS)

Report by Deputy Director for Environment & Economy (Commercial)

Introduction

1. The Commons (Registration of Town & Village Greens) and Dedicated Highways (Landowner Statements and Declarations) Regulations 2013 ("the regulations"), Statutory Instrument No 1774 came into effect 1 October 2013.
2. The regulations stem from changes introduced under the new Growth & Infrastructure Act 2013 ("the 2013 Act") that aim to promote growth and facilitate provision of infrastructure. They result from concerns at the impact town and village green applications were having on the planning system.
3. The 2013 Act firstly amends the law by allowing a landowner to deposit a statement to bring to an end any period of recreational use of land "as of right" thereby protecting against any subsequent claim to register the land as a green. Secondly, it amends and extends an existing provision under section 31(6) of the Highways Act 1980 which enables landowners to counter deemed dedication of rights of way over their land.
4. The regulations prescribe the forms of application, set out the procedural requirements and detail how the information is to be notified and made available to the public. These elements therefore do not require an executive decision.
5. However Regulation 2 (d) gives a power for authorities to set a reasonable fee for applications which needs to be decided.

Exempt Information

6. Not applicable.

Background

7. Claims to record previously unrecorded public rights of way or to register land as a town or village green can be very expensive for landowners to defend when contested. Successful claims can have a major effect on the value of land and restrict its future use. By lodging a deposit the landowner is able to clearly demonstrate their intentions and prevent the accrual of new public rights.

8. Two types of deposit, either made singularly or jointly are now possible:
 - A statement accompanied by a map to bring to an end any period of recreational use “as of right” and thus prevent recreational users from acquiring new green rights on the land.
 - An amendment to the procedure to deposit a statement and map under section 31(6) of the Highways Act 1980 to declare non-intention to dedicate any new public rights of way (highways) on the land.
9. Neither type works retrospectively, so if rights have already been acquired there remains an opportunity for the public to lodge a claim to prove the rights exist (limited to one year for greens). However once lodged, a deposit offers the landowner on-going protection against the acquisition of new rights, subject to renewal at 20 year intervals.
10. Up to now, Legal Services has carried out the work under section 31(6) Highways Act 1980 on behalf of Environment & Economy Directorate. As a result of these changes, the function is currently transferring direct to Environment & Economy where it will be dealt with alongside other public rights of way and commons functions.
11. It is proposed that Oxfordshire charges a fee varying from £180 - £220 for this service, depending on the number of land parcels in each application. The reasoning for the level of this fee is provided in Annex 1.

Corporate Policies and Priorities

12. These changes to the 2013 Act are relevant to the aims of *A Thriving Oxfordshire Corporate Plan 2013/14 – 2017/18: Enhancing the Environment*. In particular they will help address the need to manage the tension between our desire for economic growth and the need to enhance and protect our environment.

Financial and Staff Implications

13. The new duties will be accommodated within existing staffing resources and through reprioritisation of workloads. In addition, up to now the authority has not been allowed to make a charge for registering deposits. By establishing a fee the authority will be able to recover its reasonable costs thus creating a positive situation whereby the service can become cost neutral and offsetting other budgetary pressures.

RECOMMENDATION

14. The Cabinet Member for Environment is RECOMMENDED to:
- a) approve the principle of charging fees for applications made under The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 as set out in the schedule above to take immediate effect and
 - b) approve that the scale of fees as varying from £180 - £220 and as set out within this report be added within the Councils published list of charges.

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Background papers: available on request

- The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013. Statutory Instrument 2013 No, 1774
- Department for Environment, Food & Rural Affairs "Guidance to Commons Registration Authorities in England on Section 15A to 15C of the Commons Act 2006" version 2 dated August 2013

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