

CAB2840(HSG)  
FOR DECISION  
WARD(S): ALL

CABINET (HOUSING) COMMITTEE

11 October 2016

CABINET

19 October 2016

SECTION 15A COMMONS ACT 2006 TOWN OR VILLAGE GREENS DEPOSIT OF STATEMENT BY OWNER

REPORT OF ASSISTANT DIRECTOR (ESTATES AND REGENERATION)

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RECENT REFERENCES:

CAB2816(HSG) - Section 15A Commons Act 2006 Town or Village Greens Deposit of Statement by Owner – 29 June 2016

EXECUTIVE SUMMARY:

This report seeks a resolution to delegate authority to the Assistant Director (Estates and Regeneration), to lodge landowner Statements under section 15A of the Commons Act 2006 with Hampshire County Council as the Commons Registration Authority following consultation with the Assistant Director (Chief Housing Officer), Head of Landscape and Open Space, members for the ward where land to which the application relates is located, the Portfolio Holder for Housing and the Portfolio Holder for Economy and Estates.

Such Statements would bring to an end any existing period of an as of right recreational use of land in the Council's ownership with a view to protecting the land for possible future development. If accepted by the Commons Registration Authority, such Statements would prevent registration of the land as a town or village green where the required twenty year period of recreational use has not been achieved. This does not necessarily prevent future recreational use of land with the specific

consent of the Council.

This paper updates CAB2816(HSG) following discussions with the Portfolio Holder for Housing. The original paper recommended authorisation be given to the Assistant Director (Estates and Regeneration), in consultation with the Portfolio Holder for Economy and Estates. The recommendation was approved by Cabinet (Housing) Committee on 29 June 2016, and agreed by Cabinet at its meeting of 6 July 2016.

It is now recommended that further consultation on individual decisions be carried out with the Assistant Director (Chief Housing Officer), Head of Landscape and Open Space, ward members and the Portfolio Holder for Housing.

### RECOMMENDATIONS:

That the Cabinet (Housing) Committee recommend to Cabinet:

1. That the Assistant Director (Estates and Regeneration), in consultation with the Assistant Director (Chief Housing Officer), Head of Landscape and Open Space, Members for the ward where the land is located, the Portfolio Holder for Housing and the Portfolio Holder for Economy and Estates, be authorised to complete and deposit statements under section 15A Commons Act 2006 with the Commons Registration Authority in respect of land within Winchester City Council's ownership.
2. That the delegated authority approved following consideration of report CAB2816(HSG) be rescinded accordingly.

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## SECTION 15A COMMONS ACT 2006 TOWN OR VILLAGE GREENS DEPOSIT OF STATEMENT BY OWNER

### REPORT OF ASSISTANT DIRECTOR (ESTATES AND REGENERATION)

#### DETAIL:

- 1 Introduction
- 1.1 Under section 15 of the Commons Act 2006 “any person may apply to the commons registration authority to register land ... as a town or village green” where “(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years”
- 1.2 Therefore applications to register land as a town or village green can be made once local residents have been using land for recreational purposes as of right for a period of at least 20 years.
- 1.3 The consequence of registration is that the land is effectively ‘sterilised’ as there can be no development on town or village greens. Even if an application subsequently fails, the time it takes for Hampshire County Council (as the Commons Registration Authority) to consider the application can be significant. One current application made by a local resident has still not been determined after 3 years.
- 1.4 An application, therefore, whether successful or not, has the potential to limit how the Council can use the land that it owns.
- 1.5 Section 15A of the Commons Act 2006 and the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013 came into force on 1 October 2013. This Section permits landowners to deposit statements in respect of land that they own which will have the effect of bringing to an end any period during which persons have indulged as of right in lawful sports and pastimes on the land to which the statement relates.
- 1.6 This is an important provision which, if used, will have the effect of maintaining the Council’s maximum flexibility in terms of the use of land within

its ownership. The provision is likely to be of particular use in furthering the Council's own new build council housing programme.

- 1.7 Section 15A provides a power for a landowner to deposit a statement with the Commons Registration Authority which will have the effect of bringing to an end the time during which local residents may have been using the land as of right for recreational purposes. This would mean that, in cases where local residents have not been using land for 20 years, they would not be able to make applications for land to be registered as town or village greens, as they would not have the requisite period of use of the land.
- 1.8 In such cases, the effect of registering a Section 15A Notice would be to prevent the land from acquiring town or village green status for a further 20 years by 'stopping the clock' on the period of time for which the land has been continuously used. The hiatus would then provide an opportunity for the land in question to be sold and/or developed.
- 1.9 Where the requisite period of twenty years' use as of right has already accrued by the time the deposit of the statement and map takes place, an application for registration of the land as a town or village green can still be made within the relevant period [now one year] from the date of the deposit of the landowner's statement.
- 1.10 The deposit of the statement and map will not prevent commencement of a new period of recreational use as of right, but an owner of land may deposit subsequent statements in order to interrupt future periods of use.
- 1.11 The Commons Registration Authority is required to give notice of the deposit of a statement and map, by publishing it on their website and bringing it to the attention of users of the land in order to make the local community aware that any recreational use of the land as of right has been interrupted, triggering the operation of the grace period for an application to be made in reliance on section 15(3) of the 2006 Act (in cases where the criteria for registration have been satisfied).
- 1.12 While the provision gives the opportunity to "stop the clock" it does not prevent claims for Town and Village Green status being granted where the criteria for registration have been satisfied. Furthermore, its use must be seen in the context of broader consultation with Members and communities on the future uses of pieces of Council owned land. Even if the "clock" is stopped Members will, in each case, retain the ability to decide on the future use of affected land, taking account of all the views expressed as part of consultation and decision making processes.

#### OTHER CONSIDERATIONS:

- 2 COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):
- 2.1 The proposal supports the *Active Communities* and *Efficient and Effective* Priority Outcomes. It also supports the objectives of medium term financial

planning to ensure effective use of available resources including asset management, developing an HRA Asset Management Strategy, increasing the supply of affordable housing and provision of housing to meet community needs.

### 3 RESOURCE IMPLICATIONS:

3.1 The current fees payable to the Commons Registration Authority are:-

- a) an initial fee of £365 per application, based on a minimum of six hours' work by the Commons Registration Authority
- b) an additional amount of £50.70 per hour for any additional time spent, potentially subject to agreed cap.

3.2 The fees are set by the Commons Registration Authority and are periodically reviewed.

### 4 RISK MANAGEMENT ISSUES

4.1 Lodging a Landowner's Statement might have the effect of triggering a Town and Village Green Application. However, the same is true of any other action, for instance Member reports, publicity or consultation. that may bring development ideas to the attention of the community.

4.2 The lodging of a statement provides more certainty as to the status of land as a town or village green because it 'stops the clock' and provides a time period of twelve months in which to register applications for existing town or village green status. If no application is made within 1 year the Council can be certain that the land is not a town or village green. The risk of not lodging a Statement is that time may accrue that allows a Town and Village Green Application to be successful, thus compromising the Council's ability to manage its own assets as it see fit.

### BACKGROUND DOCUMENTS:

None

### APPENDICES:

None