



SHEFFIELD CITY COUNCIL

Committee Report

Report of: Chief Licensing Officer, Head of Licensing

Date: 21 August 2014 at 10am

Subject: Commons Act 2006
Fee Setting – Landowner Statements under Section 15A

Author of Report: Shimla Finch - 2734264

Summary: To set an application fee for landowner statements under section 15A of the Commons Act 2006.

Recommendations: That Members of the Commons Registration Committee note the contents of the report and approve the proposed new fee.

Background Papers:

- [Growth and Infrastructure Act 2013](#)
 - [The Commons \(Registration of Town or Village Greens\) and Dedicated Highways \(Landowner Statements and Declarations\) \(England\) Regulations 2013](#)
 - [Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006.](#)
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Category of Report: OPEN

REPORT OF THE CHIEF LICENSING OFFICER, HEAD OF LICENSING TO THE LICENSING COMMITTEE (COMMONS REGISTRATION)

Ref: 80/14

COMMONS ACT 2006

Fee Setting – Landowner Statements under Section 15A

1.0 Purpose of the report

- 1.1 To set an application fee for landowner statements under section 15A of the Commons Act 2006.

2.0 Background

- 2.1 In July 2011 the Government published a consultation on the registration of new town and village greens due to increasing concerns about the impact of such applications on the planning system. The Government places great importance on the planning system to support efficiency, effectiveness and growth.
- 2.2 It was announced in October 2012 that the law on the registration of new greens under the Commons Act 2006 (“the 2006 Act”) would be amended in England only through the Growth and Infrastructure Bill, which was introduced to Parliament on 18 October 2012. On 25 April 2013 the Bill received Royal Assent and consequently became the Growth and Infrastructure Act 2013 (“the 2013 Act”).
- 2.3 Section 15 of the 2013 Act inserts sections 15A and 15B into the 2006 Act to introduce, respectively, landowner statements which bring to an end any period of recreational use ‘as of right’ over land which will protect them against the registration of land as a town or village green, and the registers in which they are to be recorded.
- 2.4 Section 13 of the 2013 Act amended the form and procedure in England for depositing statements and declarations under section 31(6) of the Highways Act 1980 in order to align it with landowner statements.
- 2.5 Sections 15 and 13, and the regulations which prescribe the rules for such applications, came into force on 1 October 2013.

3.0 Landowner Statements

- 3.1 Landowner statements deposited in accordance with section 15A of the 2006 Act bring to end any accumulated years of ‘as of right’ use of the land for lawful sports and pastimes – this essentially restarts the clock on the 20 years’ use required by the registration criteria. A new period of use ‘as of right’ can start to accumulate provided such use continues after the deposit of a landowner statement.
- 3.2 This mechanism is similar to the existing regime for making highways deposits under section 31(6) of the Highways Act 1980 (1980 Act), for the purpose of protecting land from being deemed to have been dedicated as highway.
- 3.3 Section 31(1) of the 1980 Act provides for the deemed dedication of land as a highway broadly where the page has used the land ‘as of right’ and without

interruption for at least 20 years, unless there is sufficient evidence of the landowner's intention not to dedicate it as such during that period.

- 3.4 Section 13 of the 2013 Act amends the form and procedure in England for making deposits under section 31(6) of the 1980 Act, which allows for the Regulations to align this existing regime with the new mechanism for making statements to protect against town or village green registration.
- 3.5 Sections 13 and 15 came into full effect on the 1st October 2013.
- 3.6 The Regulations provide for a combined application form which can be used by landowners to make deposits for both purposes, with the aim of minimising the administrative burden on landowners who wish to make statements to protect against registration of their land as a town or village green at the same time as protecting the land from deemed dedication as highway.
- 3.7 The Regulations provide for circumstances in which landowners can refer back to maps previously deposited with an appropriate authority, to avoid the provision of additional maps.
- 3.8 The Regulations also enable the recording of prescribed information relating to statements deposited under section 15A(1) of the 2006 Act to be incorporated into a new part of the existing register maintained by authorities for highways purposes under section 31A of the 1980 Act. This is with a view to minimising the administrative burden and cost on local authorities. The Regulations commenced on 1 October 2013.

4.0 Application Requirements and Process

- 4.1 Applicants must complete application form CA16 as prescribed by [Schedule 1 to the 2013 Regulations](#).
- 4.2 [Guidance for applicants has been published and should be read in conjunction with the notes at the beginning of form CA16.](#)
- 4.3 The application form must be signed by every owner (or by their duly authorised representative) of the land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association.
- 4.4 The form must be accompanied by an Ordnance map at a scale not less than 1:10,560 (except where the application refers to a map which accompanied a previously deposited statement or declaration with the authority) showing the boundary of the land to which the application relates in coloured edging.
- 4.5 On receipt of the application, the Council will check whether the application has been 'duly made'. An application will be treated as having been 'duly made' if it is;
 - In the form prescribed by Schedule 1 to the 2013 Regulations
 - Signed by every owner (or by their duly authorised representative) of the land to which the application relates
 - Accompanied by an Ordnance map at a scale not less than 1:10,560 (except where the application refers to a map which accompanied a previously deposited statement or declaration with the Council) showing the boundary of the land in coloured edging

- Accompanied by the correct fee
- 4.6 If the requirements are not met, the application will be returned (the Council is under no obligation to either acknowledge the 'application' or process it further).
- 4.7 If the statement or map in question contains a material error it could invalidate the application, in whole or in part, and any entry made in the register might be removed by the Council. In this situation the Council is required to give 28 days' notice of the removal.
- 4.8 If the requirements have been complied with then the Council will;
- Accept and acknowledge the application
 - Post a notice at one entry point to each parcel of land
 - Publish the application on the authorities website
 - Send email notifications to every person/organisation who have requested to be informed of applications
 - Ensure that the application is added to the paper register at the offices of Sheffield City Council which is available for viewing
- 4.9 In the case of Statements under Section 15 A(1) of the Commons Act applicants must send the completed applications form and fees to the Commons Registration Authority.
- 4.10 In the case of Statements/Declarations under Section 31 (6) of the Highways Act applicants must send the completed application and fees to the Highways team.
- 4.11 Combined Section 15 A and Section 31(6) applications must be sent to the Commons Registration Authority together with appropriate fees.

5.0 Power to set a fee

- 5.1 Applications must be accompanied by the appropriate fee, if any is specified by the authority.
- 5.2 The 2013 Regulations do not provide any fee amounts: instead the authority has the power to set fees.
- 5.3 A fee specified by the authority must be reasonable for the application of that type. The power allows different fees for different types of application. The following are examples of why an authority may wish to consider setting different fees for different purposes:
- applications which relate to **either** highways deposits (highways statements or highways declarations) or the deposit of a green landowner statement;
 - applications which relate to deposits under **both** highways and greens regimes.
- 5.4 It is proposed that a fee is set of £320 on application for a landowners statement under section 15A of the Commons Act 2006. This fee has been derived through calculations of officer time in carrying out the procedure and places notices of the land (Appendix 1 refers).
- 5.5 The proposed fee will be reviewed to ensure that amounts are proportionate with the authority's costs.

6.0 Financial Implications

- 6.1 There are no financial implications for the Council arising from this report. Should Members agree the proposed fee as detailed in the report; the Council will recover its reasonable costs in administering the system.

7.0 Recommendation

- 7.1 That members consider all the information provided in the report and that included in any attachments before determining whether to approve the fee.

8.0 Options to the Licensing Committee (Commons Registration)

- 8.1 To approve the proposed fee.
- 8.2 To approve an alternative fee.

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8th August 2014

Fee Setting- Landowner Statements

| Item | Details | Including | fee |
|----------------------------|---|---|----------------|
| Process application | Acknowledgement of receipt Checking of application, including comparison of existing records Preparation of notice Publish notice of receipt Publish notice of application on website Serve notice of application by email | Officer time General administration Computer update (4 hours *) | |
| Post notice of application | Post notices on site | Officer time General administration Travel time/expenses (2.5 hours) | |
| Update registers | Add entries to relevant registers (paper and electronic) | Officer time General administration Scanning/digitisation of records (1.5 hours) | |
| | | | £320.00 |

*In the case of applications covering extensive areas or multiple land parcels, additional time may be involved. This time will be recorded and charged.