

Note

National Common Land Stakeholder Group

Monday, 3 June 2013

11:30, Temple Quay House, Bristol

Attendees	Apologies
Tom Surrey (Chair) (Defra)	[REDACTED] (Dartmoor Commoners)
[REDACTED] (Royal Institution of Chartered Surveyors)	[REDACTED] (National Association for Areas of Outstanding Natural Beauty)
[REDACTED] (Open Spaces Society)	[REDACTED] (Friends of Lake District)
[REDACTED] (CLA)	[REDACTED] (Natural Resources Wales)
[REDACTED] (Natural England)	[REDACTED] (IPROW)
[REDACTED] (Defra)	[REDACTED] (National Trust)
[REDACTED] (LGA)	[REDACTED] (Federation of Yorkshire Commoners and Moorland Graziers)
[REDACTED] (British Horse Society)	[REDACTED] (Moorland Association)
[REDACTED] (Defra)	[REDACTED] (Wildlife Trusts)
[REDACTED] (Defra)	[REDACTED] (RSPB)
[REDACTED] (Federation of Cumbria Commoners and the Foundation for Common Land)	[REDACTED] (RPA)
[REDACTED] (Solicitor)	[REDACTED] (Central Association of Agricultural Valuers)
[REDACTED] (RPA)	[REDACTED] (Countryside and Community Research Institute)
[REDACTED] (National Sheep Association)	
[REDACTED] (Defra)	
[REDACTED] (Defra)	

1 The Growth and Infrastructure Act 2013

Reform of town and village greens (TVGs)

[REDACTED] told the group that the Growth and Infrastructure Act 2013 received Royal Assent on 25 April and contained reforms to the law on registering TVGs. Section 16 of the 2013 Act inserts into the Commons Act 2006 a new section 15A and Schedule 1A: together, these exclude the right to apply to register TVGs where a trigger event has occurred in relation to land and the right to apply remains excluded until a corresponding terminating event occurs in relation to that land. Trigger events essentially relate to points in the planning system where land is identified for development. The exclusion came into force on 25 April. Guidance for commons registration authorities has been published on the internet.

Section 14 of the 2013 Act will reduce the period of grace for TVG applications where the 'as of right' use of land has ceased before an application is made. Section 15 introduces landowner statements which allow landowners to end any 'as of right' use of their land for recreation. Landowner statements are based on, but still different to, highways declarations under section 31(6) of the Highways Act 1981. Regulations are currently being drafted to set out the procedure for landowner statements. The intention is to bring sections 14 and 15 into force later this year, likely October.

The 2013 Act (section 17) also broadens the power under section 24 of the 2006 Act to make regulations on fees for applications under Part 1 to amend the registers of commons and greens.

████ said the OSS wanted to make amendments to the draft regulations on landowner statements, one of which is to copy the notice requirements for highways declarations and place on the owner the requirement to erect notices on the land because this would keep costs down. Tom suggested that OSS submit their comments to █████. █████ said it was important to keep the cost to landowners as low as possible. █████ said consistency with notice requirements in other statutes would be best. █████ asked if Defra could circulate a link to the guidance to commons registration authorities re the exclusion of the right to apply (see here: www.gov.uk/government/publications/interim-guidance-to-commons-registration-authorities-on-section-15c-of-the-commons-act-2006).

ACTION: OSS should submit their comments to █████.

Sections 131 and 132 of the Planning Act consents

████ explained that the changes the 2013 Act had made to ss131&2 of the Planning Act 2008 will come into force on 25 June this year. They are an administrative change – there is no change to the level of protection for commons and greens. The changes remove the separate certification process where exchange land is provided in the case of nationally significant infrastructure development. The decision will now be taken by the relevant Secretary of State as part of the Development Consent Order. This means that commoners/ those exercising TVG rights should be consulted as part of the development of the application rather than separately and there will be no separate public inquiry.

2 Implementation of Part 1

Tom told the group that Defra is in the process of discussing its future priorities in order to deliver a further round of budget cuts which are to be announced end June through the spending review. █████ then explained that several options had been put to Ministers for a decision, and these were: implement in all authorities in England, which would require new funds; working within our existing budget to implement in as many authorities as affordable, i.e. starting in the authority with the largest area of commons and greens (Cumbria) and working down the list; or do nothing. The option of implementing on a clause by clause basis had been ruled out on cost grounds. █████ said that Defra had committed in the Red Tape Challenge to commence the implementation of Part 1 by 2016. █████ said that Part 1 would make a difference in Cumbria and asked for a timetable for implementation. █████ suggested that if only some provisions were to be commenced the priority should be those which allow wrongly registered land to be deregistered.

3 Commons Councils

████ told the group that the draft establishment order for Brendon commons council had been circulated to the participants of the council and that they would feed back comments for Defra's consideration before the draft order would be

published for a consultation on whether there is substantial support for the commons council. ■■■ said, with respect to the proposed Cumbria commons council, that they had run out of money but that work was ongoing and some additional commons associations had agreed to come onboard. She added that the cost of participation in a council was a sticking point for many and asked Defra to consider whether UELS could be amended to provide a supplement to commons councils. The revised Cumbria proposal would be submitted probably in July. ■■■ (later) said that the Bodmin proposal to create a commons council required more work and that this was being facilitated by NE.

4 NE pilot for training advisers re lowland commons management issues

■■■, who circulated a paper in advance of the meeting, explained that there had been progress on the horse gate trials and a new design which would be good for equestrian and disabled users would be trialled in late summer/autumn.

She also explained that NE will later this year hold a pilot training event for staff in Surrey on the law for the management and protection of commons and to share best practice, including on horse gates, with a view to rolling it out across England. Other members offered support and training materials, which was welcomed by NE. ■■■ asked whether he (and other NCSLG members) could attend the training. ■■■ said that she would consider with NE colleagues but, in principle, this would be welcomed.

■■■ also explained that NE is in the process of instigating bi-lateral meetings with commons stakeholders to listen and learn about issues and the delivery of solutions. She would contact each member of the group direct.

ACTION: NCSLG members who can support NE in their training should contact ■■■.

ACTION: ■■■ to consider whether others could attend the training to provide support.

5 Areas facing natural constraint (ANC)

■■■ updated the group on latest developments with ANCs (see separate update). There were no questions.

6 Update on the commons and CAP reform working group

■■■ gave a presentation to the group on the latest developments of the group, which has 3 objectives: a dynamic payments system; commons associations should be allowed to claim unclaimed payments; owners of common land who farm should be allowed to claim. ■■■ explained that a significant amount of SPS was unclaimed on the common and the group wanted to maximise the potential to claim those monies. ■■■ asked why so much was not claimed and ■■■ suggested that it may be due to a lack of awareness that people have rights of common or a fear that they could be liable should the common be adjudged as not in Good Agricultural and Environmental Condition. ■■■ suggested that rights of common

could become highly prized if it becomes possible to trade them. [REDACTED] reminded the group that the money was not lost, but recycled within the region.

RPA and Defra had been considering the impact and deliverability of these objectives and had fed-back a number of issues for the group to consider. These included: under a dynamic allocation system, extra complexity for the RPA, resulting in potential delays to payments and risk to all commoners if misallocation occurs. On commons associations claiming, Defra and RPA had asked the group for evidence as to why they would want to be able to do this.

7 How can commons interests be fed into the new RDPE

[REDACTED] said that the commons and CAP reform working group would like to widen its membership and look at how commons' issues should be considered in the development of the new agri-environment scheme (NELMS). [REDACTED] said that the group should have a clear line of influence to the relevant part of Defra - possibly reporting to [REDACTED] (the uplands lead) on this issue. [REDACTED] said feedback from NELMS colleagues in Defra and NE was supportive of this expansion in the group's remit but stressed the urgency of providing the group's advice on this issue to Defra in order that those views fed into CAP reform negotiations. NCLSG agreed the widening of the remit and tasked the group to work on next steps. Tom stressed that the group should continue to report to NCLSG and that views would reach [REDACTED] and other relevant colleagues.

ACTION: The Foundation to propose a wider membership and arrange a meeting/telecom for the group to feed into NELMS design.

ACTION: Defra ([REDACTED] and NELMS colleagues) to provide papers on current NELMS thinking and ensure appropriate Defra and NE attendance .

8 RPA commons queries

The Foundation and the RPA had held a telecom about this issue and could report that many issues had been resolved. [REDACTED] was unable to attend so Tom suggested the group move on.

9 Update on RPA pilot in Worcs to map commons

[REDACTED] gave a presentation to the group on RPA's recent pilot in Worcs to map commons on which SPS is paid. Currently RPA uses the data from the biological survey of commons published in 2000 so it wants to establish the types of issues likely to emerge in any new exercise to map the SPS commons and allow consideration and possible development of protocols to address mapping issues. RPA intend to have a full dataset available prior to the introduction of the new CAP.

10 Proposed date of next meeting

To be held in London on 2 December 2013.

12 Any other business

Making Ways for Horses

████ asked members of the group to provide him with any views on the Equestrian Access Forum's document "Making Ways for Horses", in particular on proposals numbers 26 – 35 which related to equestrian access. He also asked for the issue to be added to the agenda of the next meeting in December.