

Re-publication of the Registers of Common Land and Town or Village Greens

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee on Wednesday 5th September 2012.

Recommendation:

I recommend that the County Council proceeds with the proposal to publish fresh editions of the Registers of Common Land and Town or Village Greens

Introduction

1. Kent County Council is the 'Commons Registration Authority' for the purposes of the Commons Act 2006. In this capacity, it is responsible for holding the legal record of Common Land and Town or Village Greens for the county, known as the Registers of Common Land and Town or Village Greens, and for making any necessary amendments to the Registers using the requisite legal processes.
2. The Registers of Common Land and Town or Village Greens are held only in paper format, the vast majority of which were prepared in the early 1970s following the enactment of the Commons Registration Act 1965. Over time these Registers, which are not only a statutory document but also the County Council's *only* definitive record of Common land and Village Greens in the county, have become increasingly susceptible to wear and tear and, in particular, some of the Register maps have been reduced to a very sorry state. Not only are the paper copies irreplaceable if lost or destroyed, but the storage of information in this manner is neither efficient nor practical to meet modern needs.
3. Another significant issue which has caused a great deal of problems over recent years is the small scale and often unclear depiction of the registered extent of the Common Land or Village Greens shown on the register maps. The base mapping used when the Register maps were originally compiled are now substantially out of date and do not depict major infrastructure developments (such as the M20 or Channel Tunnel Rail Link) or large scale residential developments that have taken place on the fringes of many of Kent's urban areas. This is particularly unhelpful in a county where development pressures have never been more pressing and where the County Council needs to be able to supply accurate information on an area which could have a significant impact on a major construction project.
4. The textual parts of the Registers (which record details of the registration, such as description any rights of common exercisable) have fared better than the maps in terms of condition, but are nonetheless in need of improvement. Over the years, various handwritten additions and amendments have been made, some of which are barely legible and would benefit from being typed.
5. In an age where there is an increasing demand (and indeed expectation) for accurate and up-to-date information to be readily available, there is therefore a real need to re-evaluate the importance of the Commons Registers and to seek to improve their effectiveness and utility in line with modern requirements.

The law

6. Members will be aware of the ongoing work to review of the Registers of Common Land and Town or Village Greens as part of the pilot project for the implementation of Part I of the Commons Act 2006. As a result of this work, number of proposals have already been initiated to correct errors identified in the Registers using new powers available in the Commons Act 2006.
7. As well as the new provisions enabling the County Council to update and correct errors contained in the Registers, the Commons Act 2006 includes a provision for the establishment of electronic registers (see section 25) whereby the registers could be kept wholly or partly in computerised form, thereby increasing efficiency and accessibility. Unfortunately, this is the only section in Part I of the Commons Act 2006 which DEFRA has chosen not to bring into force. This is due to financial and resourcing issues relating to converting the registers to electronic format, as well as difficulties in establishing a standardised system that could be used on a national level. As a result, there is no indication as to when (or indeed if) the provision will be brought into force and it will not be possible to publish the Registers in electronic format until such time as these issues have been resolved and section 25 of the Commons Act 2006 is brought into force.
8. Nonetheless, in the meantime, the Commons Registration (England) Regulations 2008 ("the 2008 Regulations") do contain provisions which allow Commons Registration Authorities to improve the quality of the Registers by preparing 'fresh editions' of Register maps. Regulation 12 of the 2008 Regulations allows Commons Registration Authorities to prepare a fresh edition of a Register map (or part thereof) showing only the details of subsisting entries in the Register. Regulation 9(8) of the 2008 Regulations requires that any fresh edition of the Register map prepared must be on a scale of not less than 1:2,500 (which provides an immediate improvement on the current mapping which is at 1:10560 scale).
9. In relation to the textual part of the Registers, Regulation 8 of the 2008 Regulations provides that a register sheet may be replaced at the discretion of the Commons Registration Authority, provided that all entries recorded on that sheet, apart from any entries which have been cancelled or deleted, are transferred onto the appropriate replacement sheet.
10. It is important to note that, until such time as the provision in respect of electronic registers is brought into force, the old register sheets and maps will remain part of the official Register; the current Regulations do not allow for these older sections to be dispensed with altogether. However, the fresh editions of the sheets and maps will be the first point of reference and will provide a substantial visual and utilitarian improvement compared to the older sections.

Work to be undertaken

11. The re-publication of the Registers of Common Land and Village Greens is by no means a simple exercise; there are currently 192 registered Village Greens and 109 areas of Common Land, each with a separate Register sheet, as well as 187 Register map sheets.

12. Much of the groundwork in relation to the Register maps has already been undertaken as the County Council already has a very basic digitised version of the maps. Although this version was prepared some 15 years ago and contains a number of known errors and inaccuracies, it nevertheless provides a helpful starting point which can be used to identify required amendments. Having recently undertaken a consolidation project in respect of Public Rights of Way data (which involves the eventual publication of new Definitive Maps at 1:2500 scale), there is a large degree of existing expertise in relation to digital mapping within the Countryside Access Service and this expertise will be an invaluable asset in preparing the fresh editions of the Register maps.
13. In respect of the textual part of the Registers, no work has yet been done to attempt to convert these to electronic format and this will involve a considerable amount of data entry into a template. It is anticipated that the impending restructure of the Regulatory Services division will provide additional capacity for administrative support that could assist with this project.
14. Once created, the fresh editions of the Register sheets and maps will of course need to undergo a very thorough and careful checking process prior to final publication. This final step will be undertaken by experienced Officers and is intended to minimise the risk of any new errors being introduced into the fresh editions of the Registers.
15. It should be noted that there is no provision within the legislation for any formal consultation to be undertaken in relation to the publication of fresh editions. This is because the older sections will remain part of the Registers and the scope and purpose of preparing fresh editions is limited to providing an exact copy of the matters already registered, albeit using more up-to-date base mapping and the assistance of more advanced technology to depict the registrations. Any anomalies encountered during the checking process will need to be addressed by reference to the original applications for registration. Any dispute as to the information shown on the fresh edition can be resolved by way of the making of an application by the affected party under section 19 of the Commons Act 2006 to correct an alleged error in the Registers.

Recommendation

16. I recommend that the County Council proceeds with the proposal to publish fresh editions of the Registers of Common Land and Town or Village Greens

Background documents:

None (but this report will be accompanied by a powerpoint presentation at the meeting)

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