

COMMITTEE:	CABINET	
DATE:	9 JANUARY, 2002	
SUBJECT:	COUNTRYSIDE AND RIGHTS OF WAY ACT 2000 - CONSULTATION ON THE REGULATIONS AND DRAFT MAPS OF OPEN COUNTRY AND REGISTERED COMMON LAND	
REPORT OF:	DIRECTOR OF TOURISM & LEISURE	
Ward(s):	Meads, Downside and Upperton	
Purpose:	To recommend a response to the Department for Environment, Food and Rural Affairs on the Consultation document concerning the regulations and to the Countryside Agency concerning the draft maps.	
Contact:	Mike Smith, Downland, Trees & Woodland Manager, Telephone 01323 415273 or internally on extension 5273 and Jefferson Collard, Development Planning Manager, Telephone 01323 415252 or internally on extension 5252.	
Recommendations:	a)	That the letter in Appendix 1 is the Council's formal response to the Department for Environment, Food and Rural Affairs on the consultation document.
	b)	That the forms contained in Appendix 4 are the Council's formal response to the Countryside Agency on the draft maps showing open country within the town.
	c)	A letter giving detailed objection to the inclusion of areas of Downland on Bullock Down Farm and Chalk Farm, (shown as B and C on map in appendix 2) is drafted by the Director of Tourism & Leisure in consultation with the Leader of the Council.

	d)	That the Director is authorised to respond to the Countryside Agency, supplying information on the actual extent of the existing Open Downland as indicated in Appendix 3, for inclusion as Open Countryside.

1.0	<u>Background</u>	
1.1	The Countryside and Rights of Way Act 2000 provides for the creation of a new statutory right of public access on foot to open country (mountain, moor, heath and down) and registered common land in England and Wales. The Act requires the Countryside Agency to draw up and consult on <u>draft</u> maps of open country and registered common land. The Agency must consider any representations received on a draft map before confirming the map (with or without any necessary modifications) and then issuing it as a <u>provisional</u> map. Any person with an interest in land affected by the provisional map may appeal to the Secretary of State against the inclusion of that land on the map. Following completion of this procedure, <u>conclusive</u> maps will be published which will delineate the final version of the new areas of land with access. The first stage consultation period on the draft maps ends on 11 February 2002.	
1.2	Preparing the draft maps and processing the responses to these maps for the whole of the Country will take some time. The Countryside Agency responsible for preparing the maps hope to complete the mapping by 2004. However, they have divided the country up into 8 areas and the south east, together with the north west, are the first to be mapped.	
1.3	The Department for Environment, Food and Rural Affairs (DEFRA) have, at the same time issued for consultation, the draft regulations on the administrative and procedural matters concerning the next stage. (i.e. preparing provisional and conclusive maps). DEFRA are requesting representations on this consultation by 8 February 2002.	
2.0	<u>The Draft Regulations</u>	

2.1	The Draft Regulations cover the administrative procedures detailing how the authorities will deal with consultation, appeals and production of the maps showing open country and registered common land. The document has 29 proposals for consideration. All are purely of an administrative nature and many are sensible procedures. It is not proposed to go into detail in this report but a full copy is available in the Members Room. Nevertheless here are some procedures on which the Borough Council should make a representation. These have been prepared in a draft letter enclosed as Appendix 1 The points covered are as follows:-	
	a)	proposal Nos. 5,6,7,8: The proposed regulations do not appear to include notifying owners of land that their land is included in maps showing open country or registered commonland. This means land could be included without owners being aware. This has implications for owners who are time limited should they wish to appeal against their land being included. It seems reasonable that if the Countryside Agency is going to publish maps allowing the public access to land, the owner should be made aware of this fact.
	b)	proposal No. 17: For the purposes of appealing against the provisional maps, the regulations propose to follow the procedures laid down in Section 78 of the Town and Country Planning Act 1990. However DEFRA propose to cut the period in which to lodge an appeal from 6 months (as contained in the Act) to 3 months. Once alerted to the fact (and see point a) above) that the land has been included for public access, 3 months is too short a time in which to prepare the case to lodge an appeal. A period of 6 months as laid down in the Town and Country Planning Act would be more reasonable.
2.2		In addition the Council needs to be aware of proposal 20. Should an appeal be lodged against the provisional maps, notification of the appeal to other parties will be via public notices and those who made representations on the particular piece of land at the draft stage. Therefore it is important that the Council comments on all land that concerns it whether positively or negatively to enable it to be notified of future appeals and potential changes to land boundaries.

3.0	<u>Draft Maps</u>	
3.1	The drafts maps produced by DEFRA illustrate two types of land – Open Country and Registered Common Land.	
	<p>a) “Open Country“ is defined as mountain, moor, heath and downland.</p> <p>b) Registered Common Land is that land that was included as part of the Common Registration Act 1965.</p>	
	There is no Registered Common Land shown within the administrative boundaries of Eastbourne. All the land shown on the draft map for this borough is designated open country and this is shown in Appendix 2.	
3.2	As members might imagine most of the land included on the ‘open country’ maps are on the downland and this is generally the case. However, one anomaly is that land off Tutts Barn Lane (shown as A on the map in Appendix 2) has also been included. This land has long been identified in plans for development. It is currently designated in the Eastbourne Borough Plan 1998 as part of the South Broadwater business development. This has been retained in the emerging Eastbourne Borough Plan 2001-2011. Therefore it is proposed to make a representation in this respect and the proposed wording is included in Appendix 4.	
3.3	The areas of Open Country indicated on the Eastbourne downland, have been selected, based on information taken from Ordnance Survey mapping data, national habitat surveys and aerial photographs. They do not take into account fence boundaries, but follow the habitat criteria for Downland given in the Mapping Methodology for England. This has resulted in some areas of Open Downland being excluded from the designation and areas within two of our farms, Bullock Down Farm and Chalk Farm, have been included. (shown as B and C on the map in Appendix 2).	
3.4	It was felt that information on the current extent of the Open Downland should be given to the Countryside Agency, requesting its inclusion as Open Country as this would have no effect on the current management of the area and reinforce its open access status.	

3.5	On the Farms the areas are divided up as grass under Environmentally Sensitive Area grants with the tenants and field areas that in the future may be ploughed, so the open countryside status could complicate the agricultural operations in the future. For this reason we would wish to object to the inclusion.	
4.0	<u>Consultation</u>	
4.1	The Council is being consulted on proposals to regulate and delineate new areas of land for public access. This is the subject of this report. In most, but not all cases, the Council owns the land. Nevertheless the Council has tenants on the land and those affected by these proposals have been made aware of them. The Farm tenants and the Councils land agents, Strutt & Parker's views and comments will be incorporated into our officers response to the Countryside Agency.	
5.0	<u>Human Resource Implications</u>	
5.1	None.	
6.0	<u>Environmental Implications</u>	
6.1	The Borough Council has generally supported a policy of opening up areas of downland for passive leisure activity. Whilst on the one hand this may be seen as potentially damaging the downland flora and fauna, because people walk over it, the use of wider expanses of land also help to protect it. This is because the public use a larger area of land thus diluting the potential damage that often occurs with concentrated use in a smaller area. Therefore, greater access over larger areas of open country is to be welcomed.	
7.0	<u>Financial Implication</u>	
7.1	None.	
8.0	<u>Other Implications</u>	

8.1	<p>Youth – Open access has a positive benefit to the youth of the town.</p> <p>Anti-Poverty – There is no implications as a result of this report.</p> <p>Crime and Disorder – It is believed that there will be no effect in respect of this, as much of the land is already available for public access.</p> <p>Human Rights – There are no adverse implications as a direct result of actions recommended in this report. On the contrary, the Council is improving the general rights of the public over the land it has within its control. The rights of our tenants have also been taken into account.</p>	
9.0	Conclusions	
9.1	The general thrust of the Countryside and Rights of Way Act 2000 is welcomed. The detailed operational arrangements are generally satisfactory although specific comments are suggested as laid out in the schedules contained in the appendices.	
<p>Report by</p> <p>Mike Smith</p> <p>Downland, Trees and Woodland Manager</p> <p>And</p> <p>Jefferson Collard</p> <p>Development Planning Manager</p>		
<p>Background Papers:</p> <p>The Background Papers used in compiling this report were as follows:</p> <p>Consultation on proposals for Regulations on Provisional and Conclusive Maps under Section 11 of the Countryside and Rights of Way Act 2000 – DEFRA dated Nov. 2001.</p> <p>Mapping Access Land in England – Countryside Agency</p> <p>Mapping methodology for England – Countryside Agency</p> <p>To inspect or obtain copies of background papers please refer to the contact officer listed above.</p>		
Jfc/Reports/Cabinet 9 Jan		

