

Monken Hadley Common

Summary of responses to the consultation on a proposal for a new Act of Parliament

A consultation paper on a proposal for a new Act of Parliament to transfer the ownership and management of Monken Hadley Common ("the Common") to a new charity was published in June 2019. The consultees are listed in paragraph 20 of the paper. 115 copies of the paper were delivered by hand to properties of which the owner is believed to have common rights and five copies were served on persons believed to have rights in gross. Sharpe Pritchard, the lawyers acting for the Churchwardens, served the paper on some government departments, institutional, local authority and charitable bodies. A record of such service is available. The paper was posted on the Common [website](#) and also distributed either by email or by hand to the members of the Friends of Monken Hadley Common, which is the charity that provides financial support to the Common.

The closing date for responses was 30 August 2019 and 16 were received. Responses were received from the Open Spaces Society, the Ramblers, the Barnet Society, the Hadley Wood Association, the local MP and Enfield Council. The remaining responses were mainly from local residents who have played an active role on the Common's management committee or the Friends of the Common, and in general the responses were supportive of the proposals. Only two of the property owners believed to have common rights (one of them being a former member of the management committee) responded and they had no objection to the proposals.

Paragraph 19 of the paper contained specific questions for consultees, who were asked to comment on any or all of them. No consultees responded to all the questions but by reference to the numbered paragraphs some responded as follows: –

19.1 The proposal to transfer the ownership of the Common from the Churchwardens as trustee to a new body ("the transferee")

There was only one objection to the proposal to transfer the ownership of the Common from the churchwardens to a new body and one other consultee was not convinced it was necessary. The person who objected later accepted that, in the light of the Churchwardens desire to transfer their ownership, he would accept the situation. One consultee (the Open Spaces Society) queried whether ownership and management of the Common may have been transferred from the Churchwardens to a rural parish council as a result of the Local Government Act 1894. Legal advice from Sharpe Pritchard that has been shared with the Society appears to have satisfied the Society that it was not transferred.

19.2 The proposal that the transferee own the Common free of the existing trusts in favour of the Commoners

There was no objection to this proposal.

19.3 The proposal that the transferee should be a charitable company limited by guarantee or (preferably) a charitable incorporated organisation whose objects would include the preservation of the Common as a place of public recreation and nature conservation. The proposal would be that the legislation would require successor transferees (for example in the case of insolvency) to be a body with similar objects (possibly requiring ministerial consent)

19.4 Please mention any alternative options which you think would be better, for example the local authority (potentially with powers to lease the ownership of the Common to a third party), a community interest company or a statutory body established by the new legislation

One consultee was concerned at the proposal to use a small local charity to own, manage and finance the Common as he was worried that in the future there might not be sufficient volunteers with the necessary expertise to run and finance the Common. He was strongly opposed to local authority ownership and management but felt that further possibilities, including transfer to a much larger established charity, should be investigated. Other consultees specifically objected to local authority ownership. The London Borough of Barnet did not respond to the consultation.

19.5 The proposal that the existing Commoners should play no further part in the management of the Common, by repeal of the rule making power in section 60 of the 1777 Act, and by abrogating all Rules made under section 60

There was no objection to this proposal.

19.6 The proposal that the Commoners' rights to use the Common for grazing should be preserved

There was an objection to this proposal from a consultee who was concerned about the potential impact of horses and other animals on the Common and those who use it for recreation.

19.7 The proposal that the transferee should have powers to make new rules in relation to grazing

There was no objection to this proposal.

19.8 Whether the transferee should have powers to make byelaws regulating the use of the Common as a place of recreation

The Open Spaces Society considered that a similar outcome could be achieved by means of an order of limitation under section 193 of the Law of Property Act 1925, and that this was a more appropriate procedure. Other consultees agreed that the transferee should have power to make rules, one consultee suggesting that there should be public consultation as to the byelaws.

19.9 Whether the powers of Barnet London Borough Council should be extended to enable it to make byelaws regulating the use of the Common (noting that this may not be something that the proposed private bill could make provision for unless the council joined in its promotion)

One consultee was reluctant to see Barnet Council's byelaws extended and preferred that the power be vested in the transferee but another was supportive of the proposal. Barnet Council did not respond to the consultation.

19.10 The proposal that the transferee should inherit the Churchwardens' ability to grant and require payment for new rights to make access ways across the Common for adjoining owners

There were no comments on this proposal.

19.11 The proposal to repeal the provision in the 1777 Act which provides that trees that are planted on the Common for shelter or ornament within 60 yards of adjoining owners' houses and lands are owned by that adjoining owner

Apart from a concern that no landowner should be able to reclaim a payment already made, there were no comments on this proposal.

19.12 The proposal not to give to the transferee the Churchwardens' powers to give consent to the removal or construction of pounds and pinfolds or to call meetings of Commoners

There were no objections to this proposal.

19.13 The proposal to repeal various minor and spent provisions in the 1777 Act

There were no comments on this proposal.

Other Comments

The consultation also generated a few suggestions for additional issues to be covered by the proposed legislation. They included a power to grant licences over the Common and an indemnity for the Churchwardens if the Common is transferred.

W O BOYES
Clerk to the Churchwardens
25-09-19