

Commons Act 2006

Factsheet 5: Town and Village Greens

Introduction

Town and village greens originate in customary law, where long-standing recreational use of land by the local inhabitants came to be recognised and protected by the courts. Greens are areas of land where local people have for many years indulged in lawful sports and pastimes, which might include organised or informal games, picnics, fêtes, dog walking and similar activities. A green can be in private ownership but many greens are owned or maintained by town and parish councils.

How can new greens be registered?

Under section 15 of the Commons Act 2006, land can be registered as a green if it has been used by local people for recreation 'as of right' (*i.e.* without permission, force or secrecy) for at least 20 years. Section 15 applies to the whole of England, except the New Forest, Epping Forest and the Forest of Dean.

Section 16 of the Growth and Infrastructure Act 2013 inserted section 15C and Schedule 1A into the Commons Act 2006, to exclude the right to apply to register land as a green when a trigger event has occurred within the planning system in relation to the land. The exclusion applies until a corresponding terminating event occurs in relation to the land. Schedule 1A to the 2006 Act lists the trigger and terminating events.

How can I apply?

You can apply to your commons registration authority if the right to apply has not been excluded, but the commons registration authority will confirm. The commons registration authority must seek confirmation from each local planning authority for the land, as well as the Planning Inspectorate, on whether a trigger or terminating event has occurred in relation to the land. Where the right has not been excluded, you will need to apply using form 44 (website address at bottom of this page) and provide evidence of the nature and extent of use of the land sufficient to satisfy the registration criteria.

Who can apply?

Anyone can apply to have land registered as a green if it meets the statutory criteria. Additionally, landowners can apply under section 15(8) to voluntarily register their land as a green but must obtain the consent of any leaseholder or chargeholder.

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www.gov.uk/town-and-village-greens-how-to-register

October 2013



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Is there any guidance available?

You can find guidance on making an application on the Government website (address at the bottom of this page).

For land in the following areas the procedure is slightly different: Cornwall, Devon (not Plymouth or Torbay), Hertfordshire, Kent (not Medway) and Lancashire (not Blackpool), Herefordshire, and Blackburn with Darwen. For land in these areas, please refer to the *Guidance for applicants in the pilot implementation areas*, also available on the Government website.

How are registered greens protected?

Town and village greens, once registered, are protected by:

- Section 12 of the Inclosure Act 1857 against injury or damage and interruption to their use or enjoyment as a place for exercise and recreation. It is a criminal offence to cause injury or damage to village greens.
- Section 29 of the Commons Act 1876 makes encroachment on, or inclosure of, a green, and interference with or occupation of the land, illegal unless it is with the aim of improving the enjoyment of the green.

What happens if an offence has been committed?

Where an offence has occurred, a prosecution in respect of section 12 of the 1857 Act can be brought by a churchwarden, the owner of the green, or by a parish, town or district council. Any inhabitant of the parish can bring a prosecution under section 29 of the 1876 Act, but you should seek legal advice before doing so.

How can greens be maintained?

The owner of a green cannot do anything that interferes with the lawful recreational activities of the local inhabitants. Greens in local authority ownership are often managed under the Open Spaces Act 1906 by the imposition of byelaws or with a scheme of regulation under the Commons Act 1899, but the law makes no provision regarding the maintenance of privately owned greens.

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