

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 now 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.

How can I apply?

If you wish to register land as a green you can apply to your commons registration authority (generally your county or unitary council). The registration authority will be able to advise on the procedures involved. You will need to 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.

In addition, under section 15(8), the owner of land may voluntarily apply to register that land as a green for use by local people (without any need to show previous use of the land for sports and pastimes). However, if the land is leased for more than a seven-year term, or subject to a charge (or mortgage), then the consent of the leaseholder or chargeholder must first be obtained.

When can I apply under the new provisions?

You should apply as soon as possible, and in any event within two years of any challenge to use of the land 'as of right' (for example, if the owner of the land puts up a fence around the land). As a transitional provision, you may be able to apply within five years of the date of any challenge which took place before 6 April 2007.

The owner of the land may apply voluntarily (under section 15(8)) at any time.

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www.defra.gov.uk/wildlife-countryside/protected-areas/common-land/index.htm



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Is there any guidance available?

You can find an application form and guidance on applying under section 15 of the Commons Act 2006 on the Defra website.

If you wish to apply within the areas piloting the implementation of Part 1 of the Commons Act 2006, the procedure for application is slightly different (but the criteria for registration are the same). The participating pilot authorities are the county councils of Cornwall, Devon (not Plymouth or Torbay), Hertfordshire, Kent (not Medway) and Lancashire (not Blackpool), the County of Herefordshire district council, and Blackburn with Darwen borough council. Please refer to the guidance for applicants in the pilot implementation areas on our website: you will need to obtain a form for application from your commons registration authority (do not use the form on the Defra 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.

October 2008

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