



# Registration of Town and Village Greens

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This note describes how town or village greens may be registered.

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## 1 What is a town or village green

Town and village greens have developed through customary law as areas where local inhabitants are able to indulge in recreation. These are usually areas of waste land over which prescriptive rights have been established. They share a similar history to common land and village or town greens may also be privately owned though many greens are owned and maintained by local parish or community councils.

The *Commons Registration Act 1965* defines town or village greens as:

... land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes or on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years.

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The *Countryside Rights of Way Act 2000* extended this legal definition to include:

... land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right...

## **2 Registration**

The *Commons Registration Act 1965* makes local authorities, as commons registration authorities, responsible for maintaining Registers of Town and Village Greens.

The process of registering a green can be quite complicated. Land may become a town or village green in one of three ways: it may be allotted by an Act of Parliament for the exercise or recreation of the inhabitants of any locality; the inhabitants of the locality may have a customary right to indulge in lawful sports or pastimes, (a right established by ancient usage, perhaps dating back for centuries); or for not less than 20 years a significant number of the inhabitants of any locality or of any neighbourhood within a locality have indulged in lawful sports or pastimes as of right (as of right means openly, without force and without permission). This third category is the basis on which most greens are now registered. It should not matter who owns the green if the sports or pastimes have been practiced as of right.

### **2.1 Trap Grounds**

The Trap Grounds case was appealed to the House of Lords. An attempt was made to prevent the registration of a village green by preventing access to the land prior to its registration. In an earlier hearing in the Trap Grounds case, the Court of Appeal had held that in order to register a new town or village green, use had to be shown up to the date of *registration*. In 2006 the House of Lords reversed the decision of the Court of Appeal and the position is now that use has to be shown up to the date of *application*.

### **2.2 Commons Act**

The *Commons Act 2006* has prescribed a specific period of grace for the registration of a town or village green after access has been prevented, along with a number of other important measures which:

- Enable any person to apply to a registration authority to register land as a town or village green where it meets the qualifying criteria;

- Simplify the current 'locality or neighbourhood' formula in the qualifying criteria, which has proved difficult to interpret. Applicants will instead need to show that a significant number of local inhabitants used the land for recreational purposes as of right;
- Prescribe in the Act a specific period of grace after use as of right has been ended by the landowner, during which application to register the land may still be made. This period would normally be 2 years, with a transitional arrangement that it should be 5 years in cases where use as of right has already been ended before commencement of section 15 of the Act;
- Prevent use as of right being ended in future, where 20 years' use as of right has already been accumulated, by the owner subsequently granting permission for people to use the land;
- Require any period of statutory closure of the land prior to an application being made (e.g. during a foot and mouth outbreak) to be disregarded when deciding whether there has been 20 years' use as of right. The actual period of statutory closure would not count towards the 20 years, but neither would it restart the clock for this purpose; and
- Allow for the first time the owner of any land to register it voluntarily as a green, without having to show 20 years qualifying use, but subject to the consent of any leaseholder or holder of a financial charge over the land.

The new measures have been introduced in the *Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007* and came into force on 6 April 2007. Guidance for applicants has been made available by Defra:

[Defra website : Town and Village Greens](#)