

How to Fight for Town Green Status: the Oxfordshire Experience

Town and village greens evoke in most of us a chocolate-box image of a small, manicured area of grass in the centre of a rural village, where cricket is played in the long summer evenings, encircled by picturesque thatched cottages, with an olde-style pub, and if you're lucky, a child-friendly duck pond thrown in for extra measure.

In reality, they are much more than that, and are very varied indeed, as campaigners in Oxfordshire have found.

According to the Open Spaces Society, there are approximately 3,650 registered greens in England and about 220 in Wales, covering about 8,150 and 620 acres respectively.

The law on Town Greens has recently been clarified thanks to two legal cases in Oxfordshire, namely, the Trap Grounds case in North Oxford (2006), which ended up at the House of Lords, and the Warneford Meadow case in East Oxford (2010), which ended up at the High Court.

What is a Town Green?

In law the term 'town green' (which means the same as 'village green') refers to common land. This land need not be green or pleasant; indeed the Trap Grounds Town Green in North Oxfordshire began life as an old rubbish tip!

According to the Commons Act a 'green' is any land on which a significant number of inhabitants of any area have indulged in lawful sports and pastimes, for twenty years, as of right.

The definition of a Town Green was clarified in the recent Warneford Meadow Town Green case, where the Judge said: "A town or village green is land which is subject to the right of local people to enjoy general recreational activities on it. There is no legal requirement that it should consist mainly of grass, be situated in or in reasonable proximity to a town or village, or be suitable for use by local inhabitants for traditional recreational activities."

Who can register an area a Town Green?

If you can prove that a significant number of local people have used the land without permission or hindrance from the landowner or entered by force, for at least twenty years for lawful sports and pastimes, you can apply to register the land as a new green.

In the Warneford Meadow case the Judge said: "The legislation requires proof of user by a significant number of the inhabitants of "any" neighbourhood." As such anyone can now apply to register land as a new green, whether or not she/he is a local person or has used the land for recreation.

Why claim Town Green status?

Town Green status will protect an area of land from development for posterity and preserve it for use by local people.

However getting land registered as a Town Green is far from simple. In Oxfordshire, it has taken long, trenchant and expensive campaigning and legal action that went all the way to the House of Lords to get the law clarified and to obtain Town Green status.

Probably the single most important lesson learnt in Oxfordshire has been the importance of having a strong, committed and skilled team behind the Town Green campaign.

From experience, teamwork has proved critical to the success of the campaign, along with good organisational and campaign skills.

Here is a step by step guide on how to fight for Town Green status.

1. Registration

To register land as a green:

- First check with your registration authority whether it is already registered.
- If it is not, ask your local authority for Form 44 and the regulations contained in the Commons Regulations 2007.

2. Preparing the application

When preparing your application, follow the steps below:

- You will need to show on a map the area you wish to register and the locality or neighbourhood in which those using the green 'as of right' live.
- You will need to show that a significant number of those people who use the land are local people.
- You will need to show that those using the green have done so without permission, without being stopped or seeing notices which stop them, and without being secretive about it, and that between them they have done this for a continuous period of 20 years.
- Provide as much evidence as possible, but quality is more important than quantity (the collation of evidence can be a lengthy and difficult process.)
- Further information about the criteria for registration of land can be found in section 15 of the Commons Act 2006.
- And most importantly, you need expert advice! The Open Spaces Society (www.oss.org.uk) can give you details of solicitors who specialise in this complex area of the law and help you to prepare your evidence.

3. Submitting your application

- You should submit your application to the registration authority for determination.

- The registration authority will check it is in order and will then advertise it and receive any objections.
- If the authority registers the land as a green, this should protect it from development and local people will have the right to continue to enjoy the land for informal recreation.
- Unfortunately, there is no limit to how long the process can take.

4. Legal proceedings

- If there are any objections to the application, the authority will appoint an independent inspector to hold a public inquiry into the application and afterwards, to write a report setting out his/her recommendation as to whether the authority should accept or reject the application.
- If the Inspector's decision to award Town Green status is refuted, the case will go to Judicial Review (a Judicial Review is a process by which the legal soundness of a public authority's decision may be challenged in the High Court).
- If the outcome of the Judicial Review is refuted, it can proceed to the Court of Appeal.
- If the outcome of the Court of Appeal is refuted, it can proceed to the House of Lords.
- There are several useful court cases concerning registration of land as new greens which have clarified the law. Further details can be found on the OSS website (www.oss.org.uk).

5. Fundraising

- It will be necessary for the local campaign group to raise funds for legal costs, such as paying for legal advice and legal representation (Friends of Warneford Meadow, Oxfordshire, raised in excess of £75,000 to fight for Town Green status!).
- The Oxfordshire Branch of CPRE publicly supported the Friends of Warneford Meadow in their Town Green campaign, thereby helping them to raise their profile and giving publicity to fundraising events.

6. Managing and Protecting Town Greens

Once an area has been awarded Town Green status, it may become necessary to set up a management scheme for the site or voluntary conservation work parties to ensure the smooth running and management of the area.

- It is common for groups who have worked hard to win Town Green protection for sites to then have to apply for grants in order to improve public access to the area (eg: the Friends of the Trap Grounds were awarded £15,000 by the Trust for Oxfordshire's Environment (TOE) and £5,000 by the national Lottery Awards For All scheme towards the cost of a new walkway alongside the stream).

It may also become necessary to protect the new green from encroachment, enclosure, the erection of buildings, disturbance or interference of some kind.

- Protection is awarded under section 29 of the Commons Act 1876, together with section 12 of the Enclosure Act 1857.

7. Enjoy!

Once Town Green status has been awarded make sure you enjoy the benefits it offers!

- Here are just a few of the activities that have been organised by local people in Oxfordshire to encourage people to enjoy and look after Town Greens; communal picnics, apple days, illustrated talks and guided walks, volunteer working parties, early bird song walks, litter picking days, bramble blitzes, moth nights, damsels and dragonflies days, bat box days, and woodland art and craft days.
- It is a good idea to publish a book or leaflet about the area; including maps, walks, and examples of birds, mammals and insects to be found on the site.
- It is also useful to create a website for the Town Green; it can be used to advertise activities and events on the Town Green and can be used by local people to post recent sightings of rare or threatened species.

Further Information

If you are currently thinking about or trying to register a new green, and you need help and/or advice, or if you think somebody may be disregarding laws protecting village greens, see the OSS website for expert advice: www.oss.org.uk.