

Common Land and Town or Village Green Applications

Advice to applicants

Hertfordshire County Council (“HCC”) is the registration authority for common land and town or village greens in Hertfordshire.

Applications can be made to amend the register of what is shown as common land and town or village green under the Commons Act 2006.

This document provides some initial advice to applicants regarding commons and town and village green applications. However HCC advises all potential applicants to contact HCC’s Countryside and Rights of Way Service, on **01992 588 433** or commons&greens@hertfordshire.gov.uk, before preparing an application.

Registration of new town or village greens

Town or village greens are areas of land over which inhabitants of the locality hold customary recreational rights.

Town or village greens are recorded by law in a register which provides conclusive proof of their registration. By being so recorded they are protected from development so that they can be enjoyed by local people for recreational purposes.

Any member of the public can make an application to record a piece of land as a town or village green. Such applications are made under section 15 of the Commons Act 2006, using form “CA9”. This can be obtained from HCC and is also available to download on our website:

<http://www.hertfordshire.gov.uk/services/envplan/countrysideaccess/commonsgreens/>

Before making a town or village green application

It is highly recommended that before applying to record a town or village green you check whether the land is:

- 1) owned by a public authority
- 2) already registered as Public Open Space; or
- 3) subject to a planning-related event.

1) Land which is owned by a public authority (e.g. HCC or a district/borough council, the NHS, the Ministry of Defence) may not be registerable as town or village green if the purpose for which the land is held is incompatible with public rights of recreation. Please note that it is not necessary for the land to actually be in use for the purpose it is held.

2) There should be a publicly available list of every piece of Public Open Space in the district/borough. The land may also be governed by local bylaws. Land which is

already Public Open Space **cannot** be registered as village green because the public already has a right to use the land.

3) In 2013, the law relating to the registration of town or village greens changed. The commencement of the Growth and Infrastructure Act 2013 means that there is now no right to apply for registration of a town or village green if any of a number of planning-related events (called “trigger events”) has occurred in relation to the land. The right to apply only becomes available again if a corresponding “terminating event” has occurred in relation to the land.

Example of “trigger event”: an application for planning permission or a draft of a development plan.

Example of “terminating event”: an application is withdrawn or all means of challenging a refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.

The trigger and terminating events are set out in Schedule 1A to the Commons Act 2006 (as inserted by Schedule 4 to the 2013 Act). A copy can be read here: www.legislation.gov.uk/ukpga/2013/27/schedule/4/enacted

Please check these three points first to avoid putting yourself unnecessarily to a great deal of time and effort.

The application form (CA9) must be properly completed and accompanied by evidence to support the application. Land cannot be registered as town and village green merely because the applicant would like it to be so; it must be proved that it has been used in a way that fits the legal definition of a town or village green, which is that:

“A significant number of inhabitants of any locality or neighbourhood within a locality have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years”. Use of the land in this way must either still be happening at the time of application or the application must be made within **one year** of use ceasing.

If there are objections to your application (for example, from a landowner) it is likely that the matter will proceed to a public inquiry. Town or village green public inquiries are usually chaired by an independent Inspector, experienced in this area of the law. **Please note** that both parties (the applicant and the objector) will be responsible for preparing and presenting their own case at public inquiry, without the assistance of HCC. As the registration authority, HCC’s role is to remain impartial in order to administer the legislation. Where HCC is also the landowner and there is a potential conflict of interest, the decision will be made by the Planning Inspectorate.

Applying to register a town or village green is fairly complex and will involve the applicant in considerable time and effort. For this reason, the applicant is strongly recommended to read the Open Spaces Society’s publication “**Getting Greens Registered**” which can be obtained from: www.oss.org.uk or telephone 01491 573535.

This publication is an easy-to-understand guide to the law and procedure for getting town or village greens registered. It is particularly helpful in explaining the legal tests that need to be met by every application and it is a useful reference when making your application. HCC will not be able to advise or assist because it must remain impartial.

Guidance is also provided by [DEFRA](#). Please note that HCC is a pioneer authority for the Commons Act 2006 and therefore the advice given is slightly different for applications made within Hertfordshire.

Applications to amend current registers:

Prior to the Commons Act 2006, there was no provision to amend mistakes recorded in the registers, or update the information held.

Applications can now be made to alter the rights recorded for common land. **Please note** that fees may be chargeable for certain applications. There is a schedule of fees suggested by Defra, and HCC has used this to set the fees HCC charge. HCC can change these fees but HCC would need to advertise our proposal to do this on our website for at least 2 weeks prior to making the change. HCC's current fees are listed on our website:

<http://www.hertfordshire.gov.uk/services/envplan/countrysideaccess/commonsgreens/>

Please note that there are 15 different applications forms available, to cover over 20 different reasons for amending the registers of common land and town or village greens. These can be broken down more simply into amending the current registers, (i.e. land/rights) and adding new information (land/rights).

A full list of the applications which can be made is provided on our website using the link given above. The legislation under which the applications can be made (please refer to Part 1 or Schedule 2, as applicable) can be viewed at:
<http://www.legislation.gov.uk/ukpga/2006/26/contents>

When applying, please ensure you use the Commons Act 2006 application documents available on our website. Defra has provided guidance notes for applicants, to help you, and the links are given below:

[Guidance Note for applicants](#)

[Fact Sheet 1: Registration and the pilot implementation](#)

[Fact Sheet 2: Wrongly registered land](#)

[Fact Sheet 3: Correcting the register](#)

[Fact Sheet 4: Registration of new events](#)

[Fact Sheet 5: Town and Village Greens](#)

[Section 40 transitional period – explanatory notice](#)