

Town and Village Greens

Briefing note

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Developers – ‘Stop that development!’

I own a piece of land, which I wish to develop. I have planning permission, but an application has been made by local residents to register it as a Town or Village Green. What happens next?

The right for people to apply to register land as a town or village green has been around for over fifty years, but development of legislation and case law since 2007 has made the process considerably easier, much to the consternation of landowners and developers.

The Supreme Court has recently revisited the issue and provided valuable guidance as to when an application should succeed and what happens if registration takes place.

In basic terms, if a significant number of local residents use a piece of land for recreational purposes for a period of at least 20 years, they may apply for that land to be registered as a town and village green. Such registration

has the effect of permanently protecting their right to use the land for such recreational purposes and will potentially be a bar to development.

To make the application, they have to show that they used the land ‘as of right’, which is legally defined as being without force, secrecy or permission. There are time limits on applications being made after use has ceased, but the question of when a use stopped and for what reason are sometimes far from clear.

Confusion has arisen in cases where local people using land for recreational purposes have either been asked to desist, given permission of have deferred to the landowner’s use of the land. For example, people walking dogs across a golf course stopping to allow golfers to play through.

The Supreme Court has now clarified that even where locals have been recently granted permission or defer to a landowner’s use of the land, they

may still successfully apply for registration of the land as a town or village green.

The Court said that registration was not a bar to the landowner’s use of the land, but that it meant that a landowner could not do anything that might interfere with the protected recreational rights of local inhabitants.

Any development of land registered as a town or village green will therefore be open to an order for removal and reinstatement of the land if it interferes with the protected rights of third parties.

Clearly, this is an issue of grave concern to developers and landowners alike.

Careful consideration needs to be given to how best to protect land from such applications and strategies need putting in place well in advance of development if such recreational use exists.

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