

## **Registration of Town or Village Green Applications – A Guide**

This guide provides an overview of the basic law relating to the registration of land as a Town or Village Green and the procedure for dealing with applications at Milton Keynes Council. It is correct as at September 2018.

The Commons Act 2006 (“the 2006 Act”) provides for applications to be made to the Registration Authority, Milton Keynes Council, to register land as a new Town or Village green. This process is a matter of considerable significance that will require commitment from the applicant and Milton Keynes Council.

If the land is not registered, the process for making an application is set out in the 2006 Act and the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007.

Firstly, the applicant should check that the land is not already registered as a town or village green. The applicant can do this by contacting the Rights of Way team at [rightsofway@milton-keynes.gov.uk](mailto:rightsofway@milton-keynes.gov.uk), which is the relevant authority for town and village greens in Milton Keynes.

The relevant steps/process for making an application to Milton Keynes Council, where the applicant is not the landowner, is set out below.

### **Rights of Way Data Protection Privacy Statement**

We collect and use information about you so that we can provide you with Rights of Way services under Commons Act 2006 Legislation. Full details about how we use this data and the rights you have around this can be found at [www.milton-keynes.gov.uk/waste-recycling/environment-and-waste-gdpr-information](http://www.milton-keynes.gov.uk/waste-recycling/environment-and-waste-gdpr-information). If you have any data protection queries, please contact the Data Protection Officer at [data.protection@milton-keynes.gov.uk](mailto:data.protection@milton-keynes.gov.uk)

## **Preliminary Matters**

The applicant needs to check that:

- 1) The land is not subject to one of the 'trigger events' associated with proposals or plans for development, in schedule 1A to the 2006 Act. Examples of these trigger events include an application for planning permission and identification for potential development in a draft development plan document, proposals for a neighbourhood development plan or a local development order. Unless the trigger event is later withdrawn, expires in some other way, once the land is subject to a trigger event, the right to register it ceases to apply.
- 2) A landowner has not deposited a statement, under s15A of the 2006 Act, bringing to an end any period of use for lawful sports and pastimes as of right or, if they have done so, that they have done so only recently and that the application is to be submitted within a year of that statement having been deposited.

An applicant should check the land ownership of the land prior to making an application. If the freehold of the land is owned by the Council, a copy of any land transfer document can be requested. Information set out in a land transfer document can show any restrictions that exist on the land and the purpose for which the land is held.

Under s15(1) of the 2006 Act, anyone can apply to register land as a new town or village green, however the registration will only be made if it can be shown that the land has been used:

- 'as of right' (i.e. without secrecy, permission or force);
- For a period of at least 20 years;
- For the purposes of lawful sports and pastimes
- By a significant number of the inhabitants of any locality, or of any neighbourhood within a locality; and
- Use has continued up until the date of application or, if this is not the case, use has ceased no more than one year prior to the date of application

An application to register land as a town or village green needs to be 'duly made'. In other words, the application itself must comply with the requirements of the 2006 Act, as set out in Stage 1 below. All criteria must be met to satisfy the requirements.

## **Stage 1 – Making the Application**

If the applicant wishes to register land as a town or village green, they may find it useful to visit the Department for Environment, Food and Rural Affairs (Defra) website<sup>1</sup>, <https://www.gov.uk/guidance/town-and-village-greens-how-to-register>

which includes guidance notes and an application form to download – the ‘Town and Village Green Registration Application form’ (Form 44) or alternatively the applicant can ask Milton Keynes Council for Form 44. Also additional advice can be sought from the Open Space Society through this link <http://www.oss.org.uk/what-we-do/village-greens/> .

The applicant also will need to supply the following documents:

### **1. A map showing the boundaries of the proposed village green**

- This should be an Ordnance Survey map<sup>2</sup>, on a scale of not less than 1:2,500
- The map must show the land which you want to register by means of distinctive colouring (e.g. a red outline) so it can be accurately identified by the registration authority
- The map must be marked as an exhibit to the statutory declaration which accompanies the application, e.g. ‘Exhibit marked A referred to in the statutory declaration of [name of solicitor] made this [date] before me [signature and qualification e.g. “Solicitor of the High Court”]’
- Land Registry title maps may be acceptable which can be downloaded as an A4 sheet<sup>3</sup>

### **2. A map outlining the area that local users of the land come from**

- Submit a map following the guidance in point 1 above or;
- (You should generally use a map unless the description you use is by itself sufficient to identify the boundaries of the locality or neighbourhood you rely on. So, for example, a reference to the ‘ parish of X’ is likely to be sufficient)

### **3. A completed Statutory Declaration (this is included in Form 44 and must be witnessed by a solicitor or magistrate)**

### **4. Evidence forms or letters of support from residents – this should describe when and how residents use this land**

- These can be witness statements, witness forms of evidence and photographs

The completed form should be sent to the Rights of Way team at Milton Keynes Council, Synergy Park, Chesney Wold, Bleak Hall, Milton Keynes, MK6 1LY.

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<sup>1</sup> See <https://www.gov.uk/town-and-village-greens-how-to-register>

<sup>2</sup> See [www.ordnancesurvey.co.uk](http://www.ordnancesurvey.co.uk), or phone 08456 050505.

<sup>3</sup> See [www.landregistry.gov.uk](http://www.landregistry.gov.uk)

## **Stage 2 – Receiving and Validating the Application**

On receiving the application, Milton Keynes Council must allot a distinguishing number to the application and mark it with that number, and must stamp the application indicating the date when it was received. Milton Keynes Council will send the applicant a receipt of the application containing a statement of the number allotted to it and preliminary checks will be carried out to check the application is duly made and valid. This process will take up to 10 working days.

Following receipt of the application Milton Keynes Council will carry out preliminary checks. It must check whether the right to apply for green status is excluded on the grounds that it is subject to one of the trigger events in schedule 1A of the 2006 Act, or a landowner's statement has not been deposited and/or if the application contains the minimum supporting documents required (see above).

Before the application is validated Milton Keynes Council will check if the application complies with:

1. The steps in Stage 1 above;
2. Ensure the land is not subject to one of the 'trigger' events as described under Schedule 1A of the 2006 Act; and
3. Ensure that a landowner's statement has not been deposited.

If it is decided that the application is incomplete or otherwise unacceptable (i.e. that it is not 'duly made'), then the application can be returned to the applicant to allow for amendment and to resubmit it with the necessary changes. Alternatively, the application can be rejected without any further steps if the deficiencies are not remediable (e.g. because no evidence of use is given). From sending the receipt letter Milton Keynes Council will undertake to complete the validation process within two months.

### **Stage 3 – Making the Decision**

After Milton Keynes Council has validated the application it will:

- a) give notice to every person that it believes to have an interest in the land or to be likely to wish to object to the application;
- b) publish a notice of the application (e.g. in a local newspaper);
- c) fix a notice of the application on some conspicuous object on the land; and
- d) make the application available for inspection by the public at Milton Keynes Council offices and Central Milton Keynes library.

The above will be carried out from 'a' to 'd' within 21 days.

Milton Keynes Council allows a period of not less than six weeks during which objections or other comments to the application can be lodged.

At the end of this period any objections received will be sent to the applicant who is entitled to give their response to the objections lodged. The applicant should do this in writing, by letter or email to Milton Keynes Council. Our guidance will be that the parties involved have 28 days to comply unless the Council considers that there is good reason to extend this period.

The application will then be carefully considered by Milton Keynes Council in accordance with the legal tests. A report will be submitted to the next available Council Regulatory Committee. Applicant, objector(s) and others that have expressed an interest in the application will be notified with the details of the Committee. The date and time and relevant procedures such as an individuals' right to address the Committee will be made clear; along with Copies of the agenda and accompanying papers.

In some cases, it may be possible to determine the application on the evidence provided. However, where there is a significant conflict of fact or evidence that cannot be resolved through written representations, the Council will appoint an independent inspector to hold a non-statutory Public Inquiry to hear evidence from the interested parties, and to produce a report with their findings for Milton Keynes Council to make the final decision. The final decision whether to go to public inquiry is with Milton Keynes Council's Regulatory Committee.

In determining the application, the Registration Authority are required to apply the legal criteria summarised above; they are unable to take into account any other matters such as amenity, desirability or suitability.

Once the investigation is complete or the inspectors report has been received the case officer, who would have been allocated to deal with the application, will produce a report summarising the facts of the case and providing a recommendation as to whether the application should be accepted or rejected. The final decision to determine the application will be taken by the Council's Members from the Regulatory Committee.

Should an application be received whereby the land owner is Milton Keynes Council then to ensure there is no bias, it shall seek external independent advice on the application. The application and supporting evidence will be reviewed by the independent inspector to assess whether the legal criteria are met and a written report produced providing a recommendation. Upon receipt of the independent inspectors report, the case officer will produce a report summarising the inspector's findings and provide a recommendation as to whether the application should be accepted or rejected. The final decision to determine the application will be taken by the Members of the Council's Regulatory Committee.

Where external advice is taken or a public inquiry is to be convened the timescales will be dictated by a number of factors, including availability of Counsel, stakeholders and Committee schedules.

## **Stage 4 – After the Decision**

**Application granted:** Milton Keynes Council must enter the town or village green on the register of town or village greens and give notice of details of the registration to:

- The applicant; and
- Every person whose address is known to Milton Keynes Council and who objected to the application

If land is registered as a town or village green, then local residents will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis. Registration as a town or village green is irrevocable and so land must be kept free from development and other encroachments.

**Application rejected:** Milton Keynes Council must give notice (with reasons for the rejection).

The 2006 Act provides no right of appeal against the decision to register land as a green or not to do so; the only means of challenge available is by application to the High Court for judicial review. Judicial Review can be sought if the application is granted as well as rejected. Anyone considering this action should take independent legal advice as soon as possible following the decision.

## **Voluntary Registration**

Under Section 15 (8) of the Commons Act 2006, the owner of any land, may dedicate their land as a town or village green, by applying to the registration authority to have it included in the register of town or village greens. It is open to any landowner – including a private individual, organisation, or a public body.

Once a town or village green has been registered voluntarily, it will be subject to the same statutory protections as all other registered greens and local people will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis.

The application for voluntary registration must follow the same process as set out at stage 1 of this guide, with the exception of point (4); instead of point (4) the landowner must consult and seek the consent of any lease or charge holder in advance of the application, to inform them of the intention to seek voluntary registration. The landowner will need a signed document, with the lease or charge holders address, a statement of the nature of their relevant interest, and their formal consent to the application. If there is no such lease or charge holder a signed document will not be required.

Although the application process at stage 1 will apply, a landowner who applies to the registration authority to voluntarily register their land, will not have to meet the statutory criteria under section 15 of the Commons Act 2006.

Upon receipt of the application, Milton Keynes Council must allot a distinguishing number to the application and mark it with that number, and must stamp the application indicating the date when it was received. Milton Keynes Council will send the applicant a receipt of the application. The registration authority is not required to advertise the application and does not have to examine the merits of registering the land; it need only be satisfied that the landowner is legally entitled to apply to register.

## Flow chart of Town & Village Green process

