

CHALLENGING REGISTRATION OF A VILLAGE GREEN

The Commons Registration Act 1965 provides for land to be designated as a Village Green after it has been used for recreation by local people for a period of 20 years.

The land need not be public land, it applies to land owned privately by an individual. The cases of *Taylor v Pitamant Properties (Weymouth) Ltd and Adamson v Paddico (267) Ltd* recently gave welcome clarification on the ability for a private land owner to challenge the registration of their land as a Village Green.

The ability of the Land Owner to challenge the registration of their land as a Village Green is a powerful one. The Court is given an ability to carry out a full hearing of the issue (rather than simply an appeal) and there is no time limit within which the Land Owner must bring the application to challenge the registration.

In the above cases, the Land Owners brought a challenge to the registration with a delay of some 4 and 13 years respectively from the date of original registration. The Supreme Court has confirmed that the Court will not impose a strict arbitrary timescale on the timescale within which the application to challenge registration must be brought. The only test was whether it was just on the facts of the particular case in front of the Court to order amendments of the register.

In reaching a decision on whether it is just or not, the Court will look at the time at which the Land Owner became aware of the registration, whether the Land Owner had allowed the public use of the property by the public without taking steps to prevent that use, and whether anybody suffered detriment or prejudice by the removal of the registration.

On the facts of the above cases, the Court found that it was just to deregister the Green and accordingly the Land Owner was successful in having the land removed from the register as Village Greens.

The 1964 Act has been replaced in part by the Commons Act 2006, which has been introduced in stages across the country. Essex continues to operate under the 1965 Act outlined above.

Should you need any assistance with regards to any of the issues raised in the above, please do not hesitate to contact Ellisons Solicitors' Property Litigation Department.

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