

Section 47 Planning (Wales) Bill: The reduction of the period for making certain applications for registration

Provision in the Planning (Wales) Bill

Section 47 of the Planning Wales Bill amends section 15(3)(c) of the Commons Act 2006 so as to reduce the period within which a town or village green (“TVG”) application can be made (after the requisite 20 years of recreational use “as of right” has ceased) from two years to one year. It also repeals existing law applicable to England only.

Environment and Sustainability Committee recommendation

Recommendation 41 of the Planning (Wales) Bill Stage 1 Committee Report by the Environment and Sustainability Committee recommends that the Minister brings forward amendments to the Bill to remove Section 47 from the Planning (Wales) Bill. The report does not present a reason for this change.

Supporting evidence for change

As part of their consultation on reforms to the TVG registration system¹, DEFRA had received evidence which suggested that while some felt that the two year period of grace for registering new greens was too short; the majority felt it was too long². This change was taken forward in the Growth and Infrastructure Act 2013, which amended section 15 of the Commons Act 2006 to reduce the period in which a TVG application can be made (after the requisite 20 years of recreational use “as of right” has ceased) from two years to one year.

Evidence has been received in Wales which suggests that the TVG registration system is used to frustrate development rather than for the purpose of protecting an important area of land³. The provision at section 47 of the Planning (Wales) Bill forms a package of reforms which seeks to remedy the negative way in which the TVG registration system is used.

In their evidence to the Committee, the Open Spaces Society’s main objection to the proposals was their fear that people will not know that the land that they have used “as of right” is under threat from a proposed development until it is too late to save it⁴. This evidence makes no specific mention of the reduction of the period of grace from two years to one year, and relates mainly to the trigger and termination events at Schedule 1B. Their evidence does not counter the view that the planning process

¹ DEFRA: Consultation on the registration of new town or village greens, July 2011

² DEFRA: Town and Village Green consultation: Summary of responses, November 2012

³ Welsh Government: Positive Planning, November 2013

⁴ Open Spaces Society: Evidence to the Environment and Sustainability Committee, 27 November 2014

LF/CS/0214/15 – Annex B - Town & Village Greens

provides ample opportunity for the community to comment on the future use of land, where a proposal to develop a site is made.

We consider that our proposal to change the 2 year period of grace will have a positive impact in removing a prolonged period of uncertainty for developers and communities where land has ceased use “as of right”.

One of the perceptions of the TVG registration system is that significant time and resources are required to compile and submit an application to register a TVG. Hence, there is a perceived requirement for a two year period of grace. It is our view that the work required to produce an application to register a TVG does not merit a two year period of grace as one year provides ample opportunity for the community to produce an application and to become aware that land is no longer used “as of right”.

The Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007 sets out the requirements to be contained in applications to register TVGs. Those requirements are⁵:

- The TVG application form and statutory declaration⁶, signed by the applicant or duly authorised officer of applicants which are bodies;
- A map of the site at a scale of at least 1:2,500; and
- A copy of any other documents which support the applicant’s case.

We consider the requirements of the application to be less onerous than that to produce a planning application, as there is no requirement for technical information or surveys. The more complex information required by the application form comes in the form of a justification of the proposed registration from the applicant. This is simply a statement, and others may be provided from witnesses.

The bulk of the work relating to applications to register TVGs is undertaken by the Commons Registration Authority following the presentation of an application to register a TVG which complies with the minimum standards set out in the Regulations. At this point, an application to register a TVG would have already been made within the period of grace. The remit of the Commons Registration Authority will be to look carefully at the evidence supplied with the application, and they may accept or invite further evidence from the applicant or third parties after the submission of the application. They may also decide to inquire into the application

⁵ Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007; Regulation 3

⁶ TVG application form and statutory declaration:

<http://wales.gov.uk/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/guidelines-on-the-commons-act-2006/section-15-application-form/?lang=en>

LF/CS/0214/15 – Annex B - Town & Village Greens

through either a hearing, inquiry or a case before the Council's relevant committee of the authority, to test the evidence impartially.

The DCLG issued a call for evidence in their consultation on the registration of new town or village greens in July 2011 asking TVG applicants to quantify the time spent gathering evidence from potential users of an application site. In response to that consultation the time taken ranged from 9 days to 22 days⁷. This time is taken to include the information gathered before the making of an application as well as after the submission of an application to register a TVG.

We therefore consider the change at section 47 of the Planning (Wales) Bill gives a proportionate amount of time to gather sufficient evidence to submit an application to register a TVG.

⁷ Reforms to the town and village green registration system: Impact Assessment No: Defra1470, September 2012.

