

# LAND LAW

## COMMONS BILL UPDATE

The Commons Bill currently before Parliament has received a few amendments this year, but still looks set to proceed through both Houses largely unhindered. Recent amendments deal largely with the legal procedures pertaining to common land and in sympathy with most of the Bill, seek to make common land law easier to understand, easier to apply and more fitting for the 21st Century.

The new Bill makes the notification of village greens easier, as well as facilitating the administration of the so-called "Scheme of Regulation Commons"; these are commons where the local authority assumes the management responsibility, usually where the actual owner cannot be traced. The latest amendments to the Bill clear up any grey areas in these and many other processes, all of which are strictly governed by legislation.

But while the new legislation affirms the power of local authorities to act against illegal use of the commons (such as fencing or building on them) it doesn't impose a duty upon them to or give the public the power to make local authorities act.

Many commons are wonderful places for wildlife and require careful maintenance to remain so. As a result of lobbying from wildlife organizations, sustainable management and the need to take account of wildlife when carrying out works on common land are now crucial to many elements of the Bill.

The latest version of the Bill can be seen at [www.publications.parliament.uk](http://www.publications.parliament.uk) and it is anticipated that the Bill will get Royal Assent shortly, following a third reading in the House of Commons and affirmation in the House of Lords.

The 6th National Seminar on Common Land & Town & Village Greens will be held on 14th & 15th September 2006, in Cheltenham. For further details check [www.glos.ac.uk](http://www.glos.ac.uk)

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## CIVIL WAR OVER OXFORD TOWN GREEN

It's not quite *Jarndyce v Jarndyce*, but *Oxfordshire County Council v Oxford City Council*<sup>1</sup> does sound like an intriguingly internecine court-case. It concerns the nine acre Traps Grounds, in north Oxford, and as one might expect the County Council fought to keep it green while the City Council, which owns it, wants to build houses on it. Pressure to register the land as a green comes from a local group called Friends of Traps Grounds.

The case was heard by the House of Lords in May, and when they delivered their judgment in favour of the County, campaigners for town greens everywhere breathed a sigh of relief. The law states that to qualify as a green, land must have been enjoyed by local people without being stopped for 20 years. But when *Oxford County v Oxford City* went to the Court of Appeal in 2005, the judges ruled that the owners could block registration by sticking up notices forbidding access to the public, even after the 20 years had elapsed and even though an application for town green status was pending. This effectively made town green status impossible to achieve anywhere without a willing landowner.

The Law Lords, led by the usually helpful (unless you are on death row in Jamaica) Lord Hoffman, reversed this decision, so now the County Council is free to register the land as a green, thereby saving it from housing development. The case is good news for people applying to register greens all around the country. The Open Spaces Society, who provided substantial funding towards the legal costs, state that other applications which now have a chance of succeeding include town greens in Cannock, Didcot, Coventry, Walsall, Hayling Island, Wargrave, Mill Hill, St Albans, Orpington and the London Borough of Richmond.

1. The judgement's full title is *Oxfordshire County Council (respondents v Oxford City Council (appellants and Another (respondent and Others (2006) UKHL25* The judgment is at [www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060524/oxf-1.htm](http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060524/oxf-1.htm).



Information from *The Open Spaces Society*.

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## "SQUATTERS RIGHT TO TITLE OVERTURNED BY EU COURT"

That was the headline in *Farmers' Weekly* and landowners organizations generally have been getting excited by the recent European court case of *Graham v Pye*. In 1997, the Lords awarded the Graham family possession of land near Thatcham, Berks, which they had occupied and grazed for 14 years after their grazing licence expired. But the case was taken before judges at the European Court of Human who overturned the original ruling and the registered owner of the land, JA Pye of Oxford, has reclaimed it with a development value of more than £10 million.

Sarah Denney-Richards of MFG solicitors said the ruling would make it much harder for squatters to make future claims to adverse possession (the ability to assume ownership after squatting for over 12 years.) But according to Jim Paton of ASS:

"The EU ruling does not affect unregistered land; and since the Land Registration Act of 2002 has already made it pretty difficult to claim adverse possession on registered land, not a great deal has changed. The government has recently completed one round of legislation and it's not going to do it all over again just to comply with an EU ruling. It will more likely just pay compensation to injured landlords".

Meanwhile Christopher Price at the Country Land and Business Association said the decision showed how vital it was to register land at the Land Registry.