



Public Open Spaces – Open Spaces Act 1906

'Management of land as public open space under section 10 of the Open Spaces Act 1906 or other similar legislation is likely to be a bar to registration of the land as town or village green, because that Act confers a right of recreation under a type of statutory trust and so results in use being **by right** rather than **as of right**.'

Paragraph 37, Getting Greens Registered – 2nd Edition 2007
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Open Spaces Act 1906

s.10 - Maintenance of open spaces and burial grounds by local authority.

A local authority who have acquired any estate or interest in or control over any open space or burial ground under this Act shall, subject to any conditions under which the estate, interest, or control was so acquired —

(a) hold and administer the open space or burial ground in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose: and

(b) maintain and keep the open space or burial ground in a good and decent state.

and may inclose it or keep it inclosed with proper railings and gates, and may drain, level, lay out, turf, plant, ornament, light, provide with seats, and otherwise improve it, and do all such works and things and employ such officers and servants as may be requisite for the purposes aforesaid or any of them.

N.B. Amended by Local Government Act 1972 s.122(6),
which in itself was repealed by:
the Local Government, Planning & Land Act 1980, Sch.34 Pt.XIII

s.20 - Definitions

The expression "open space" means any land, whether inclosed or not, on which there are no buildings or of which not more than one twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied.