

*39 from 39*  
An Inspector's View

Town and Village Green Inquiries:  
the Nuts and Bolts

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# TVG Inquiries

COMMONS  
ACT 2006

- Pilot areas
- Everywhere else

- Non-  
Statutory  
- PINS

# THE APPLICATION

- Form 44
- Location Plan
- Town/Village
- Neighbourhood/Locality
- Statutory Declarations
- User Evidence Forms – sports and pastimes
- NB. “Trigger events?”

# Objections?

- Landowners/Developers/Public authorities
- Title documents
- Land status – Incompatible action/statutory incompatibility?
- Witnesses – Statutory Declarations
- Photographs
- Signs
- Fences

# REGISTRATION AUTHORITIES

- Responsibility for registration under s. 15 of the Commons Act 2006
- Form 45 – Publicity for applications
- In cases where a clear conflict of evidence exists, a non-statutory inquiry should take place – see *R (Whitmey) v Commons Commissioners* [2004] EWCA Civ 951
- Test the evidence
- Oversight by an Inspector – a qualified, independent barrister
- Determination of whether to register following a recommendation contained in a detailed report from the Inspector post-inquiry

# TVG Inquiries: Dos

- How are inquiries won or lost?
  - (1) Evidence
  - (2) Marshalling the law
  - (3) Assisting the Inspector

# Winning the Inquiry (1): Evidence

- Golden rules:
  - Coverage – 20 years
  - Specifics are compelling
  - Rule of thumb for Applicants - 1/3 live witnesses to user evidence forms up to a maximum of, say, 25
  - For Objectors: remember to corroborate whenever possible – intentions must be revealed through overt actions

# Winning the Inquiry (2): Marshalling the Law

- TVG (and RoW) law, as hybrids of property and public law, are complex areas:
  - (1) Legal representation – essential if possible
  - (2) Extensive jurisprudence – the SC’s favourite topic!
  - (3) “As of right” – not by force, by stealth, by permission
- Hard to navigate - chart the course!
- Address the obstacles head on – beware JR!



# Case Study: *TWL Logistics*

- HC; CA; and awaiting hearing by the SC
- Quayside in Mistley, Essex registered as a TVG
- Centred on whether qual use was “as of right”
- 6 issues:
  - Highway use or TVG use
  - Signs
  - Commercial vehicular use
  - Statutory incompatibility
  - Health and safety
  - Railways

Registration upheld in HC and CA – now the SC.

# Winning the Inquiry (3): Assisting the Inspector

- Golden rules:
  - a) Proportionate approach – to evidence and submissions
  - b) Clarity of presentation – make the case
  - c) Organisation – bundles, evidence, witnesses and plans

THANK YOU

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