



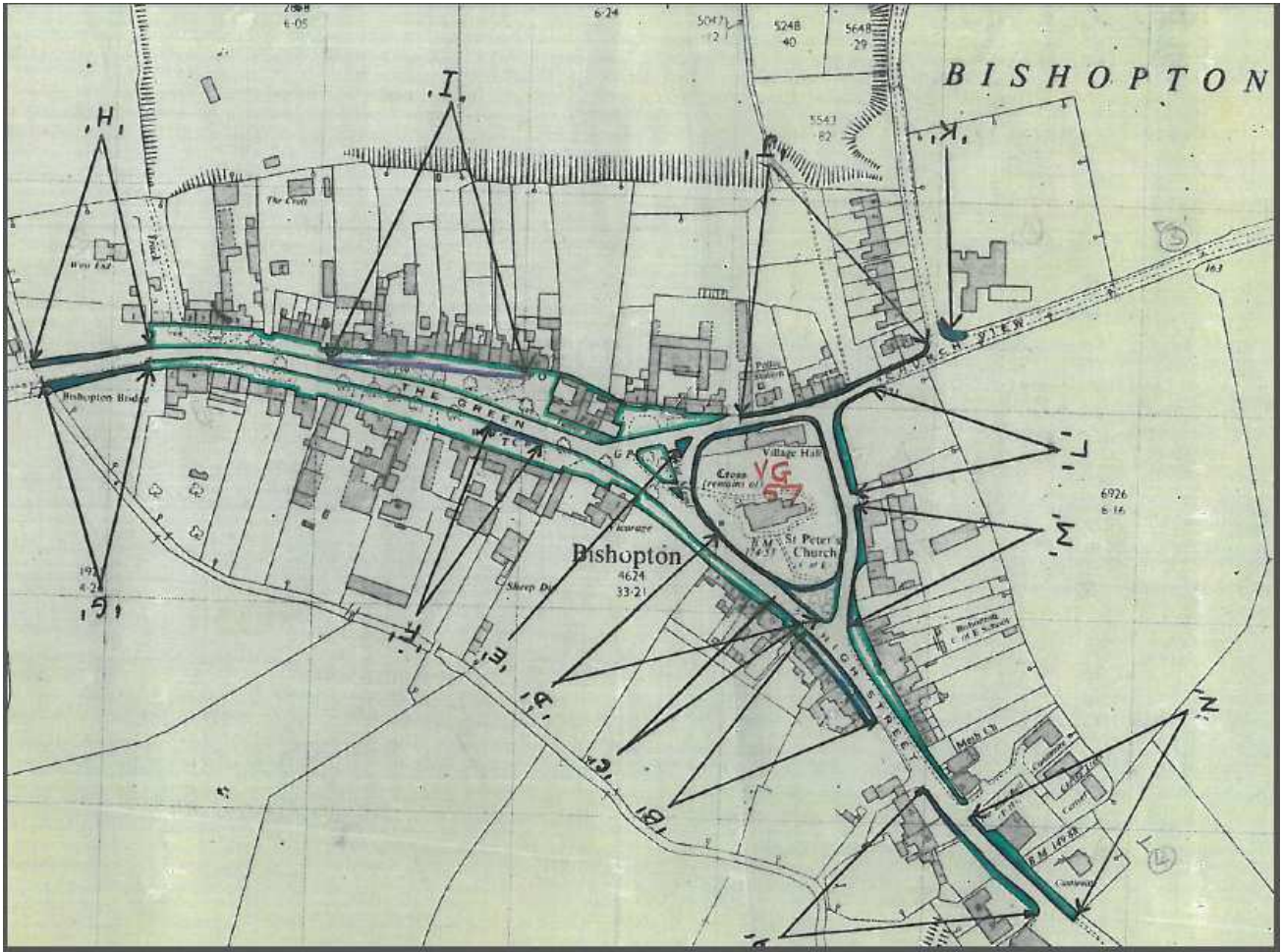
## **Bishopton Village Green**

### **POLICY AND PROCEDURES**

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15. SUMMARY.

The Village Green is an integral part of a village community, and as such, should provide its residents with a focal point on which to live a peaceful and friendly existence. It is the essence of rural England, evoking cricket matches, tea parties, long summer evenings and maypole dancers. The following policy is designed to improve awareness of the tight rules and practices that we all need to follow, by making reference to the legislation that covers this often misunderstood area.

**1. MAP OF BISHOPTON VILLAGE GREEN**



Areas outlined in green are Village Green. Areas outlined [or coloured] violet are not Village Green.

**Key:**

**'A'; 'C'; 'D'; 'F'; 'L'; 'M' & 'N'** – Tarmac footpath part of adopted highway - Darlington Borough Council [DBC]. Area behind Village Green [VG]

**'B'; 'E' & 'K'** – Entire area **not** VG

**'G' & 'H'** – Highway lay-by & verge - DBC. Not VG

**'I'** – Deteriorated adopted footpath [DBC} remaining area all VG

**'J'** - Tarmac footpath part of adopted highway [DBC]

**2. DEFINITION OF THE VILLAGE GREEN.**

This is defined in the COMMONS REGISTRATION ACT 1965 as amended by THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000, as land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality; or on which the inhabitants of any locality have a customary right to indulge in lawful sport and pastimes; or which falls within subsection (1A) of this section.

1A. Land falls within this subsection if it is land on which for not less than twenty years a

significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either-

(a) Continue to do so, or

(b) Have ceased to do so for not more than such a period as may be prescribed, or determined in accordance with prescribed provisions.

### **3. REGISTRATION.**

The Village Green is registered with the COMMONS REGISTRATION AUTHORITY (Darlington Borough Council). This provides protection as afforded by various acts of legislation (see note 3) that cover all aspects of the Green's use and management. Our Green was registered in 1980. The Green is now owned and administered by the Parish Council, however it is not now possible to alter the Green, or make changes of use without the involvement of the Secretary of State (see note 12 – Alteration or Change of Use).

### **4. LEGISLATION.**

The following is a list of the most common legislation that exists for the protection and rights that cover Village Greens;

\*The Enclosure Act 1845/57

\*The Commons Act 1876/99 & 2006

\*The Open Spaces Act 1906

\*The Acquisition of Land Act 1981

\*The Law of Property Act 1925

\*The Countryside and Rights of Way Act 2000

\*Local Government Acts.

### **5. RESPONSIBILITIES.**

The Green is owned and administered by the Parish Council, and they are responsible for its maintenance, protection and upkeep. All matters relating to the Village Green should be referred (in the first instance) to the Parish Council for consideration. Any rulings or actions will be made by them in accordance with present legislation, or referred to other authorities if deemed necessary.

As custodians The Parish Council must ensure that the Green is protected against encroachment, damage, and uses other than those consistent with normal enjoyment of the Green. Parking on the grass is not allowed.

Protection of grassed areas may involve the placing of stones, or erection of posts or bollards to prevent vehicular access.

All instances of maintenance and repairs will be carried out by the Parish Council, or by contractors that the Council appoints to carry out such works.

### **6. LAWFUL USES**

Whilst not exhaustive, the following is a list of lawful and prohibited uses of the Green.

Lawful uses would include:-

\*walking across it with or without a dog.

\*village fêtes.

\*playing sports and games.

\*public gatherings for entertainment.

\*use of existing paths for access/egress on foot.

\*use of existing rights of access that cross the Green with a vehicle.

Prohibited uses include:-

- \*any physical alterations to the green.
- \*fencing of the Green or otherwise making it inaccessible to the public.
- \*willful damage (i.e. when a person was aware of the risk of damage). e.g. By vehicles, bicycles and horses.
- \*parking of a vehicle on the grass
- \*planting of trees except by the Parish Council
- \*the building or introduction of any structure (this includes even small things such as steps, bollards, posts) except by the Parish Council.
- \*the driving of a vehicle across grassed areas. Existing tracks and access ways are often permitted routes but if in doubt contact the Parish Council.
- \*the pruning or cutting down of trees except by the Parish Council

The following extract is from "THE PARISH COUNCILLORS GUIDE" published by Shaw and Sons Ltd. August 1970.

"A Parish Council must not allow a Village Green which it owns to be encroached upon or to be misused. If the problem is keeping the vehicles off, this can usually be best achieved by digging a ditch or putting large white stones on the boundary, or fencing the Green (provided there is reasonable access for pedestrians). Land which is registered as Village Green cannot be used for car parking or caravan parking, even if the Council wishes, because it is unlawful for the land not to be kept freely available for the inhabitants of the Parish for lawful sports and pastimes".

It goes on to say that a Parish Council must not, except under certain circumstances grant a private vehicular access over any Village Green which it owns since such use is incompatible with the Council duty to preserve the status of the land for recreational purposes.

A degree of common sense must prevail in the possibilities of the Greens use. However the overriding factor must be Greens protection against damage and change of use.

The Parish Council will be pleased to advise any residents on the Green's use. You should make contact with an individual Councillor, or attend the monthly Parish Council meeting with your question or query in the first instance, for the Council's consideration and ruling.

## **7. ENFORCEMENT**

Where a party or parties are proved to have misused the Green, creating damage or alteration to its original fabric the Parish Council will deem those persons responsible for unlawful damage and take action for the Green's repair or reinstatement.

Those responsible will be expected to pay all subsequent costs in relation to the Green's repair/reinstatement, and works will be subject to timescales laid down by the Parish Council.

**In some circumstances damage or encroachment may result in criminal proceedings being taken by the Parish Council.**

Should the Council have to carry out its own works in relation to repairs/ reinstatement or employ a contractor/individual; all costs incurred will be automatically charged to those individuals responsible for the damage or alteration.

Please contact a Parish Councillor, or attend one of the monthly meetings if you require advice or facts on any issues relating to the Village Green, before you engage in any form of activity that does not fall within the detail listed in this policy (see note 5 - Lawful Uses).

## **8. MAINTENANCE.**

The Parish Council is legally responsible for the maintenance of all parts of the Village Green, be they grassed or covered i.e. shale, concrete or tarmacadam.

Whilst grassed areas are regularly cut and seeded, other areas may be subject to repair or replacement from time to time dependent on the degree of erosion they have received. All decisions relating to the Green maintenance and repair will be taken by the Parish Council in the first instance, before any works are planned or carried out.

## **9. REPLACING HARD SURFACES POLICY**

- **Background:**

As owners of the VG under Section 8/2 of the Commons Registration act 1965, The Parish Council [PC] is responsible for ensuring its maintenance in a safe condition relative to the nature and use of the area in question.

In this regard paved areas in their varying nature need to be maintained in a condition which allows for safe use by people, animals and vehicles. However such maintenance need only be sufficient to meet the degree and nature of such use and need not, therefore, be to a fixed standard.

Paved areas of the VG generally fall into one of the following 4 categories:

1. Roads which are essentially vehicular thoroughfares and accessible to the general public as well as residents.
2. Footpaths and steps which are not the responsibility of Darlington Borough Council and may be used by the general public as well as residents.
3. Roads, crossings & footpaths which are essentially vehicular and pedestrian accesses for one or more properties.
4. Those providing parking, access or amenity space for the 2 public houses in the village.

### **Maintenance Responsibility:**

**Categories 1 & 2:** Maintenance and cost responsibility rests with the PC. However, as detailed above, such maintenance need not be to a fixed standard and can be varied to suit the nature and degree of use of specific areas. In this regard should the PC decide upon a particular recognised maintenance regime which does not meet the expectations of the residents involved then those residents will be required to pay any additional costs incurred in meeting their own requirements.

**Category 3 & 4:** Responsibility for these areas rests with individual owners or jointly with the property owners within a housing development. Should such areas become unsafe then the PC will draw the attention of those responsible to the situation and require appropriate remedial action within a specified time frame at the owners cost. If such action is not taken then the PC will step in to make safe on the basis of its legal responsibilities and recharge the owners with the costs incurred.

1. Any residents wishing to have a hard surfaced area under category 3 or 4 repaired or replaced must put a request in writing to the Parish Council.
2. If the Parish Council gives permission for the works a fixed price competitive quotation will be obtained by the Parish Council which will provide exact particulars of the proposed works and include specific details of the materials to be used.
3. In advance of the works taking place all residents involved will be required to confirm their agreement in writing to their proportion of the costs of the works required but such a requirement will not give any rights, implied or otherwise, or any rights of title to the area concerned.
4. Under no circumstances will any grassed areas of the Village Green be lost due to any works.

Details of the various areas involved and their categories can be found on the following pages but if clarification is required contact the Parish Clerk.





## Key to Hard Surfaces Locations

No.	Location	Type	Area m2	Category.
<b>1</b>	Talbot East Side	Tarmac	159	<b>2/4</b>
<b>2</b>	Talbot Rear	Tarmac	59	<b>2</b>
<b>3A</b>	Talbot West Side	Block Paving	100	<b>4</b>
<b>3B</b>	Talbot West Side	Concrete	10	<b>4</b>
<b>4</b>	Talbot Front	Tarmac	160	<b>4</b>
<b>5</b>	North The Green	Tarmac	1200	<b>1</b>
<b>6A</b>	Access between 1-3 The Green	Tarmac	80	<b>3</b>
<b>6B</b>	Footpath 3-7 The Green	Tarmac	14	<b>2</b>
<b>6C</b>	Steps 5 The Green	Flags & Kerbs	5	<b>2</b>
<b>7</b>	Access Bishopton House	Tarmac	22	<b>3</b>
<b>8A</b>	Access 4-12 The Green	Tarmac	188	<b>3</b>
<b>8B</b>	Access 14 The Green	Flags & Concrete	18	<b>3</b>
<b>8C</b>	Steps to 4 The Green	Kerbs	1	<b>2</b>
<b>9</b>	Access Anesty Court	Block Paving	57	<b>3</b>
<b>10</b>	Access Brookside Farm	Tarmac	50	<b>3</b>
<b>11</b>	Access Manor Court	Tarmac	48	<b>3</b>
<b>12</b>	Access The Old Vicarage	Tarmac	23	<b>3</b>
<b>13</b>	Access The New Vicarage	Tarmac	21	<b>3</b>
<b>14A</b>	Access 4-12 High Street	Tarmac	95	<b>3</b>
<b>14B</b>	Turning Bay 6 High Street	Block Paving	11	<b>3</b>
<b>14C</b>	Access 14 High Street	Flags & Blocks	14	<b>3</b>
<b>15</b>	Access 28 High Street	Concrete	12	<b>3</b>
<b>16</b>	Access 30 High Street	Concrete	12	<b>3</b>
<b>17</b>	Access 33 High Street	Tarmac	19	<b>3</b>
<b>18</b>	Blue Bell Front	Tarmac	68	<b>4</b>
<b>19A</b>	Access 21 High Street	Concrete	2	<b>3</b>
<b>19B</b>	Access 19 High Street	Tarmac	16	<b>3</b>
<b>20A</b>	Steps & Paths 11-17 High Street	Flags & Kerbs	47	<b>2</b>
<b>20B</b>	Access 13 High Street	Ash	13	<b>3</b>
<b>21</b>	Access 9 High Street	Tarmac	37	<b>3</b>
<b>22A</b>	Access 7 High Street	Concrete	22	<b>3</b>
<b>22B</b>	Paths 7 High Street	Concrete	5	<b>3</b>
<b>23A</b>	Access 3-5 High Street	Stone	48	<b>3</b>
<b>23B</b>	Access 1A High Street	Concrete	17	<b>3</b>
<b>24</b>	Access 1 High Street	Gravel	16	<b>3</b>
<b>25</b>	Access Meadowcroft, High Street	Block Paving	16	<b>3</b>
<b>26</b>	Footpath 1-3 Church View	Tarmac	67	<b>2</b>

## **10. INSPECTIONS AND WORKING PARTIES.**

The Parish Council will inspect the whole of the green on an annual basis (April) to determine its condition and any works that may need to be carried out. Other inspection may take place on an ad-hoc basis to look at individual issues as and when they arise. The results of such inspections will be formally recorded.

From time to time the Parish Council will conduct working parties to carry out minor works in relation to the Green's maintenance and upkeep, i.e. seeding, planting of flowers, etc. Residents will usually be informed by means of a flyer, and any help would be greatly appreciated.

## **11. RIGHTS OF ACCESS.**

There is a distinction here between old and new rights. In the past, where owners already had the right (i.e. there had been an access way used by vehicles for many years), Parish Council's gave consent (in a formal document, not just a letter) to owners selling their properties. This was not a legal right as such rights - condoning the criminal offence of taking vehicles on to Greens - could not be created. It was just consent to the use so that the Parish Council could not take action in future against the owner. The onus is on the owner of a property to take the procedure forward with the Parish Council, who will then advise or seek advice as to how they should proceed. It goes without saying that any access way should have been in use and already constructed in such a case. Where there is no long term user there is not even the expectation that a right of way could exist for such use (i.e. vehicles) and it cannot be created by the Parish Council. Use on foot only is a different matter- this use is already part of the public right to use the Green and so does not need to be created. Creating a surface for foot use only - e.g. to stop mud being carried into a house, could be contemplated if the Parish Council was satisfied that there was no encroachment, i.e. no interference with the right of the public to use the surface as part of the green. There could be no exclusion of the public from this path and the Parish Council would, in effect, only be giving licence to use the path subject to it being properly maintained by those benefitting from it.

## **12. PROTECTION OF TREES.**

All trees that are planted within the Village Green are protected and must not be pruned or cut down without obtaining permission from the relevant bodies. This means the Parish Council and in the case of trees covered by a Tree Preservation Order, or in Conservation Areas (as is Bishopton), also means Darlington Borough Council. The Parish Council has over the years been responsible for the planting of such trees and they form part of what is the Village Green. The Parish Council has the right to take decisions on the moving and replanting of trees and other plants on the Village Green.

You should contact a Councillor or attend one of the monthly Parish Council meetings if you have any questions or queries in relation to the planting of trees and other plants on the Village Green. The Council will endeavor to provide you with the relevant information or help you with your query.

## **13. ALTERATION OR CHANGE OF USE.**

Any requests to alter or new use of the Green should first be referred to the Parish Council. The request will then receive consideration for the type of action that will be deemed necessary taking into account all of the legislation that currently exists. The Parish Council has limited rights and may only sanction minor alterations. Major changes of use and significant alterations have to be submitted to the Secretary of State and this may only be done by the Parish Council or Local Authority.

It is possible to change the use of Village Green in certain circumstances given that an equivalent piece of land in proportion is exchanged for the intended area of Village Green concerned, i.e. access to a new development.



In general terms it would not be possible to obtain permission to alter or change the use of Village Green given that Greens are heavily protected by legislation. It is therefore highly improbable and unlikely that any permission to change the use of Village Green or part of a Green would be granted.

#### **14. AVAILABILITY.**

This document will be published on the Parish Council's website and copies may be obtained on application to the Parish Council or by contacting any of its Councillors.

#### **15. SUMMARY**

Village Greens are part of our English heritage and should be protected and enjoyed by everyone as much as possible, and especially by the residents of the village they are connected with. We should all be proud of our Village Green and feel honoured to live and be a part of a community that has the good fortune to have one.

#### **LET US WORK AS A TEAM TO KEEP OUR VILLAGE GREEN PRISTINE.**

September 2015