

Bishopton Village Green **POLICY AND PROCEDURES**

1. DEFINITION OF VILLAGE GREEN.
2. REGISTRATION.
3. LEGISLATION.
4. RESPONSIBILITIES.
5. LAWFUL USES
6. ENFORCEMENT
7. MAINTENANCE.
8. INSPECTIONS AND WORKING PARTIES.
9. RIGHTS OF ACCESS.
10. PROTECTION OF TREES.
11. ALTERATION OR CHANGE OF USE.
12. NEW RESIDENTS.
13. 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. DEFINITION OF THE VILLAGE GREEN.

This is defined in the COMMONS REGISTRATION ACT 1965 as amended by THE COUNTYSIDE 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.

2. 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 10).

3. 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
- *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.

4. 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.

5. 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.
- *wilful 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.

6. 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/re-instatement, 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, Uses).

7. 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 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.

8. INSPECTIONS AND WORKING PARTIES.

The Parish Council will inspect the whole of the green on a biannual basis (April and October) 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.

Details of the biannual inspections will be posted on the village notice board one month prior to the date so that residents are able to attend the inspections if they so wish.

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 daffodils, etc. Residents will usually be informed by means of a flyer, and any help would be greatly appreciated.

9. 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 only in effect be giving licence to use the path subject to it being properly maintained by those benefitting from it.

10. 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 endeavour to provide you with the relevant information or help you with your query.

11. ALTERATION OR NEW 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.

12. NEW RESIDENTS

All new residents will receive a copy of this document with their welcome pack on arrival to the village (within the Village Plan). A copy of this policy document may be obtained on application to the Parish Council or by contacting any of its' Councillors.

13. 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.