

# Hulcott Parish Council

## Village Green - Policy & Procedure

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Village Greens are 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. 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 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.

1.A 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.

The term ‘pastimes’ in the view of the Parish Council includes the quiet enjoyment of grass areas as amenities.

## **2. Registration**

The Village Green is registered with the COMMONS REGISTRATION AUTHORITY (Buckinghamshire County Council) as shown in the map (VG57) and was registered in August 1968.

## **3. Legislation**

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

- 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 & Rights of Way Act 2000
- Local Government Acts 3

## **4. Responsibilities**

The Green is owned and administered by the Parish Council, and it is 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 it in accordance with present legislation, or referred to other authorities if deemed necessary. It is the responsibility of the owners of property fronting directly onto a Village Green to check their Deeds as to the boundary of their property to ensure that no flowerbeds, shrubs or hedges extend beyond it.

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 a Village Green.

Lawful uses would include:-

- Walking across it with or without a dog.
- Village fetes.
- 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 (only those existing prior to registration or specifically approved by the Parish council since that time.)

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.
- Parking of a vehicle on the grass unless with permission from the Parish Council.

The following extract is from *The Parish Councillors Guide* published by Shaw & Sons Ltd.

“A Parish Council must not allow a Village Green which it owns to be encroached upon or to be misused. A degree of common sense must prevail in the possibilities of the Green use. However the overriding factor must be Green protection against damage and change of use. The Parish Council will be pleased to advise any residents on the Green’s use.”

## **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 a 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 parish council 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).

## **7. Maintenance**

The Parish Council is legally responsible for the maintenance of all parts of the Village Green, whether partially grassed or surfaced. 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's maintenance and repair will be taken by the Parish Council in the first instance, before any works are planned or carried out.

## **8. Replacing Hard Surfaces Policy**

Any residents wishing to have a hard surfaced area replaced or repaired must put a request in writing to the Parish Council.

If the Parish Council gives permission for the works a competitive quotation will be obtained which will provide exact particulars of the proposed works and include specific details in the materials to be used.

If the area in question is for the sole use of their property the residents will be expected to cover the cost of the works required. Where the area in question is for shared use by residents, the residents concerned will be expected to share the cost of the works required. Such requests will not give any rights, implied or otherwise, or any rights of title to the area concerned.

Under no circumstances will any grassed areas of the Village Green be lost due to any works.

## **9. Inspections**

The Parish Council will inspect the Village Green annually to determine the condition and any works that may be required. Other inspections may be carried out ad hoc. The result of such inspections will be formally recorded.

## **10. 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 Green – 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.

## **11. 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 in Hulcott), also means Aylesbury Vale District 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 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.

## **12. Alterations 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 the Village Green in certain circumstances given that the 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 the 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 a Village Green or part of a Green would be granted.

## **13. Availability**

This document will be published on the Bierton Village Website and copies may be obtained on application to the Hulcott Parish Council Clerk.

## **14. 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 – “cherished by residents and admired by visitors”.

LET US WORK TOGETHER TO PRESERVE THE CHARACTER OF OUR VILLAGE GREEN.

May 2014

Copy of Register Map held by Buckinghamshire County Council

