



Bearsted  
Parish  
Council

## **Bearsted Village Green Policy**

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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 Greens.**

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.

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.

## **2. Registration.**

The Village Green is registered with the COMMONS REGISTRATION AUTHORITY by Maidstone 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.

The Green is now owned and administered by the Parish Council following its purchase from the Maidstone Borough Council in 1978. 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).

## **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 & 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

## **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. 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, hedges or fences 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, unless authorised by the Parish Council.

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.

All users of the Green should be suitably dressed as not to offend other users.

## 5. Lawful Uses.

Whilst not exhaustive, the following is a list of lawful and prohibited uses of a Village Green. The green is also covered by Amendment of Bye-Laws, The Commons Act, 1999 made by Maidstone Borough Council dated 28th May 1982 which will take precedence where it differs from this policy document. 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.

Prohibited uses include:

- Any physical alterations to the Green.
- Fencing of the Green or otherwise making it inaccessible to the public, unless for an event approved by the Parish Council.
- Wilful damage (i.e. when a person was aware of the risk of damage). E.g. by vehicles, bicycles and horses.
- 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, tents, gazebos) except by the Parish Council, or with approval from the Parish Council.
- Areas grass verges south of the Green and grass surround the pond are not permitted to have anything protruded into the ground.
- The driving of a motorised vehicle (electric or petrol) across grassed areas unless with permission from 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.
- Pyrotechnic or the lighting of fires.
- Loud music via all mediums unless with the permission of the Parish Council.

The following extract is from “THE PARISH COUNCILLORS GUIDE” published by Shaw & Sons Ltd. August 1970.

“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 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.”

## 6. Charges

### Local Sports clubs and similar organisations

The Village Green may be made available for use by local sports clubs/organisations free of charge, or for a small fee which will go towards the maintenance of the Green, on application to the Parish Council. The use of the Green will be subject to review of the club or organisation’s Risk Assessment for the activity and the provision of satisfactory public liability insurance cover.

### Sports Clubs and similar organisations from outside the area.

Subject to approval by the Parish Council outside clubs/organisations may be allowed to use the Green where it is considered that the activity will not impact local residents or other users. Such

approved use will be subject to Risk Assessment, Public Liability Insurance and a charge, see tariffs, which will go towards the maintenance of the Green.

#### Bearsted and Thurnham Fayre

This is a recognized annual event supported by the Parish Council for which there is no charge as it falls into the category of a local organisation. The Fayre's organising committee is responsible for ensuring that an Event Plan, Risk Assessments and 3<sup>rd</sup> party liability insurance is in place to cover the whole event and is submitted to the Maidstone Borough Council for approval in a timely manner.

#### Market on the Green

All outlets involved in the Market on the Green shall be subject to compliance with all regulatory conditions, licenses and approvals as set out in the Regulations. This shall include the need for Risk Assessments, provision of Public Liability insurance commensurate to the risk involved with the particular outlet.

No new outlet will be allowed to operate unless all particulars have been reviewed by the Market Manager, submitted to the Parish Clerk and Maidstone Borough Council has been notified in accordance with the requirements. Stallholder charges will be at the discretion of the Market Manager.

#### Other Commercial Use

The Green will not be made available for use by Commercial Organisations where the main reason for use is simply for financial gain. However, where such organisations apply to hold an event which includes substantial donations to local charities, clubs or other organisations and the event is considered to be of relevant interest to local residents, then this shall be considered by the Parish Council. Similar rules will be applied in respect to event planning, risk assessment and level of Public Liability insurance cover as would be applied to other events of this type.

A charge may be applied by the Parish Council where it is considered prudent to do so in order to recover any costs that may arise from such an event. Each application and any charges due will be reviewed by the Parish Council on a case by case basis.

Events which are put on and managed by outside organisations will need to ensure they have their own public liability insurance in place to cover for any eventuality. The Parish Council's own Public Liability Insurance will not be used to cover such events.

### **7. Enforcement**

Where a party or parties are proved to have been misusing 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 the Parish Council Clerk or a Parish Councillor, 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 Lawful Uses.).

## **8. 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 Greens' maintenance and repair will be taken by the Parish Council in the first instance, before any works are planned or carried out.

## **9. Inspections**

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

## **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, also means Maidstone Borough Council.

Members of the public should contact the Parish Council Clerk, or a Councillor if they have any questions or queries in relation to the trees and other plants on the Village Green. The Council will endeavour to provide them with the relevant information or help them with their query.

## **11. Alterations or change of use**

Any request to alter the 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.

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

## **12. Availability**

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

## **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 privileged to live and be a part of a community that has the good fortune to have one – “cherished by residents and admired by visitors”.