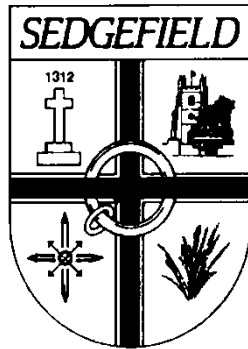


Sedgefield Town Council



VILLAGE GREEN POLICY

Passionate about Sedgefield

north east
england

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SEDGEFIELD TOWN COUNCIL VILLAGE GREEN POLICY

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1. Introduction:

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. This 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 these often misunderstood areas.

Village greens are part of our heritage and should be protected and enjoyed by everyone as much as possible, and especially by the residents of the Town they are connected with. We should be proud of our Village Greens and feel honoured to live and be a part of a community that has the good fortune to have them – cherished by residents and admired by visitors. By working together we can all preserve the character of our Village Greens.

2. 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.

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

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The term 'pastimes' in the view of the Town Council includes the quiet enjoyment of grass areas as amenities.

3. Registration:

The Village Greens are registered with the Commons Registration Authority (Durham County Council) as shown in the map in Appendix A.

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 and 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 Town Council, and they are responsible for its maintenance, protection and upkeep. All matters relating to Village Greens should be referred (in the first instance) to the Town 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 the 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 or business activities extend beyond it.

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

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

All instances of maintenance and repairs will be carried out by the Town 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 a Village Green.

Lawful uses would include:

- Walking across it with or without a dog
- Village fetes/fayres/approved events (also see section 14)
- 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 Town 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
- 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

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- Planting of trees except by the Town Council
- The building or introduction of any structure (this includes even small things such as steps, bollards, posts) except by the Town Council
- The driving of a vehicle across grassed areas. Existing tracks and access ways are often permitted routes but if in doubt contact the Town Council
- The pruning or cutting down of trees except by the Town Council
- Parking of a vehicle on the grass unless with permission from the Town 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”.

Anyone, private resident or business owner, who is unsure about appropriate usage of the village green or who wishes to use village green must contact the Town Council via the Town Clerk providing full details of their enquiry so that this matter can be considered by the Council’s Policy & Resources Committee. In some instances it is possible that a licence could be granted and for such the Town Council would stipulate the conditions and annual fee. Such a licence would be produced by the Town Council’s solicitor with all costs associated with the production of such being met by the private residents or business owner.

7. Enforcement:

Where a party or parties are proved to have misused the Greens, creating damage or alteration to its original fabric the Town Council will deem those persons

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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 Town Council.

In some circumstances damage or encroachment may result in criminal proceedings being taken by the Town 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 Town Clerk in writing if you require advice or facts on any issues relating to the Village Greens, before you engage in any form of activity that does not fall within the detail listed in this Policy.

8. Maintenance:

The Town Council is legally responsible for the maintenance of all parts of the Village Greens, 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 decision relating to the Greens maintenance and repair will be taken by the Town Council in the first instance, before any works are planned or carried out.

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9. Replacing Hard Surfaces Policy:

Any residents wishing to have a hard surfaced area replaced must submit to the Town Clerk a written request which will then be considered by the Environment Committee.

If the Town Council gives permission for the works a competitive quotation will be obtained by the Town Council 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 but such a request 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.

10. Inspections:

The Town Council, via its Estates Working Group, will inspect all the Village Greens at least annually, but otherwise as required, to determine their condition and any works that may be required in order to prepare a Planned Maintenance Programme. Any necessary works that may be required will be prioritised with resources made available. The result of such inspections will be formally recorded in the Environment Committee minutes following presentation of report from the Council's Estates Working Group.

Protecting the fabric of the Village Greens remains paramount, as is avoiding public nuisance to others. Village Greens are part of our heritage and should be protected and enjoyed by everyone as much as possible, and especially by the residents of the Town they are connected with. We should all be proud of our Village Greens and feel honoured to live in and be a part of a community that has the good fortune to have them.

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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), Town 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 Town 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 Town 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 Town Council. Use on foot only is a different matter – this use is already part of the public right to use the Greens 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 Town 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 Greens. There could be no exclusion of the public from this path and the Town 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:

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

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Any questions or queries in relation to the planting of trees and/or other plants on the Village Greens must be submitted in writing to the Town Clerk for subsequent consideration by the Environment Committee.

13. Alterations or change of use:

Any requests to alter or new use of the Greens should first be referred to the Town 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 Town 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 Town Council or Durham County Council.

It is possible to change the use of the Village Greens 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. The procedure is lengthy, complicated and costly.

In general terms it would not be possible to obtain permission to alter or change the use of the Village Greens 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.

14. Use of Village Greens For Events:

The Town Council is responsible for managing the use of the Village Greens for events, using the following criteria as a guide:

- i) All requests for use of the Village Green must be made in writing to the Town Clerk at least two months prior to any event taking place in order that the request can be considered by the Council's Policy & Resources Committee;

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- ii) The Village Green may only be booked by local residents or those with a close association with Sedgefield;
- iii) The Village Green may only be used for events open to the general public, not for primary commercial (i.e. private sector or personal) gain
- iv) All requests must detail the exact nature of the event to take place, likely levels of attendance, with car parking and welfare arrangements planned
- v) The Village Green and the safety or welfare of those attending is the responsibility of the user throughout the event and this includes:
 - a. Ensuring the event is properly supervised
 - b. Ensuring that local residents are not troubled in any way (e.g. through rowdy behaviour, loudspeakers, bright lights)
 - c. Ensuring that no damage takes place as a result of the event. If in the opinion of the Town Council any damage has been caused, then this will be rectified at the expense of the user.
 - d. Ensuring Public Liability Insurance (if required) is in place.
 - e. Ensuring any Liquor or Public Entertainment Licence (if required) is in place.
 - f. No vehicles are allowed on the grassed Village Green without the prior permission of the Council, which may impose specific conditions.
 - g. No overnight stays are permitted on the Village Green (no camping, no caravans). Everyone must leave the Village Green by midnight at the latest.
 - h. No charge may be made by the user for any event on the Village Green without prior consent of the Town Council.
 - i. All rubbish to be removed from the area immediately after the event.

There is a source of electricity on the central village green area but anyone wishing to use this must submit a separate written request detailing for what purpose they require this and what items are to be powered. Requests for access to the electricity will be considered by the Town Council on a case by

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case basis. Only upon Council approval will access be granted and training given prior to the booking to show how the electricity supply operates.

15. Businesses Which Border Village Greens:

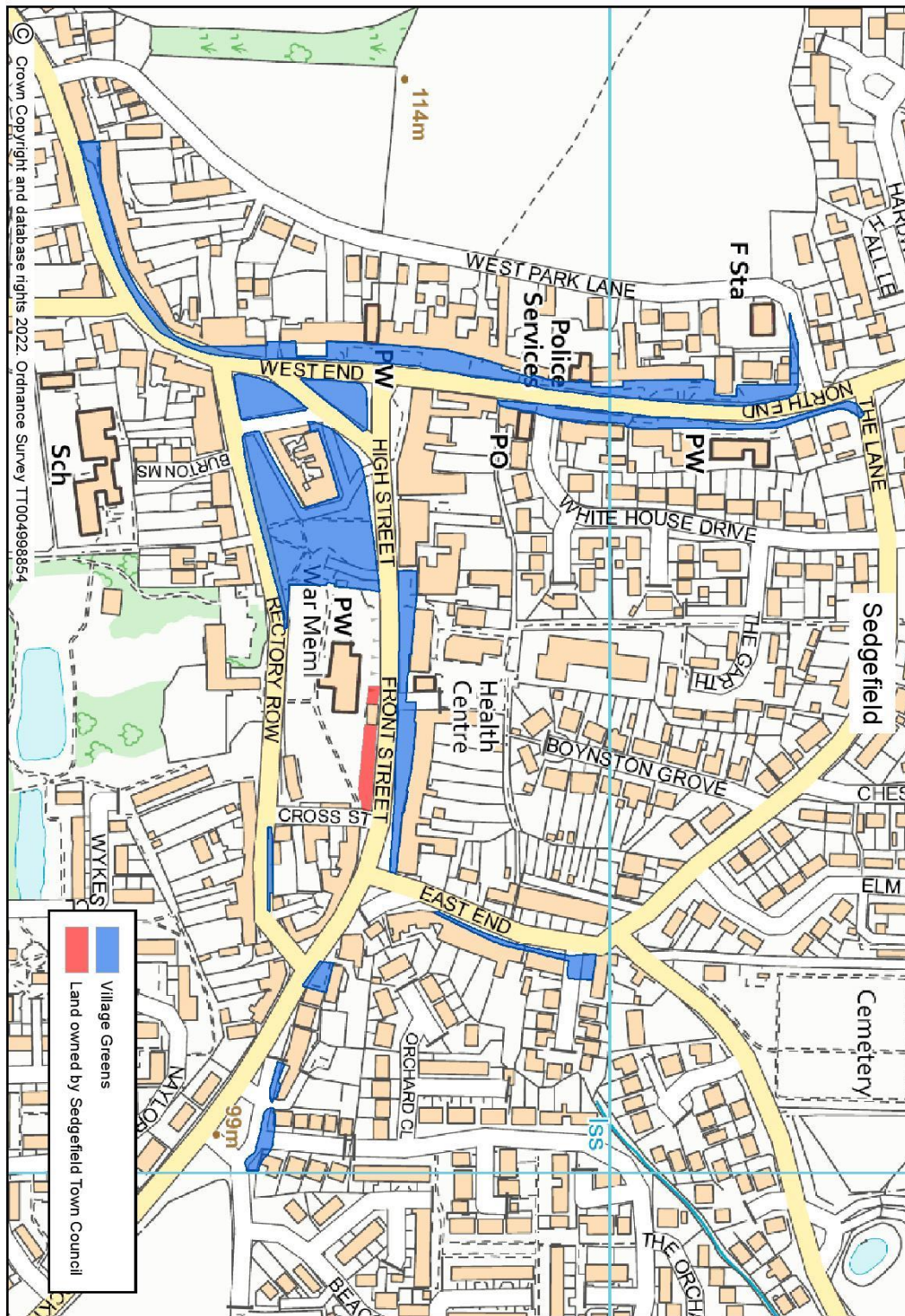
It is the responsibility of a business which borders any area of village green to fully abide by this Policy. It is the responsibility of the business owner to check their Deeds as to the boundary of their property to ensure that no business activities, including but not limited to the placing of street furniture, shrubs, hedges etc, extend beyond it. Section 6 of this Policy details the lawful uses and prohibited uses of village greens. In addition to those prohibited uses detailed in Section 6 no business, regardless of whether they have a licence with the Town Council, can encroach onto or use any area of village green on the Town’s Mediaeval Fayre day.

Any business owner who is unsure about appropriate use of the village green or who wishes to use village green must contact the Town Council via the Town Clerk providing full details of their enquiry so that this matter can be considered by the Council’s Policy & Resources Committee. In some instances it is possible that a licence could be granted and for such the Town Council would stipulate the conditions and annual fee. Such a licence would be produced by the Town Council’s solicitor with all costs associated with the production of such being met by the business owner.

Section 11 explains the rights of access to village green areas, Section 12 the protection of trees, Section 13 alterations or changes of use and Section 14 the use of village greens for events.

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APPENDIX A – DEFINITIVE MAP OF AREAS OF VILLAGE GREEN



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