

Southside Working Party meeting of members appointed by the Parish Council 9/10/21

At its first meeting the WP summarised the situation.

Membership of the Working party

Cllrs George Wright, Kevin Plummer, Roger Adams, Bill Herbert, Robert Taylor, Peter Harry plus hopefully for the next meeting two members of the residents along Southside to be selected by their group.

Setting the scene

- 1) The Track on the South side of the village Green was present before the Green was taken over as Village Green under the Commons Act which made it registered village green under this the Track was incorporated in the Green. The definition at that time being "All that unfenced land." Later in the early 1980s with the support of the people of the Parish the ownership of the Green as Lord of the Manor was purchased by the Parish Council on behalf of the village and this includes this track.
- 2) With low maintenance the condition of the Track worked well more until recent years and now it is a regular subject of debate with no minor or cheap solution.
- 3) Over the years more houses have been built alongside this track
- 4) More people have motor vehicles and there are more household deliveries.
- 5) The village as a whole has grown and more people are using the track with their vehicles as a through way to the Birch Avenue housing behind the houses on Southside Planning permission has been given for the village to grow more, significantly on its eastern side with a new housing estate where this track will be a tempting route to reach school and shops. This easterly direction is where most of the through traffic comes from and then comes down the track to the village centre.
- 6) The Parish Council is the owner and manager of the Green and as such has to comply with the Law of the Land, in particular that regarding registered village Greens, as well as its own standing orders.

What is the situation now?

- 1) The unmade and stoned surface of the track is unable to survive the amount of traffic running over it and now needs regular work on it which has not been very successful over recent winter seasons. This approach succeeds well on other rural tracks where there is less traffic. In the winter the existing surface becomes heavily rutted and filled with water which cannot escape and then in the summer the traffic creates dust. There is an existing contract with the Parish Council's specialist contractor to level the track each November and Spring to enable it to be passable.
- 2) Due to the condition of the track people swing wide onto the Grass on the Green and thus making that a quagmire and eventually widening the track and destroying the surface of the Green so that people cannot enjoy walking on it.

What do we want to achieve?

- 1) Retain the quality of the Green for all to enjoy by keeping it in good condition. Noted that as a Village Green the prime purpose of the Act of Parliament which set it up

is to enable village people to enjoy using the Green. The Green is the pride and joy of Parishioners.

2) As a bye product of any work to make the track more convenient for the people living there and at the same time discourage through traffic.

The working party discussed the principles of how can we do this? And decided that three objectives be adopted.

- 1) Prevent the track traffic from encroaching on the Green.
- 2) Stop the through traffic.
- 3) Make a better surface on the track considering the rural nature of the setting on the Green and thus reduce the temptation to leave the track. This could be by a sealed or improved surface.

The Committee considered that the work might be done in stages in the order above since the earlier actions may reduce the need for later work.

How do we achieve the above?

1) Stop encroachment By installing some form of barrier, which at this stage is anticipated to be short posts placed and spaced to stop vehicles accessing the Green along its length and continuing by turning the corner onto the section known as the Concrete strips. These posts would be placed about 6M from the front of the boundary ownership of the green side properties. It was noted that this was the Friends of the Green preferred option and they might be prepared to provide funding. (During this discussion there was mention of ensuring that the special entrance laid onto the Green by the Parish Council and is being used for parking. This was installed by the Parish Council to reduce erosion at this point from the end of Station road when big events occur on the Green. It was suggested that a barrier might be installed at this point to reduce this parking.)

- 2) Stop Through traffic Methods laid on the table were
 - a) to remove the track and return to grass beyond Burnside the house alongside The Green and up to Weeley Road. This area becomes very muddy and drivers are making the bend wider and wider.
 - b) At the junction of Southside track and the concrete strips place a self-closing Barrier which could be opened by residents when they wanted access their properties.
 - c) to break up the run through by digging the track up and putting a permanent barrier to stop through traffic at the junction of Southside track and the concrete strips. The issue here would be the need for a turning arrangement to enable visitors and deliveries vehicles to return to Station Road from where they came.

3) Make a better surface There was some discussion regarding the need to reduce the level of the existing track to ensure that the road level ended up being at just above the level of The Green to enable the drainage from the sealed surface to flow towards the Green and not into the low-level gardens. The existing track edge along the Green side of the Southside track being up to 5m from the front boundaries owned by the properties. Proposed that this position be retained and the track become 3 metres wide leaving 2M wide to enable grass and rolled road planeings to be placed for access between the track and the property boundaries. This would enable sufficient drainage to occur. We have to be aware that the gas main is about 5 M plus out from the housing boundaries. An option put forward was to use a sealed surface called DMS or SMA to achieve the durable

surface but the colour of this surface would have to enhance the rural nature of the scene. If this route were to be followed then technical advice and design would have to be sought to ensure it dealt with the rain fall and made it run towards the Green as well as achieving the objective.

All this is going to take a lot of money (Particularly item 3) which the council would need to budget for next year 2022-23 or in instalments. Special borrowing arrangement might have to be in place to achieve this work in a reasonable time. It was suggested that pledges for helping with this improvement be sought from people living along the track who would gain the most from the work. Most parishioners are not being affected by this problem except when walking.

What is the legal advice?

Comment contained in our Solicitors Birketts' letter to the Parish Council on 27th July 2021

In my opinion, it is strongly arguable that the work proposed in this case (to improve the surface of the track to prevent potholes and to prevent encroachment onto the grass by vehicles) is to be done with a view to the better enjoyment of the green and (with the possible exception of the short period while the work is actually done) will enhance (and certainly not lessen) the ability of the public to enjoy use of the green for recreational purposes. The period during which the work is done will be short, but it would be sensible to avoid bank holidays, school holidays and other periods when the inconvenience may be enhanced, leading to a greater likelihood of complaints being made. It is always sensible in such cases to organise the work so as to minimise the disruption and annoyance caused.

In summary, I think it would be difficult for anyone to succeed in an action under either of the above provisions, though I cannot rule out the possibility that someone will try, or even succeed. Prosecutions under these provisions seem to be rare.

I would recommend that before carrying out any work the Parish Council makes sure that its decision-making process is carefully followed and that its reason for carrying out the work is carefully recorded, in particular that a record is made of the intention to support the recreational use of the green, if that is, indeed the intention.

When a decision is made by the Parish Council then the proposed work should be put to our Solicitors Birketts and then permission or comment be sought from Tendring District and Essex County Councils.

Next Meeting

Set for 25th October 2021 at 6pm at Brook farm. Hopefully the two appointees from the residents will be able to come. Peter Harry sends his apologies.