

GREAT BENTLEY PARISH COUNCIL

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Maintenance and Use of Great Bentley Village Green

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1. Introduction

Great Bentley Village Green is an integral part of our community, and as its owners, Great Bentley Parish Council are responsible for the protection and preservation of it. This policy outlines the extensive rules and regulations that the Parish Council must adhere to in order to carry this out.

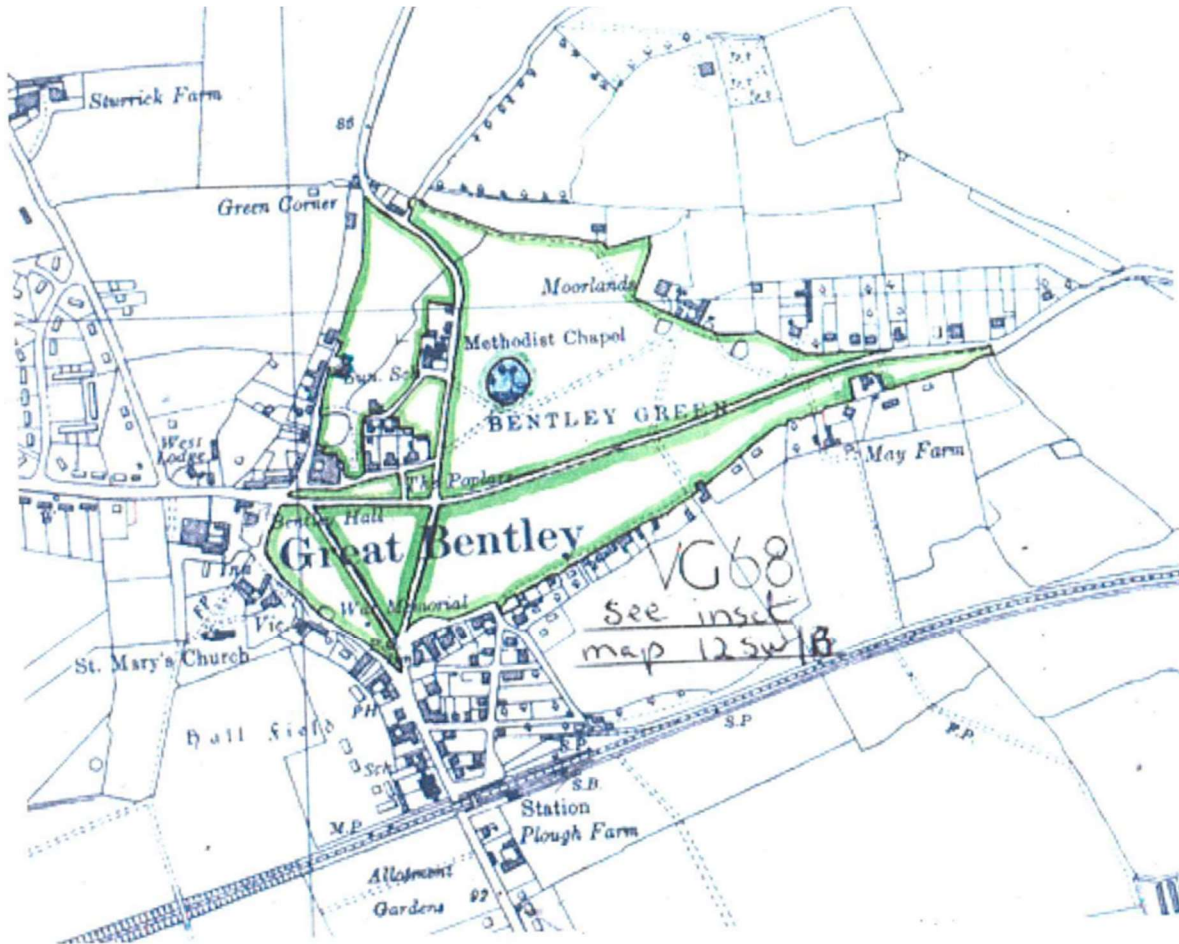
The following extract is from "THE PARISH COUNCILLORS GUIDE" published by Shaw and Sons Ltd. August 1970.

"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. The Parish Council will be pleased to advise any residents on Great Bentley

Village Green's use. You should make contact with the clerk to the council in the first instance or attend the monthly Parish Council meeting with your question or query, for the Parish Council's consideration and ruling.

Official Registered map of Great Bentley Village Green



2. Definition of a Village Green

3.

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.

4. Registration

The Great Bentley Village Green is registered with the COMMONS REGISTRATION AUTHORITY (Essex County Council). This provides protection as afforded by various acts of legislation (see below), that cover all aspects of Great Bentley Village Green's use and management. Great Bentley Village Green was registered on the 1st October 1970 and is now owned and administered by the Parish Council however, it is not possible to alter Great Bentley Village Green or make changes of use without the involvement of the Secretary of State.

5. 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 and Rights of Way Act 2000
- Local Government Acts.

Great Bentley Village Green also has its own Byelaws (January 1978), this policy does not seek to replace those Byelaws but is to enhance them.

6. Responsibilities

Great Bentley Village Green is owned and administered by the Parish Council, and they are responsible for its maintenance, protection, and upkeep. All matters relating to Great Bentley Village Green should be referred to the Clerk to the Council in the first instance for consideration, who will then liaise with the

Parish Council. 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 Great Bentley Village Green. Parking on Great Bentley Village Green 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 or approves to carry out such works.

7. Rights of Access

There is a distinction here between old and new rights. There has never been a legal right that the Parish Council can give condoning the criminal offence of taking vehicles on to Great Bentley Village Green. There has been consent granted historically to the properties surrounding Great Bentley Village Green to use the already created vehicular thoroughfares. Where there is no long term user or a proposed new user (for say a new property) there is not even the expectation that a right of way can 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 Great Bentley Village Green and so does not need to be created.

8. 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 prescriptive rights of access that cross Great Bentley Village 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 and other vegetation except by the Parish Council or by authorisation of 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 or an authorised contractor.
- Lighting of fires and the use of any kind of BBQ

9. Enforcement

Where a party or parties are proved to have misused the Great Bentley Village Green, creating damage or alteration to its original fabric the Parish Council will deem those persons responsible for unlawful damage and take action for Great Bentley Village Green's repair or reinstatement.

Parties responsible will be expected to pay all subsequent costs in relation to the Great Bentley Village Green's repair/reinstatement, and works will be subject to timescales stipulated 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.

10. Maintenance

The Parish Council is legally responsible for the maintenance of all parts of Great Bentley Village Green, be they grassed or covered i.e. shale, concrete or other surface. 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 Great Bentley Village Green maintenance and repair will be taken by the Parish Council in the first instance, before any works are planned or carried out.

11. Replacing Hard Surfaces

Background:

As owners of Great Bentley Village Green under Section 8/2 of the Commons Registration act 1965, The Parish Council is responsible for ensuring its maintenance in a safe condition relative to the nature and use of the area in question.

In this regard paved areas in their varying nature need to be maintained in a condition which allows for safe use by people, animals and vehicles. However, such maintenance need only be sufficient to meet the degree and nature of such use and need not, therefore, be to a fixed standard.

Maintenance Responsibility:

Maintenance and cost responsibility rests with the Parish Council. However, as detailed above, such maintenance need not be to a fixed standard and can be varied to suit the nature and degree of use of specific areas. In this regard should the Parish Council decide upon a particular recognised maintenance regime which does not meet the expectations of the residents involved then those residents will be required to pay any additional costs incurred in meeting their own requirements.

1. Any residents wishing to have a hard surfaced area under category 1 or 2 repaired or replaced must put a request in writing to the Parish Council.
2. If the Parish Council gives permission for the works a fixed price competitive quotation will be obtained by the Parish Council which will provide exact particulars of the proposed works and include specific details of the materials to be used.
3. In advance of the works taking place all residents involved will be required to confirm their agreement in writing to their proportion of the costs of the works required but such a requirement will not give any rights, implied or otherwise, or any rights of title to the area concerned.
4. Under no circumstances will any grassed areas of Great Bentley Village Green be lost due to any works.

12. Inspections

The Parish Council have delegated the inspections of the Great Bentley Village Green to the Green Working Group who will carry out these inspections monthly to determine its condition and any works that may need to be carried out. Other Inspections may take place on an adhoc basis to look at individual issues as and when they arise. The results of such inspections will be formally recorded.

13. Protection of Trees

Please refer to Great Bentley Parish Councils separate Memorial Bench and Tree Policy.

14. Alteration or Change of Use

Any requests to alter or new use of Great Bentley Village 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 a Village Green in certain circumstances given that an equivalent piece of land in proportion and in the same proximity 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 Great Bentley Village Green other than going through a parliamentary process as Village Greens are heavily protected by legislation. It is therefore highly improbable and unlikely that any permission to change the use of Great Bentley Village Green or part of Great Bentley Village Green would be granted.

15. Conditions for Use of Great Bentley Village Green for Sanctioned Community Events

If you wish to use the Great Bentley Village Green for your event, the parish council require at least three months' notice before the event for permission to use The Green. This will allow you time, should permission be given, to notify the Licensing Officer if required. You should note that the Parish Council considers each application at its meeting on the first Thursday of each month and the application should reach the clerk at least a week before that meeting. You should set out the details of the event including the nature, times and dates and how you intend to comply with the license conditions.

- 1) Before permission is considered to have been given the recipient of this notice must sign a copy of this policy and return it to the Clerk to show that they have understood the conditions and agree to abide by them.
- 2) The Parish Council have a Premises Licence which covers the whole of Great Bentley Green which permits Live and Recorded music (including amplified) and Live Entertainment each day between the hours of 09.00 and 22.30. Outside these hours all music and entertainment must cease.
- 3) If an organisation wishes to operate their event outside these hours, they must first obtain Parish Council permission and then apply to the licensing authority for the additional hours.
- 4) Under current legislation any event requiring to offer a Bar or Beer Tent must obtain a Temporary Event License for Alcohol specifically for that event. It is no longer permitted to use another person's, premises licence for the same date or time. Permission to use Great Bentley Village Green is invalid if the correct license has not been obtained. Organisers should contact the Licensing officer at Tendring District Council for advice on 01255 686868.
- 5) The organisers must inform the Parish Council of the details of any Alcohol or Premises Licence granted.
- 6) The organisers are responsible for notifying, at least six weeks before their event, the Tendring District Council Licensing Officer if live music, recorded music, the performance of dance or anything of a similar description is provided as regulated entertainment. They must then abide by any conditions they require. Having notified them and received their comments they must inform the Clerk to the Parish Council in writing that this has been done and the arrangements required by that authority. They can be contacted at: The Licensing Officer, Tendring District Council, Westleigh House, Carnarvon Road, Clacton-on-Sea, Essex, CO15 6QF. Tel: 01255 686868.
- 7) The organiser must provide adequate First Aid services and Fire Control equipment in line with advice from Competent Authorities and provide the details of this to the Parish Council.

- 8) All amplified sound played during the licensed hours must have its volume controlled by the organisers who sign this document. They must be prepared to respond to complaints from the public and inform the Parish Council how this is to be done.
- 9) There must be on site a clearly signed point of contact for the organisers. All children's events must be supervised by at least two adults and take place in full view of parents and public, and these details must be provided to the Parish Council.
- 10) There shall be adequate stewarding to control and direct people to ensure public safety, the details of these stewards should be contained in the risk assessment provided to the parish council.
- 11) No fires shall be lit on Great Bentley Village Green.
- 12) All litter shall be removed by the organisers of the event to the satisfaction of the Parish Council.
- 13) Any damage to Great Bentley Village Green or other Parish property shall be repaired to the satisfaction of the Parish Council, if this is not done the Parish Council may seek to for the cost of repairs to be paid by the organisers.
- 14) No signs shall be erected on Great Bentley Village Green without the prior permission of the Parish Council who will approve the size, design and wording, adhering to the Parish Councils Village Green Signage Policy.
- 15) Organisers must ensure that as little inconvenience as possible is caused to local residents and the general public by the event.
- 16) It is Parish Council policy not to permit the lighting of sky (Chinese) lanterns on any part of Parish Council land.
- 17) Failure to comply with any of the Conditions or Bye-Laws affecting Great Bentley Village Green could result in the Parish Council making a charge for the repair of or cleaning up the site and it could mean that any future application for permission could be refused.
- 18) The Parish Council accepts no liability or responsibility for any accident to persons or damage to property caused by persons or things connected with the event. Organisers of events or occasions should ensure that they have taken out adequate cover for third party/public liability insurance and must provide the details of this to the Clerk prior to the event.

16. Parking and Access

Driving and parking on a Village Green is offence under section 12 Inclosure Act 1857 and section 29 Commons Act 1876 see [here](#). It is also an offence under section 34 Road Traffic Act 1988 to drive anywhere off the road, except within 15 yards of a road solely in order to park, without lawful authority. Parking and driving may also be an offence under section 1 Criminal Damage Act 1971 if damage is caused to the green.

However, the Parish Council understand that restricting parking during any agreed community event would interfere with the inhabitants' right of recreation therefore if parking is required (which will be at the discretion of the Parish Council and will be considered on an individual application basis there may be a temporary right of right of way granted and parking on specific areas of the green.

Organisers must ensure that all parking by those taking part in the activities is considerate and causes minimum damage and disruption.

Parking and driving will still strictly be forbidden on all other areas of Great Bentley Village Green.

Summary

The Parish Council can consider any request to use Great Bentley Village green, if appropriate, they will require a full risk assessment of the event, relevant insurances in place, confirmation of contact details for organisers before hand and on the day of the event and contact details afterwards. If food vendors are being used the organisers must have copies of their insurance certificates if the parish council wish to inspect them. If Permission is granted, the organisers will need to provide proof of first aiders as required, relevant steward numbers, proof of any licensees required, if these are not provided the Parish Council will remove permission for any event.