

## **GUIDANCE NOTE IN RESPECT OF MANAGEMENT OF THE GREEN BY THE GREEN CHARITY**

### **Introduction**

Barrington has one of the finest and most famous village greens in England, dating back to at least the early middle ages, if not earlier. Like many village greens, it originally formed part of the common land of the village, and villagers had the right to graze cattle, sheep and poultry upon it.

Over time, houses were built on either side of the Green and on the “island site” (which probably is land that once formed part of the green).

This was before the days of the motor car. Most people who lived in the houses would have enjoyed a life based in and around the village and would have walked to work (in the fields), to All Saints’ Church and to the various ale houses in the village.

In 1895, Barrington Parish Council was established. In 1899, it passed a bye-law making it unlawful, without the Parish Council’s consent, to drive a wheeled vehicle (apart from a pram, push chair or wheel chair) across the Green. This reflected a concern to preserve the Green.

In 1912, the Green was vested in the Parish Council as charitable trustees and the Green Charity established.

In the course of time, of course, people who lived in the houses bordering on the green and on the island site acquired motor cycles and cars. In the period before and after the Second World War, a number sought and were given permission to make, use or modify accessways across the Green. However it seems that not everybody asked permission with the result that the Green was damaged – in 1954 the Chairman of the Parish Council was concerned that the Green was being turned into a quagmire.

The solution which came about in 1969 proved to be the construction of a new access to serve the island site and the establishment of a network of authorised permitted roadways. These were surfaced and subsequently maintained by the Parish Council. At first these were maintained out of the parish rates but this was ruled to be inappropriate in 1998. Since that time the permitted roadways have been maintained by the Green Charity, and part of the costs recovered from the 109 properties which need access across the Green, together with other funds raised by the Green Charity.

### **The basis of the current arrangements**

The current arrangements, which were put in place in 1998, were designed to strike a balance between the need to preserve the Green and the need of local residents to take vehicular access over the Green. Control of access over the Green is in the hands of the Green Charity who are able thereby to protect it but who are also able equitably to organise the maintenance of the permitted roadways out of income received in licence fees.

## **Why will the Green Charity not grant permanent vehicular rights of way over the Green?**

If the Green Charity were to grant permanent rights of way over the Green it would make it impossible in the future ever to modify the existing access arrangements. Although the Green Charity does not at the moment foresee making any changes, it is sensible to retain the flexibility to do so. Further if permanent rights were granted it would be difficult to put in place effective legal arrangements to ensure payment of an appropriate fee to maintain the accessways.

The Green Charity recognises that the fact that those houses which take vehicular access across the Green do not have an irrevocable entitlement in law to do so may be regarded by some as unsatisfactory. However, in the light of the charitable status of the Green and the long existence of the bye-laws, the Green Charity has been advised that even if, in any particular case, vehicular access had been taken across the Green without the consent of the Green Charity, it would not have been effective to prescribe an easement. The position is that houses which take access over the Green have been satisfactorily bought and sold for many years in the knowledge of the arrangements that obtain. The Green Charity seeks to regulate for the common good access over the Green and has never sought to prevent any of the houses which currently take access over the Green from doing so. It has been advised that it could only seek to prevent existing houses from continuing to take access in the most extreme cases.

The Green Charity considers that the Green is a unique resource that benefits all the inhabitants of the village, its sports clubs and its many visitors and that the arrangements that have been put in place work well to protect and manage it for the good of all.

### **The amount of the charge**

The licence fee charged by the Green Charity is comparatively modest and does not cover the current cost of maintaining the permitted roadways. The fee level does not seek to reflect the length of permitted roadway that is enjoyed by the licence holder. When the Permitted Way Scheme was set up in 1998, it was agreed that every Green resident would pay the same fee even though some licence holders enjoy only a very short section of permitted roadway. The licence fee is subject to review every four years, when new licences are offered.

Since about 1980, the Green Charity has not maintained “spurs” from the main permitted roadways to individual houses but has maintained the spurs to its standard specification on the basis of individual payments received from the relevant householder. This is considered to be an appropriate arrangement, allowing an individual to choose either to have the spur maintained to the same standard as the rest of the permitted roadway or to maintain it personally.

### **New permitted roadways**

Applications for the construction of new permitted roadways and appropriate arrangements for them would be considered on their merits. For an entirely new permitted roadway the

Green Charity would expect to charge a fee which reflected the fact that without the Charity's consent any development facilitated thereby could not proceed i.e. they would participate in the increase in value of the land. The Green Charity considers that a payment reflecting one half of the increase in value of the development site would be appropriate: this reflects the well known case of *Stokes v Cambridge Corporation* (1962)<sup>1</sup>. In circumstances where no new permitted roadway is being created, the Trustees will expect a capital payment reflecting the increased use of the existing permitted roadway: this will depend on the circumstances prevailing at the time and in the light of the advice of the District Valuer.

### **Garden licences**

Some properties fronting on the green have no front garden. In respect of specific residences, the Green Charity has licensed the householder to create a front garden to a depth of 2' 6" (reflecting the "overhang" of a thatched roof). From this year, the Charity is introducing a licence scheme similar to that for the permitted roadways. The Charity will not without good reason refuse a licence for a front garden not more than 2' 6" in depth in respect of a house which does not have its own front garden.

### **Parking**

The Green Charity recognises that there is a problem with parking on the Green by those living in houses which do not have "off street" (or off Green parking). This damages the Green and is unsightly.

The physical damage could be addressed by the provision of plastic matting or similar in appropriate places. However it is likely that this would offend the provisions of the Victorian statutes protecting village greens – it depends on precisely what is involved. But more profoundly such provision in altering the natural appearance of the Green is itself likely to be unattractive. For these reasons the Charity has not pursued such measures.

In the circumstances, the Green Charity requests all householders to take particular care to respect the Green as best they can

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<sup>1</sup> It is often suggested that the case suggests that one third of the increase is payable in circumstances such as these; this represents a misreading of the case.