



## STOWUPLAND PARISH COUNCIL

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# Stowupland Thorney Green

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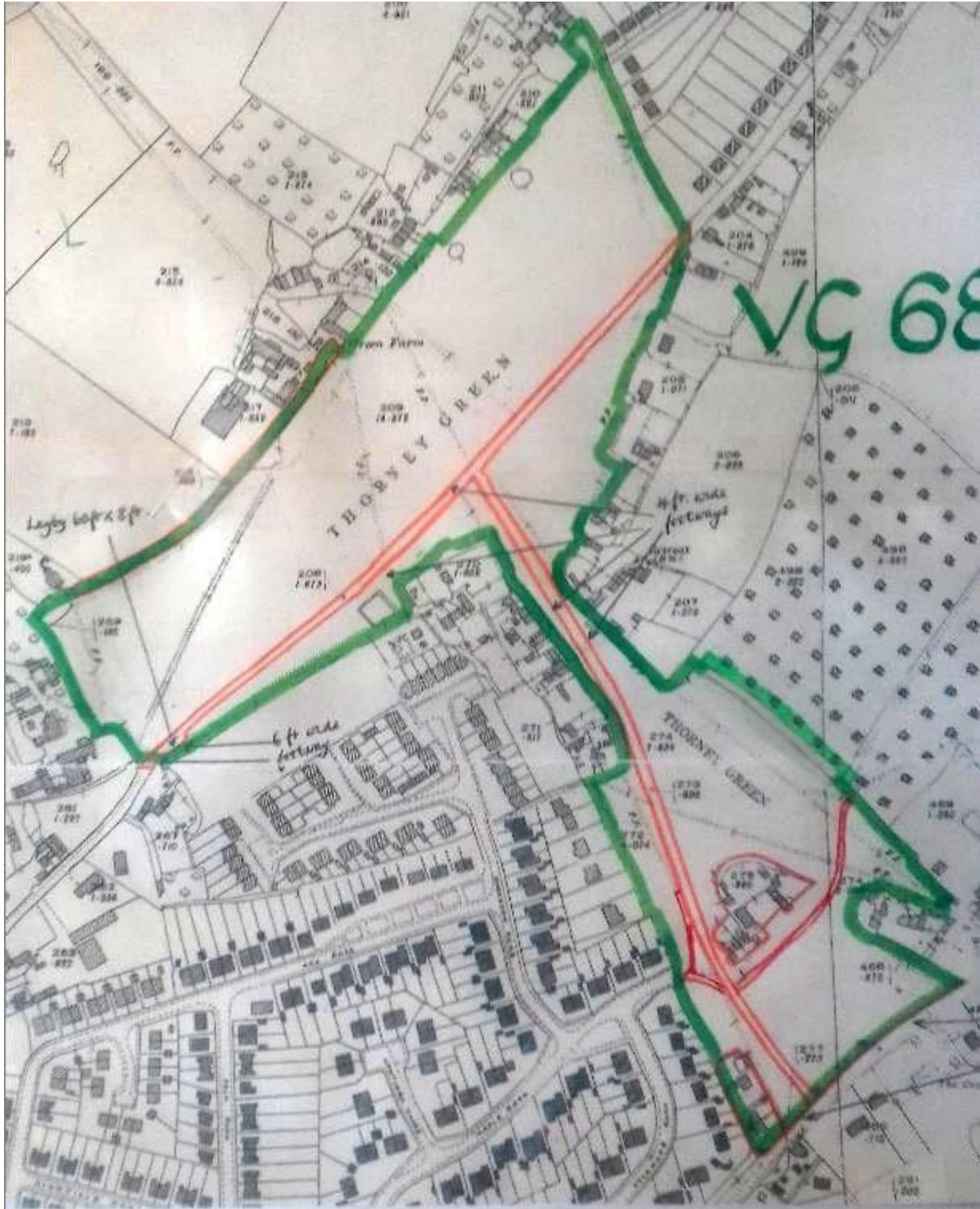
The Village Green is an integral part of any village community, and as such, should provide its residents with a focal point on which to live a peaceful and friendly existence. It is the essence of rural England, evoking cricket matches, tea parties, long summer evenings and maypole dancers.

Thorney Green is a village green with Commoners' Rights. Commoners' Rights are historic but still apply to today. It is the right of a Commoner to take or use resources from a piece of common land. It can be pasturage, the right to put livestock out to feed on the land, usually grass but it can be heather or other vegetation.

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.

## MAP OF THORNEY GREEN

The boundary of the Village Green is shown in green, areas shown edged in red are not part of the Village Green.



Not to Scale



## **1. DEFINITION OF THE VILLAGE GREEN**

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.

## **2. REGISTRATION.**

The Village Green is registered with the COMMONS REGISTRATION AUTHORITY (Suffolk County Council). This provides protection as afforded by various acts of legislation (see note 4) that cover all aspects of the Village Green's use and management. Our Village Green was registration number is VG68. The Village Green is also registered with Land Registry under Title Deed number SK326098.

The Village Green is now owned and administered by the Parish Council, however it is not now possible to alter the Village Green, or make changes of use without the involvement of the Secretary of State (see note 13 – Alteration or Change of Use).

## **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 & 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 Village 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. As custodians The Parish Council must ensure that The Village Green is protected against encroachment, damage, and uses other than those consistent with normal enjoyment of The Village Green. Parking on The 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 to carry out such works.

## **6. LAWFUL USES**

Whilst not exhaustive, the following is a list of lawful and prohibited uses of The Village 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 rights of access that cross The Village Green with a vehicle.

Prohibited uses include:-

- \*any physical alterations to The Village Green.
- \*fencing of The Village 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 except by 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

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. 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 any aspect of The Village Green and its use. This should be by contact with the Parish Clerk, or attendance at a monthly Parish Council meeting with a question or query for the Council's consideration and ruling.

## **7. ENFORCEMENT**

Where a party or parties are proved to have misused the 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 the Village Green's repair or reinstatement.

Those responsible will be expected to pay all subsequent costs in relation to the Village 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 civil 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 Clerk, or attend one of the monthly meetings 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 6 - Lawful Uses).

## **8. MAINTENANCE**

The Parish Council is legally responsible for ensuring the maintenance of all parts of the Village Green, be they grassed or covered i.e. shale, concrete or tarmacadam.

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 Village Green maintenance and repair will be taken by the Parish Council in the first instance, before any works are planned or carried out.

## **9. REPLACING HARD SURFACES POLICY**

### **Background:**

As owners of the 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 hard surface 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.

It should be noted that public roads, for which Suffolk County Council are the Highway Authority are not part of the registered Village Green.

**Hard surface areas of the Village Green generally fall into one or other of the following 3 categories:**

1. Footpaths which are the responsibility of Suffolk County Council.
2. Footpaths which are not the responsibility of Suffolk County Council.
3. Unmade roads, crossings & footpaths which are essentially vehicular and pedestrian accesses for one or more properties.

**Maintenance Responsibility:**

Category 1 Maintenance of public footpaths is the responsibility of Suffolk County Council; it is the responsibility of the Parish Council to maintain them to a higher standard if they so desire and all costs in doing so would fall to the Parish Council. If residents who use a path with public highway rights for access to their properties, the cost of maintaining the path to a higher standard shall be met by those residents.

Category 2 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.

Category 3 Responsibility for these paths and tracks rests with individual owners or jointly with the property owners and/or users. Should the Parish Council deem that a path or track needs attention, the Council will draw it to the attention of those responsible and require appropriate remedial action within a specified time frame at no cost to the Council. If such action is not taken, the Council will take appropriate action to fulfil its own legal responsibilities and recharge the owners with the costs incurred.

**Procedure for the maintenance, repair and reconstruction of existing tracks and construction of new tracks**

1. Requests for repair, reconstruction or replacement of tracks or construction of a new track must be made in writing to the Parish Council. Each request will be considered at the next available meeting of the 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 The Village Green be lost due to any works.

5. Application of materials to fill potholes may be carried out without prior consent of the Council.

## **10. INSPECTIONS AND WORKING PARTIES.**

The Parish Council will inspect the whole of The Village Green on an annual basis, usually in April, to determine its condition and any works that may need to be carried out. Other inspections may take place on an ad-hoc basis to look at individual issues as and when they arise. The results of such inspections will be formally recorded.

From time to time the Parish Council will conduct working parties to carry out minor works in relation to maintenance and upkeep of The Village Green, including seeding, tree maintenance, etc. Residents will usually be informed of any major works by means of the village magazine, and any help in maintenance tasks would be greatly appreciated.

## **11. RIGHTS OF ACCESS.**

There is a distinction here between established 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), the Parish Council may have given consent (in a formal document, or a letter). 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 Parish Council could not take action in future against the owner. The onus is on the owner or prospective owner of a property to take the procedure forward with the Parish 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 no right exists and it cannot be used for 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 Village Green 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 Parish 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 Green. There could be no exclusion of the public from this path and the Parish Council would, in effect, only recognise the use subject to it being properly maintained by those benefitting from it.

## **12. PROTECTION OF TREES/HEDGES/PLANTS etc.**

All trees, hedges and plants that are planted within The Village Green are protected and must not be pruned or cut down without obtaining permission from the Parish Council. The Parish Council has over the years been responsible for the planting of such trees and they form part of what is The Village Green. The Parish Council has the right to take decisions on the moving and replanting of trees, hedges and other plants on The Village Green. Nothing from the Village Green shall be removed and this includes mole hills.

You should contact a Clerk or attend one of the monthly Parish Council meetings if you have any questions or queries in relation to any planting on The Village Green.

### **13. ALTERATION OR CHANGE OF USE.**

Any requests to change an existing use or introduce a new use of The Village Green or part of it shall first be referred to the Parish Council in writing. 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 or part of it in certain circumstances given that an equivalent piece of land in proportion is exchanged for the intended area of Village Green concerned.

In general terms it would not be possible to obtain permission to alter or change the use of a Village Green given that Registered Village 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 Village Green would be granted.

### **14. AVAILABILITY.**

This document will be published on the Parish Council's website and copies may be obtained on application to the Parish Clerk for a fee.

### **15. 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 honoured to live and be a part of a community that has the good fortune to have one.

**LET US WORK AS A TEAM TO KEEP OUR VILLAGE GREEN PRISTINE.**