

# West Rainton Parish Council - 16 March 2017

## Item 7: Village Green

### Report of Project Officer, G Keedy

#### Introduction:

Members should be made aware that Village Green issues have been a recurring theme of Parish Council business, with records showing protracted discussions in the mid 2000's, 2014 and 2015.

As part of an agreed programme of work, Project Officer has been required to revisit this topic, specifically in relation to an issue arising late in 2014 and where Parish Council resolved at a subsequent meeting that legal advice be sought. This related to a path laid by a resident to give access to their property across Village Green on South Street. This appeared to be an infringement of the relevant legislation.

Additionally, there have been recent requests from Cllr Gilbank for Village Green to be discussed.

Project Officer and Parish Clerk met with Cllr Gilbank at West Rainton on 3 March 2017. Cllr Gilbank and officers walked the entire site of Village Green, with Cllr Gilbank identifying various issues of concern to him.

#### Background:

A plan showing registered Village Green within the Parish is attached, together with the Department for Environment Food and Rural Affairs (DEFRA) publication "Management and Protection of Registered Town and Village Greens". The latter details the statutory protection registered Village Greens receive under two Victorian Statutes. These are Section 12 of the Inclosure Act 1857 and Section 29 of the Commons Act 1876.

In considering the issues raised by Cllr Gilbank and any potential action required to be taken by the Parish Council in response, Members are asked to take account of the following:

- a) It is the understanding of Project Officer that Parish Council has no legal obligation to take any action where an alleged infringement under the above two statutes occur.
- b) A key factor in deliberations should be DEFRA's view, "in considering whether or not any given development or action contravenes either or both of these statutes a court is likely to be concerned with whether material harm has been caused to a green and whether there has been interference with the public's recreational enjoyment".
- c) The DEFRA guidance makes reference to the protection of Village Greens for the enjoyment of lawful sports and pastimes. It could be viewed that, with the exception of the Playground on School Avenue (now under the ownership of Durham County Council), all areas of land registered as Village Green within the Parish are unsuitable for these purposes.
- d) The practical aspects of its' decision(s), including associated costs and the impact on the interests of the wider community.

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### Issues highlighted by Cllr Gilbank:

- 1) Possible encroachment of historic Village Green boundaries on South Street (area immediately to the west of the Heritage Garden) for more than twenty years attributable to a need for residents to obtain reasonable vehicular access to their homes utilising unadopted road.

This has been the subject of previous discussion at Parish Council, most recently at its' meeting held on 18 June 2015.

DEFRA guidance informed Parish Council's decision on 18 June 2015 to:

"agree that the boulders demarcating Village Green from South Street be left in situ in their well-established locations."

**In view of that decision, no further action is considered necessary.**

- 2) Resident parking on parish land adjacent to Village Green at South Street can potentially cause access difficulties to the South Street entrance to St. Mary's Church.

This matter was the subject of discussion at the Parish Council meeting held on 18 September 2014 where it was resolved that:

"Parish Clerk would send advance email notification of funerals to those residents in the immediate vicinity."

Subsequent to this decision, communications have been improved further in that residents are now also given advance notice of all weddings and funerals directly by the Church Warden.

**There have been no further issues and no further action is considered necessary.**

- 3) Actions to enhance the frontage of several individual domestic properties by means of planting flowers and shrubs, but leading to inadvertent encroachment on Village Green by up to approximately 1 metre.

**Parish Council is asked to consider what action, if any is required.**

- 4) Possible encroachment at three sites by the laying of paths/drive across Village Green to improve access to/from resident properties on South Street.

The first location may be in breach of planning permission and this is being investigated by Durham County Council following an arbitrary referral by Cllr Gilbank.

There is a possibility that the developments at this property have absorbed a section of Village Green.

**No action is considered necessary pending the outcome of investigations by Durham County Council.** (DCC will update Officers with progress)

At the second location, a "hard standing" crosses Village Green. The timing of its' installation is unclear but it may have been in situ for many years.

**Parish Council is asked to consider what action, if any is required.**

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The third site is a possible infringement and is the source of the original decision to seek specialist legal advice.

**No further consideration required as this outstanding action will be progressed.**

- 5) North Street - an area within the boundary of Jubilee Hall has been partially fenced (low-level) and is being used as a storage area for waste bins.

**Parish Council is asked to consider what action, if any is required.**

- 6) A drive-way providing the only access across Village Green to a residential property on North Street may require upgrading for cosmetic purposes.

**Parish Council is asked to consider what action, if any is required.**

- 7) Some areas of Village Green require improved maintenance.

**Parish Council is asked to task an Officer with establishing current maintenance arrangements.**