

Brill Common & Walks Policy Document

1. BACKGROUND

From time to time the Parish Council and residents whose properties adjoin or are surrounded by common land have not always agreed over issues such as access, parking and maintenance. It's also true to say that in the past the Parish Council has not always been consistent in its communication or advice to people on these matters. This paper is intended to set out the Parish Council's policy as on all areas where there is the possibility of misunderstanding.

Brill Parish Council is the registered owner of the Common Land in Brill, which is held in trust by them for the benefit and enjoyment of all Brill's residents as well as the many visitors who come to the village. The policies set out below are designed to be fair to the residents who live beside common land but also make it clear that the Parish Council will protect Common Land from damage and misuse, it being a major asset of the village.

Although we intend these policies to be as definitive as possible, it may well be that circumstances or issues arise that are not covered by them. In such cases the Council will always try to be consistent and reasonable in its interpretation and handle such cases individually. Where necessary, the policies will be updated. If you have an issue that you don't feel is covered by this document you should contact the Parish Council.

By "common land", we mean The Common, The Walks and the grassed areas of The Square and The Green.

2. ACCESS

The gaining of an easement (right of way) over common land is a fraught area which has seen several changes in the law recently. It used to be understood that, as it is illegal to drive over common land, a prescriptive right could not be gained. (One cannot gain a right by performing an illegal action.) To address this problem, under Section 68 of the CROW Act 2000, people who drove over common land to reach their properties, and who had been doing so for a certain length of time, were able to apply for an easement, and pay a charge based on the valuation of their property. Very soon after this came into being, the decision in the *Hanning v Top Deck Travel Group* case (that rights could not be gained by prescription) was overruled by the House of Lords. In effect, this now means that owners of properties to which the only vehicular access is over common land, and where the owners or their predecessors have had uninterrupted use of the vehicle access for 20 or more years without consent, now have a prescriptive right. They therefore do not have to pay anything to the owner of the land. The right of vehicular access to the property does not give the householder any ownership of the track, nor does it give the householder rights to repair the track. (See 5 below)

No new vehicular access will be permitted without the written approval of the Parish Council. Any unauthorised access created without approval could be closed by the Parish Council and the cost of the works passed to the resident responsible.

A detailed record is being made, including photographs, of every property that has established access at the date shown in the record. These records will be accepted as the only definitive record of the accesses that exist and that are approved. The Parish Council will take whatever action is required to prevent any unauthorised changes or new accesses being created without written approval.

If you are in any doubt about your access, please contact the Parish Council for a copy of the record covering your property.

3. PARKING

Common land is for people, not cars. Where residents have garages or drives on their properties we ask them to use them. For those who claim to have insufficient parking or no parking or garage space within their property, they are not entitled under current legislation to park on the Common. The Parish Council however takes a sympathetic view to the parking of vehicles on the Common where they are used by householders abutting the Common but, if required, the Council may have to take steps to prevent people so parking.

The Parish Council will not in future allow any new hard-standing (e.g. concrete or tarmac surfacing) to be laid on common land by any individual or household for any purpose whatsoever, including car parking.

Where hard-standing exists and needs to be repaired, a detailed request, including photographs and drawings, should be submitted to the Parish Council for approval before any work is carried out. Any work carried out without written approval could be removed by The Parish Council and the cost passed to the resident responsible.

4. ENCROACHMENT

No one may annexe any part of common land. Stones or markers may not be used on common land as they may, however unwittingly, imply an extension of private land into common land. Encroachment includes specifically mowing areas of Common Land in such a way as to imply private ownership, the erection of steps and stiles, benches and any object which could lead to the impression of enclosure by the house owner of any part of the Common.

Rubbish bins should be stored within the property boundary and not outside of the property on Common land.

Garden cuttings and general garden waste must not be dumped on any part of the Common. It is the responsibility of all residents to dispose of their garden waste responsibly.

5. TRACK MAINTENANCE

It is for the Council alone, at a regular meeting, to decide whether track maintenance should be allowed and no track maintenance, alteration or change by any householder is permitted without the express written authority of the Council. The Council will not allow work to be undertaken without its explicit consent.

Residents who feel that a track is in need of repair should contact the Parish Council in writing for approval before any repairs or resurfacing takes place. No reasonable request for this will be refused. If approval for repair / resurfacing is given the Parish Council will identify the materials that should be used. A specification has been drawn up for the materials suitable for resurfacing Common tracks which varies depending on the length, track location and the severity of the work required. No materials not specified by the Parish Council can be used. The Parish Council has the right to remove any resurfacing carried out without approval and pass the cost of the removal to the resident responsible.

6. BUILDING MATERIALS AND SKIPS

Skips and building materials must be sited on the resident's property and not on common land. Where building work necessitates the siting of a skip or building materials on common land because the nature of the work makes it impossible to site them on the resident's property, permission must be sought in advance from the Clerk, acting on behalf of the Parish Council, before deliveries are made and work commences. No reasonable request for this will be refused. The property owner is liable to third parties for any claim for damage or injury and must be appropriately insured, either through themselves or by the skip hirer. Protective material must be laid under building materials to minimise damage to the ground. Any damage caused to common land will be made good by the resident within three months in accordance with guidelines that the council will provide for the most appropriate form of restoration.

7. PLANTING

The main common supports a diversity of habitats. 68 species of moth, 23 species of butterfly, 60 bird species and 14 mammals have been recorded and the main common supports a number of rare plants. This ecology can easily be altered by the introduction of garden or non-indigenous plants.

The planting of any flowers, plants, shrubs, trees or hedges on common land is not allowed unless specifically requested or approved by the Parish Council. However, the Council may permit certain groups to make plantings of native species in specific circumstances.

8. GRASS CUTTING AND WEED TREATMENT

Grass verges immediately adjacent to a residential property may be cut and kept tidy. It is not acceptable to mow small patches to create the impression of a private garden lawn and public access must not be restricted as a result of any cutting. In addition, the householder may cut back nettles, docks and thistles adjacent to his/her home.

The use of weed-killer of any kind by residents beyond the boundaries of private property is not permitted.

9. SMALL STRUCTURES

Over the years a number of small structures have been placed on common land, such as clothes lines and chicken coops.

Consent may be given for the erection of small temporary structures on the Common but this is entirely a matter for the Parish Council to consider. Anybody wishing to erect items such as chicken coops, clothes lines and the like must ask the consent of the Parish Council who will endeavour to give their consent as quickly as possible but will not be required to give any consent if they believe that it is not in the interest of the Common or falls outside the current legislation preventing structures on the Common. **No garden furniture or benches are to be placed on Common Land** unless placed at the request of the Parish Council for the use of all residents and visitors.

10. GRAZING RIGHTS

“When the Common was registered in 1972, a small number of people had their rights to graze registered at law. (It is no longer possible to gain registered rights).

The Brill Village Community Herd is an excellent example of these rights being exercised and where grazing is having a very positive impact on the Common

It is the intention of the Parish Council to maintain the Common in as open a way as possible so as to maintain public access and if some temporary fencing is required, this will be restricted to that permitted under rules dictated by the Secretary of State.

Owners of property adjacent to the Common are responsible for ensuring that their boundaries are stockproof.”

11. Events on the Common.

The Parish Council is regularly asked to permit local events on the Common including amongst other things celebratory parties, wedding photographs at the Windmill and small scale orienteering. Permission will not unnecessarily be withheld provided sufficient notice is given, the event doesn't clash with something already taking place, the event will not disturb other residents or visitors and no damage is likely to be caused to the Common. Anyone wishing to use part of the Common for an event should contact the parish Clerk at the earliest opportunity.

Commercial events, if approved, will need to adhere to the conditions above but also demonstrate appropriate licencing and Health & Safety requirements have been met.

For larger events, a Parish contribution may also be required.

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