

Proposal:

To obtain a byelaw covering Great Yarmouth Borough preventing anyone from driving on, or parking on a Green or Common without permission of the landowner.

Martham Parish Council, like many Councils I am sure, understood that the Village Green was protected in law. The Green in the village is currently suffering repeated vehicular incursions by a local resident.

Investigation has educated the Council to the fact that it is not a legal, but a civil matter, and entirely down to the Council to fight this as a landowner, in a civil way. There is no legal redress as the individual concerned is parking within 15 yards of the road.

The Highways Act 1988 section 34;

Prohibition of driving mechanically propelled vehicles elsewhere than on roads.

(1) Subject to the provisions of this section, if without lawful authority a person drives a mechanically propelled vehicle—

(a) on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or

(b) on any road being a footpath, bridleway or restricted byway, he is guilty of an offence.

(2) For the purposes of subsection (1)(b) above, a way shown in a definitive map and statement as a footpath, bridleway or restricted byway is, without prejudice to section 56(1) of the Wildlife and Countryside Act 1981, to be taken to be a way of the kind shown, unless (subject to section 34A of this Act) the contrary is proved.

(3) It is not an offence under this section to drive a mechanically propelled vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.

Defra's Guidance;

<http://archive.defra.gov.uk/rural/documents/protected/common-land/tvgprotect-faq.pdf>

3. Can vehicles drive over or park on greens?

Section 34 of the Road Traffic Act 1988 makes it a criminal offence to drive over, or park on land (including a green

) not forming part of a road without lawful authority to do so.

In this context 'lawful authority' includes either the lawful permission of the owner of the land or a private vehicular right¹⁰. Those who have lawful permission, a private right or some other form of lawful authority may drive over, or park on, a green without committing an offence under the 1988 Act. **Furthermore it is not an offence under the 1988 Act to drive on a green within 15 yards of a public road solely for the purposes of parking on the green.**

As national law does not completely protect the Green, the Council is seeking a Byelaw to make it illegal, and ensure that the Green can be protected.

If any Parish Council would like further information the Clerk can be contacted on 01493 749938 and would be happy to discuss this.