

What does your ideal village green look like?

Freshford Parish Council is consulting residents of the Parish of Freshford to find out their views on the Tynning, Freshford's village green. This is your chance to say what you would like from your village green and how you would like it to look now and in the future.

The view of the local community will be an important factor that the Parish Council will take into account when making plans for the village green. Please take the time to take part in this consultation exercise.

What does your ideal village green look like?

Freshford Parish Council community consultation on the Tyning, February to March 2016

VILLAGE GREEN CONSULTATION DOCUMENT

Have your say on the village green

Freshford Parish Council is consulting local residents to find out their views on the village green. This is your chance to say what you want from your green and how you would like it to look in the future. Village greens are places that were created for local communities for the purposes of recreation. The Tyning was registered as a village green in 1970 but it wasn't until 2014, when the Tyning field was purchased by the Parish Council, that the entire green finally became accessible to all - in other words, that the legitimate rights of villagers to access all of the land, for the purposes of recreation and sport, were fulfilled. The purchase means that the village green is now owned by the community and stands alongside the other 3,680 registered village greens in the UK owned by local councils. The next stage is for the community to help decide how the village green should look in the future.

Why is the Parish Council consulting the community?

Various decisions have to be taken: for example, should the grass in the Tyning field section of the green be kept short like a park, or would you prefer it to look more rural; like a country field in fact? The Parish Council is also considering whether improvements can be made in the future and has received suggestions that range from opening up the views towards Westbury white horse, to creating new paths. We'd like to find out what you think of these ideas. Some are straightforward and could be put into place immediately within existing budgets. Other proposals are more complex and expensive: if the community shows interest for these in principle then further work will need to be done to make sure they are feasible, and also to investigate sources of funding. We need your feedback to help us decide what to prioritise.

Who exactly is being consulted?

Freshford Parish Council is consulting every household in Freshford in this consultation document, which is being delivered with The Bulletin at the end of January 2016. If those resident outside the Parish wish to comment they may request a form too. The Parish Council will be happy to read their comments but they will be recorded separately because this consultation exercise is aimed primarily at residents of the Parish of Freshford.

The consultation process

This is not a voting process, but simply a consultation exercise designed to gauge the opinion of residents. The results will be made public. The views of local residents will be an important factor that the Parish Council will take into account when making plans for the village green. However there will be other important factors, such as the law, health and safety, planning issues and, of course, budgets. Some of the suggestions will be covered by the Parish Council's existing budget, but for more ambitious projects we may need to seek grants or special funding.

The background to the consultation - Tyning Advisory Group

After purchasing the village green, the Parish Council asked the community, via Community Database emails and via the Bulletin, to suggest what it would like to see happen there in the future. The Parish Council invited interested local people to form the Tyning Advisory Group (TAG) to investigate the suggestions received from the community. These ranged from 'more car parking' to 'a small orchard'. TAG met from spring 2014 to spring 2015 and researched each and every suggestion to see if it was viable. Factors the group considered included: legality, especially village green laws; the Neighbourhood Plan; rights of way legislation; Conservation Area character appraisal; and health and safety. They also took into account a historic Covenant on the Tyning, held by several local households, which places certain restrictions on the use of the land. TAG's findings were presented to the Parish Council in a report. Those who attended TAG meetings were: Stuart Campell, Julie Fitzgerald, Paddy Fitzgerald, Jean Hawker, Jill Johnson, Mandy Knowles, Claudia Towner, Sue Wingrove, Andrew Wishart, David Woods.

How to take part in this consultation

The consultation has 20 topics, described on the following pages. Please consider the issues around each topic and give us your feedback on the **Response Section** supplied. Then post it to The Parish Clerk, Ingrid Maher Roberts, 4 Cliffe Drive, Limpley Stoke, BA2 7FY or hand it in at the Galleries shop by Monday 14th March 2016. Each household will be supplied with one form. If feel you need a second form, (or live outside the Parish and would like a form so you can take part in the consultation as a non-resident), then please request one by telephoning the Parish Clerk on 723036.

PART ONE

A SHARED VISION

1) WHERE DO YOU LIVE

Because this consultation is aimed primarily at local residents, the first question is whether you live in the Parish. Giving your name and address is optional. If you live outside the Parish let us know which area you live in.

2) HOPES & FEARS

At their first meeting, TAG discussed comments received from the community. They listed initial thoughts on what they wanted from their village green, and what they worried about. The list appears below.

HOPES: I want the village green:

- a) to be the same size/shape, i.e. not eaten into
- b) to have a perimeter that deters cars
- c) to have little man-made infrastructure
- d) to have limited change
- e) to be an open green space
- f) to be a rural area in keeping with the village
- g) to retain its charm and picturesque views
- h) to have a healthy biodiversity
- i) to be used and respected by all

FEARS: I'm worried about:

- j) it becoming a car park
- k) fly tipping
- l) travellers occupying the land
- m) suburbanisation
- n) verge erosion
- o) lack of maintenance (overgrown/brambles)
- p) too much maintenance (over manicured)
- q) rubbish/glass from picnickers
- r) injury (e.g. from glass) and public liability

WHAT DO YOU THINK? *In the Response Section, we'll ask you which of these you agree with.*

PART TWO

CARING FOR THE GREEN

3) FENCES AND HEDGES

The law requires open access onto a village green, so after purchasing the Tyning field the Parish Council opened up gateways in the fence to allow local residents, finally, to exercise their legal right. Village greens are not usually fenced, but ours is, and some people might like to keep those, for example to protect children and dogs from the road. However, fencing on a village green is problematic. There are two main Acts of Parliament protecting village greens and they are contradictory. One (1857) makes it a criminal offence to damage the fence of a village green, while the other (1876) makes it a public nuisance to inclose (or enclose) a village green, or erect anything "otherwise than with a view to the better enjoyment' of the green".

TAG investigated whether keeping or replacing the fence would be legal if it was for the "better enjoyment of the green" and sought expert advice. The Open Spaces Society acknowledged the law's contradictions, but said there was no "statutory provision or decided case" to illuminate it, which means that taking legal advice would be unlikely to clarify the situation. The rights of way officer for B&NES has stated that fencing a green is prima facie an unlawful act and should he received a complaint about the fencing he would order the landowner to remove it.

At its meeting in May 2015 The Parish Council agreed that the barbed wire at the top of the Tyning should be removed to comply with village green status. The Parish Council has a duty to manage the Tyning in accordance with the law and feels the legal position is such that the barbed wire fence cannot be replaced with another fence. To protect the verge along Tyning Lane, it is proposed to install short posts, to match the existing ones. At the top of the wall along High Street, a barrier fence will still be needed to prevent people tripping over the edge.

The Tyning is bounded along Freshford Lane by a hedge. Following a suggestion from TAG, the Parish Council commissioned a historical survey in order to establish the hedge's status in law. Because it is recorded on maps from 1717 and has a variety of species, it is defined as 'an important hedge' and is protected under the Hedgerow Regulations of 1997. The Parish Council has decided it should be retained. In village green legislation, hedges are

seen as fences but the rights of way officer has said that if the community wanted to keep the hedge there he would not object. It is a well recognised part of the landscape and cherished as such. It acts as a safety barrier between the road and the green. It could be improved, for example by laying it in the traditional manner rather than machine cutting, and by in-planting any gaps with native hedge species.

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

4) MAINTENANCE

Some people have said they'd like to retain the Tynning's rural character as a field rather than turning it into a closely mown recreation ground. However, the grass still needs to be cut to prevent the land from reverting to scrub or being dominated by long rooted plants such as dock and thistles.

There are many factors to take into account when developing a maintenance programme, including the need for the field to be accessible for recreation; accessibility by grass-cutting machinery; short and long-term costs; desired appearance (such as delaying mowing to allow a display of wild flowers), botanical diversity, and wildlife. Managing the vegetation differently in different zones might allow us to balance all these needs. The grass in some areas could be mown more closely, for example on paths, and in other areas left to grow longer, where wild flowers could be encouraged. We don't have all the answers yet: grassland management can be a complex issue and expert advice is required, a process that has already begun.

WHAT DO YOU THINK? *In the Response Section, we ask for your observations on maintaining the grass.*

5) GRAZING ON TYNING FIELD

Some of us enjoyed the pastoral vision of cows on the village green and TAG investigated whether the field could be maintained by grazing in the future. The Open Spaces Society and B&NES rights of way officer both said that grazing by a tenant, as before, was not compatible with village green status, but part time 'conservation grazing' - designed to prevent the growth of scrub and to increase biodiversity (such as wild flowers) - might be acceptable.

TAG investigated the many aspects of conservation grazing in some detail. It was seen as a potentially sustainable and cost effective solution to keeping the grass down but the problem was how to contain the grazing stock, bearing in mind that it is illegal to fence a village green. Hobbling or tethering animals is ruled out on animal welfare grounds. Cattle grids, electric fences, and the use of temporary pens were investigated, but all these need to be combined with a secure perimeter fence - something that is not possible on a village green. The Parish Council has considered the benefits of conservation grazing but since it would mean fencing the village green, has decided that it is not a legal option.

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

PART THREE

ENJOYING THE GREEN

6) VOLUNTEER TASK FORCE

Many towns and villages have volunteer groups that help out with special projects on their village greens, (projects that are over and above the usual maintenance tasks that are budgeted for by the Parish Council). These special projects typically include activities such as: habitat enhancement, for example putting up bird boxes or hedge-laying and tree planting; investigating grants for special projects; helping to arrange community events; planning educational activities; or researching and writing a history of the village green.

Village greens have a special place in community life, and this can be a great way for members of a community to get involved in creating a better future for the village green, while having fun too. If you think might like to help out with projects identified by the Parish Council in the future, do let us know.

WHAT DO YOU THINK? *If you might be interested let us have your contact details in the Response Section.*

7) DOGS ON THE TYNING

Dog walking is a lawful pastime on any village green. Fouling needs to be addressed, as it is a problem and presents a health risk. In a large space with long grass, dog walkers need to be especially vigilant; unfortunately some haven't been and the Parish Council has received complaints. The Parish Council has public liability

insurance for the village green. The insurer points out that if someone became ill due to dog fouling, the Parish Council would be liable and has strongly recommended that it puts up anti dog fouling signs and notices that dogs must be kept on leads. Although there is no option in law to ban dogs on a village green the Parish Council could request that dogs be kept on leads on part or all of it, or even create a by-law to that effect.

The Tynning is not just a field, it is a village green, a special place created for the shared enjoyment of all sections of the community. There are many places to walk a dog nearby, but there is only one village green. The community has a legal right to enjoy it safely and that right is protected in law. Signs pointing out to that this is a village green where children play may encourage dog walkers to 'pick up' their dog's waste. B&NES have confirmed that bagged dog waste may be deposited in any litter bin around the village.

WHAT DO YOU THINK? *In the Response Section, we ask what you think our dog policy should be.*

8) HAVING FUN

In law, village greens are set aside for recreation. Activities can include organised and unorganised recreation, formal or informal, continuous or intermittent, all-year or seasonal. The law courts have not attempted to define the nature of "lawful sports and pastimes" but have stated that the scope of the phrase is intentionally broad. The phrase covers traditional sports (such as cricket, tennis, football and bowling). The use of the word 'pastimes' is almost limitless, and in one important court case, 'pastimes' was held to cover: dog walking; playing with children; flying kites; picking blackberries; fishing in the stream; and tobogganing.

'Sports and pastimes' can include any lawful recreational activity. Non-recreational activities on village greens are on the whole unlawful and often criminal, so foxhunting (an illegal activity) would not be allowed.

It is worth noting that the Covenant on the Tynning says: "nor shall the game of football at any time be played". The covenant does not define what constitutes a 'game' but the wording suggests an organised match. Bearing in mind the slope it is thought unlikely that this would ever become an issue.

Horse riding is allowed on village greens unless it becomes a nuisance: In DEFRA's view: "horse riding on a small, vulnerable green in wet conditions might be a public nuisance and therefore unlawful". So crossing the village green on a horse is legal, but if this churns up the field or annoys people then it would be a nuisance and unlawful. The same would apply to bicycles, while the use of motorbikes of any CC would be illegal.

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

9) COMMUNITY EVENTS

Community events have been held on the village green in the past - such as at the millennium and Queen's jubilee, and community picnics. How does village green legislation bear upon these or similar activities? The following are legally compatible with a village green: dancing round maypoles; having picnics; holding fetes, festival and events (as long as they are not for profit). Any activity causing a public nuisance (e.g. noise, broken glass) or damaging the green is considered unlawful. Lawful recreation does not include commercial activities. So you can pick fruit on a green as long as it is not in order to sell it, but you can't run commercial fairs or have a sales pitch. The Covenant says: "No fair shall at any time be held". It doesn't define fairs, but this may refer to commercial activities. It is worth noting that the dictionary definition of a fair is very different to that of a village fete.

The Parish Council is responsible for the village green and clubs or groups wishing to hold organised events should apply to it for permission. Any formal community event needs to be assessed in the planning stage on a number of criteria, which may include: legality; risk assessment; health and safety; public liability insurance; road closure permission (if relevant), music licence.

WHAT DO YOU THINK? *Let us have your ideas for community events in the Response Section.*

10) ACCESSIBILITY

All legitimate users, including the mildly or seriously disabled, the elderly, children, mobility vehicles (pushchairs, wheelchairs) have a right of access to the green. We should consider having an inclusive access policy.

The Tynning field could present challenges, but much of the village green is accessible. Its potential use by the less able could be taken into consideration. This may not mean extra cost (and grants may be available) but simply thoughtful design and consultation.

The Tynning lane, for example, is suitable for wheelchair users and we should make it easy for them to enjoy its views. It should be possible for those with limited mobility to park by the war memorial (perhaps in a dedicated

wheelchair space on the road - also useful for the elderly attending funerals?) and traverse Tynning lane. A flat surface next to benches would mean wheelchair users or those with pushchairs could park safely off the road and sit with friends. We should seek advice - there is much out there.

WHAT DO YOU THINK? *How can we make the green more accessible? Let us know in the Response Section.*

11) THE SCHOOL AND THE TYNING

For Freshford Primary School, the village green fulfils a need for outdoor recreation and also has potential for educational use. The Open Spaces Society has said that the school using the village green, for example at break times, is a good idea and confirms it is an appropriate and legal use of the green. It adds the comment that the school has "no better rights to use that land than any other local user. It will be important to ensure that they do not seek to fence off part of the area for use as a specific playground land, in the same way that other users must not treat the green as private space".

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

PART FOUR IDEAS FOR THE FUTURE

12) WAR MEMORIAL AND CEMETERY

The memorial, bordered by the hedge, is not part of the village green and is owned by the Parish Council, which has said it wants "to improve the land in front of the War Memorial so that it respects more appropriately the dignity of the site". (That statement refers to the public highway in front of the memorial, and not the village green land.) The Tynning Advisory Group suggested removing/reducing the mature hedge behind the memorial (which is on war memorial land, not village green land) to provide all-round visibility and make it a focal point when seen from the village green. It would also be visible from Freshford High Street.

The bare earth across the lane from the memorial is part of the village green and has suffered from dumping and builders' skips. The Council recognises that this area needs some attention, and short posts could be put up to protect it. A suggestion was received to remove the dividing fence to open up the cemetery and Tynning field into one space. Since the village green is a place for recreation, and the cemetery is a place of sanctity it was thought better to keep the boundary. People often kneel at graves: it would not be pleasant to find dog mess in this area.

WHAT DO YOU THINK? *In the Response Section, we ask what you think about removing the hedge.*

13) VIEWS TO WESTBURY WHITE HORSE

It was suggested removing or reducing overgrown trees in one or two places (e.g. by benches along Tynning Lane) to improve these far reaching and special vistas that once existed. Mature trees are valuable wildlife resources and are protected in law, but a limited amount of tree surgery is permitted. The bench in memory of C. H. Salmon, undated, pointing towards the Frome Valley, is a clear indication that the view was open not that long ago. The trees below have simply become overgrown. They could be reduced in height or thinned out.

It would be important to make sure there was no undermining of the Conservation Area status written by B&NES, which states: "Trees provide a significant contribution to the special character of the Conservation Area". It also makes the point: "Planting new specimen trees should be encouraged to provide and maintain a varied age range of trees and sustain the appearance of the area for the future". Perhaps these could be memorial trees, and the new planting could be achieved through fundraising and volunteers. In regard to the existing memorial benches, Freshford Parish Council is currently taking steps to restore or replace them and has a new policy on memorial benches that will ensure regular maintenance in the future.

WHAT DO YOU THINK? *In the Response Section, we ask what you think about opening up the views.*

14) PARKING

Could a strip of village green along Freshford Lane be used for parking, by removing the hedge and tarmac the green? Although some people may like this idea and others may not, the answer is no, for three reasons:

a) Driving or parking on greens fall foul of the 1857 Act or 1876 Acts because they interrupt people's enjoyment of the green. Parish Councils have duties to protect greens as lands they hold in trust for the public under the

Open Spaces Act 1906. Parking would not be deemed as suitable use of open space and would therefore be unlawful under this Act too.

b) It is a criminal offence to damage the surface of a green (paving or tarmacing would be regarded as 'damage' in law) so that creating a formal parking area would fall foul of that prohibition. (Creating a surfaced passing place along the Tyning lane would be a problem for the same reason).

c) The hedge between the Tyning field and Freshford Lane is subject to the Hedgerow Regulations 1997 and because of the assemblage of native woody species present, as well as for historical reasons, is considered as important as defined by these Regulations.

The Parish Council recognises therefore that there can be no scheme to increase car parking provision along Freshford Lane if it encroaches onto the village green. Any scheme must be within the existing limits of the defined highway.

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

15) A NEW LAYBY?

Freshford Lane and High Street are busy during school drop off and pick up, which can be a hazard for children. The school bus helps cut down on private traffic, but the current access to and from the school bus is considered by the school as not ideal, and to be a health and safety issue.

The Neighbourhood Plan, under a heading of "other ongoing work and actions" (these are aspirational, not policy) says it would be a good idea to "Build an off highway bus stop outside the school". Could the village green play a part in this? The answer is that using some of the village green land for a lay-by would not be legal (for the reasons stated in the section on parking). The only way it could happen is for an application to be made to apply to the Secretary of State to de-register part of the green, and DEFRA makes it clear that it is the policy of the Secretary of State to avoid the net loss of town and village greens.

As with building car parking spaces, the Parish Council recognises that there can be no scheme to build a school lay-by along Freshford Lane if it encroaches onto the village green. Any scheme must be within the existing limits of the defined highway. It has been suggested that using the lay-by that already exists (further towards the shop), together with paths across the lower end of the Tyning, could improve access for schoolchildren using the bus, and it might be worth exploring this option further.

WHAT DO YOU THINK? *In the Response Section, we'll be asking for your observations on this issue.*

16) PATHS ACROSS TYNING FIELD

Paths have been mown in the grass to help people walk on the Tyning field. There has been some wear, especially around gateways, but with more access points onto the field this would be less of an issue. Could the existing informal paths be made more suitable for all weather? Village green legislation prohibits hard surfacing, such as tarmac, but the B&NES rights of way officer has suggested that bark chippings would be acceptable, and other 'soft' materials can be investigated.

People are using these paths not just to enjoy a stroll around the village green: crossing the field is more pleasant, and safer than walking alongside roads. New paths could be created, which might also encourage people to leave the car at home and make more journeys on foot. The community will need to decide to what extent it wants paths across the Tyning, and where. Paths help people walk around the village more safely and pleasantly. But having too many across the field could 'suburbanise' the Tyning and detract from its rural nature.

WHAT DO YOU THINK? *In the Response Section, we ask what you think about the paths on Tyning field.*

17) A SAFER WALKING ROUTE?

The pavement alongside Freshford Lane between the school and the shop is narrow, and the road can be busy at certain times of the day. The Neighbourhood Plan recommended attempts be made to "upgrade and re-route the footpath linking the school to the community shop ... to improve safety for children".

One way of doing this might be by running a path inside the lower edge of the Tyning field from the existing wooden field gate as far as the post box. It would be parallel to Freshford Lane - but inside the field - with the hedge usefully dividing the path from the road. Note that village green legislation means that any path created could only be a soft surface, not tarmac, for example. A new entrance to the field would need to be made near the post box by the school in Freshford Lane - there is already a gap in the hedge there. There is a change of level

between the (higher) road and the (lower) field: a ramp or steps plus a small stretch of boardwalk would be necessary. This idea will need a feasibility study and costing before we take it further.

WHAT DO YOU THINK? *Do you think this is an idea worth pursuing? Let us know in the Response Section.*

18) COMMUNITY FRUIT TREES

It has been suggested that trees - apple, pear, plum and nut - be planted as community-use trees. Village green laws allow planting a few trees as long as: it is for the benefit of the community (not commercial gain); it enhances the green's look and feel; there aren't too many and they do not get in the way of people's recreational activities (what 'too many' and 'in the way' means is for the community to decide). In addition, the trees must not threaten the protected open views across the Tynning mentioned in the Conservation Area Character Appraisal. Some people might like the idea of an orchard as a community venture, while others may feel that it would damage the open aspect of the village green and get in the way of recreational activities.

It would be a long term undertaking for fruit trees planted now will still be there in decades to come. If the site was deemed suitable for fruit tree cultivation (e.g. soil, aspect) the following would need to be addressed:

a) Keeping fruit trees productive requires work, such as yearly pruning, and watering each week for the first season. If this was done by volunteers, what would happen if they lost interest / moved away?

b) Fruit trees are not expensive, but who would pay to maintain them?

c) What is the position regarding health and safety, liability, insurance - for example if someone fell out of a tree while picking apples?

If the community was in favour of fruit trees, and a community group wanted to plant some, the Parish Council would want to see a carefully researched proposal with evidence of community support and a detailed long term maintenance plan. Alternatively, infilling the Tynning hedge with blackberries and nuts could be another option.

WHAT DO YOU THINK? *Do you think planting fruit trees is a good idea? Let us know in the Response Section.*

19) A SPACE FOR NATURE

A suggestion was made to manage the Tynning as a hay meadow, but research has shown that recreating a traditional hay meadow there is not viable. Wildflowers thrive in poor soil, but this field is very fertile, pesticides have been applied in the past, and botanical diversity is low. New species would not colonise on their own, and significant and expensive interventions would probably be required (e.g. stripping off topsoil and totally reseeded the area). In a traditional hay meadow, hay needs to be cut and removed once a year. Since the village green is used heavily for dog walking, the hay would be unsaleable due to the possibility of contamination. Disposal of it the hay would be a problem. Neosporosis and Sarcocystosis can be carried in dog waste of infected animals and on the ground where they have been. These bacteria can be fatal to cattle/sheep and if traced back to our hay liability could be incurred.

These factors rule out a traditional hay meadow but it will be possible to improve the field's biodiversity through other means, resulting in a better habitat for fauna and flora and to improve its appearance. We could set aside certain areas to be managed specifically to encourage windflowers and native grasses to thrive. Public authorities have a duty to have regard to the conservation of biodiversity in exercising their function and in July 2015 the Parish Council commissioned an ecological appraisal from Chalkhill Environmental Consultants which examined the various ways of managing the field to improve or maintain its biodiversity. The Parish Council has also taken advice from landscape contractors and the Wildlife Trusts. There are some simple and inexpensive steps we can take to improve the village green for wildlife, but other ideas may need special funding such as grants.

WHAT DO YOU THINK? *In the Response Section, we ask how important it is to manage the green for nature.*

20) ANY OTHER COMMENTS

WHAT DO YOU THINK? *Is there anything else you'd like to comment on? Let us know in the Response Section.*

**PLEASE NOW TURN TO THE SEPARATE RESPONSE SECTION AND
TELL US WHAT YOU THINK ABOUT ALL THE ISSUES ABOVE**