

The Town and Manor of Hungerford – an explanation of status and obligations.

The Town and Manor is a **Charity, regulated by the Charity Commission** and subject to the requirements of a Charitable Scheme dated 1908 as amended. As a Charity they are regulated by the Charities Commission. 10 Trustees plus the Constable and Deputy Constable run the Charity. All the land owned by the Charity is held by the Official Custodian of Charities on behalf of the Charity. The Town and Manor has owned and managed these lands since they were given to the people of Hungerford in the 13th century by John O’Gaunt. Hungerford Portdown Common is the largest parcel of land within the Charity’s ownership.

The **rights of common** that exist over Hungerford Portdown Common (the Common) are the right to graze and to shoot. The Trustees have a legal obligation to protect these rights and the land upon which they are exercised as part of the objectives of the charitable scheme and are answerable to the Charity Commission if they fail to do so.

The Common is registered as common land under the **Commons Registration Act 1965** (as amended by the Commons Act 2006) and is subject to the **Countryside and Rights of Way Act 2006**. Allowing activity contrary to CROW or use of the land as a registered common ultimately places the Charity in breach of its duties as the owner of the Common and liable to enforcement action by the Secretary of State and/or the local authority. Driving a vehicle over CROW land is a breach of that Act, unless authorised by the landowner.

Under the terms of our agreements with **Natural England** and **DEFRA** we must graze the Common in order to manage the grassland according to their stipulated guidelines. Approximately 120-150 head of **cattle have the legal right to roam free** on the common. Our neighbours have a legal obligation to maintain their fences to a ‘stock-proof’ standard. Letters are sent to adjacent landowners every year reminding them that it is their legal duty to fence their land against access and egress by the cattle.

The ‘openings’ onto the Common that do exist are generally bounded by stiles and cattle grids for the safety of the cattle. New ‘openings’ in the form of gates create risks of the cattle escaping from the common onto private ground and more importantly other roads where cattle are not expected to be found. Such escapes can lead to damage and injury to the cattle and neighbouring property. These events can cause insurance claims and costs for both the Charity and the people onto whose land the cattle have escaped. Current openings are due to **historic rights of way** and that **no additional new access points are sanctioned** by the Trustees.

The CROW Act contains measures to improve public access to the open countryside and registered common land **while recognising the legitimate interests of those who own and manage the land concerned**; it also provides a basis for the conservation of biological diversity and it provides for better management of Areas of Outstanding Natural Beauty. Hungerford Portdown Common is within such an area.

The CROW Act allows ‘open access’ onto land that is covered by it. Open access does not give people the right to create new gates and cut through their fences to create a new access onto this private land. People

are not able to drive over CROW land, neither are people able to intentionally disturb wildlife, livestock or habitats. Granting a venue a license to sell alcohol right next to a registered common, would seem highly likely to create a disturbance to wildlife, livestock or habitats. Granting such a licence could be considered a breach of the CROW Act.

The presumption for granting the licence can and should be rebutted in this situation. The onus should be placed on the applicant to prove that the benefits of the grant of the licence **outweigh the potential damage** that will be caused to the Common by its grant. The Trustees are of the opinion that the grant of this Licence will create a **public nuisance** and that there will likely be more cars parking on the Common, more cars driving over the Common (as opposed to the highway as well as the highways); more litter on the Common; an increase in the potential damage to the cattle (and possibly people) from the excess cars and litter.

Legal and insurance **expenses** and the likely increase in the number of deaths and injury to our livestock, would be detrimental to the Charity, whose income is made up partly from the grazing fees obtained from the cattle. We have had several **deaths of livestock** over the last 5 years caused by vehicles. These occur after dark, principally. The existing speed limit across the Common is 30 mph. Our DSD downloads show that over 42% of vehicle traffic exceeds this limit. Speeds of over 50mph are regularly recorded. This is despite a significant investment in road signs/warning signs and the purchase of a DSD speed monitoring device.

Access to the Common via the Hungerford/Kintbury road and from the Inkpen/Hungerford road lead to straight sections where most of the **speeding** occurs. We already have a litter problem throughout the year and additional traffic, both vehicle and pedestrian, will exacerbate this. The risk to the cattle of increased late-night traffic from the proposed venue is made worse by the likely consumption of alcohol by drivers accessing the Common.

In light of the obligations under the CROW Act to manage our land to ensure it is safe for users and under the Charitable Scheme to protect the Common for the benefit of the commers and the inhabitants of Hungerford, it is highly likely that if the Licence is granted, the Trustees may have no alternative but to **appeal** such a decision through the Magistrates Court.

Difference between Hungerford Town Council and the Town and Manor

Hopefully the above text makes it clear that the main difference between the Town and Manor of Hungerford and the Hungerford Town Council is that we are not a statutory body, but a private Charity. Hungerford Parish Council was formed in 1894 and was replaced by the Town Council in 1974. The Hungerford Town Council ran in parallel with the Hungerford Rural District Council for 80 years until 1974 but as with many other smaller authorities the District Council was swallowed up by Newbury District Council, now West Berkshire Council. In December 1894 meetings under the Local Government Act 1894 were held in every parish in the Kingdom and in Hungerford this was especially important. Local government had previously been associated with all the quaint and historic ceremonies of Hocktide and the town was effectively 'run' by the Town and Manor, as the successor to the old manorial system of government within England. This changed in 1908 when the organisation was incorporated into a Charity.