
Common Land Exchange Proposal – Greenham and Crookham Golf Club

Committee considering report:	Executive
Date of Committee:	10 June 2021
Portfolio Member:	Councillor Richard Somner
Date Head of Service agreed report:	
Date Portfolio Member agreed report:	02/08/2020
Report Author:	Paul Hendry
Forward Plan Ref:	EX4047

1 Purpose of the Report

- 1.1 To inform Operations Board of the Newbury and Crookham Golf Club request to exchange common land status from one small area of common land to another area in order to firstly, resolve an existing common land anomaly, and secondly to allow a future access to be created onto their land for development purposes.
- 1.2 Note that this request does not involve council land, nor will the council have any management responsibility. Management responsibility remains with the Golf Club although the Greenham and Crookham Commons Act 2002 (the Act) applies. The issue is about transferring common land status from one piece of land owned by the Golf Club to another piece of land owned by the Golf Club. The Council has an initial role in considering this before referring the matter to the Greenham and Crookham Commons Commission (the Commission) for final determination.

2 Recommendation

- 2.1 That Operations Board notes actions to date, including; informal discussions with the Commission and more the more formal consultation as set out the Act and the results of this. That operations Board notes the intention of the Countryside Service to apply the tests set out within the Act (s18(3)) and to seek the consent of the Greenham and Crookham Commons Commission (the Commission) to bring about the transfer of common land status to the new land.

3 Implications and Impact Assessment

Implication	Commentary

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Financial:	There are no financial impacts			
Human Resource:	There are no human resource impacts			
Legal:	Very clear principles are set out in the Greenham Act which guides this process. WBC are the Commons Registration authority and will have to record any exchange of commons rights.			
Risk Management:	There are no risks to this council. Any future planning application by the Golf Club will be determined in the usual way.			
Property:	The land involved is entirely within the ownership of the Golf Club. This issue entirely relates to common land status and shifting this from one piece of their land to another.			
Policy:	No.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		

Environmental Impact:	X			Applying the tests set out in the Act, there is a positive environmental gain. Currently the land which has common land status is gravel used as a car park, with no ecological value, whilst the land to be used in exchange is scrubland and trees which supports wildlife.
Health Impact:				No impact
ICT Impact:				None
Digital Services Impact:				None
Council Strategy Priorities:				The proposal increased the ecological value of the Common, although marginally due to the size of the area involved.
Core Business:				This matter has to be resolved and determined by the Commission. Significant work has been carried out to date.
Data Impact:				None. No personal data is involved. Common rights owners are listed publically on the Commons Register.
Consultation and Engagement:	The Commission, The Golf Course, all registered commoners and the general public.			

4 Executive Summary

- 4.1 Section 18 of the Greenham and Crookham Commons Act 2002 (the Act) states that the council may consider a request to exchange common land if the land offered in exchange is considered to be conducive to the general principles set out in the Act. In general terms this means that the council can consider an exchange proposal if the land offered is of greater ecological or recreational value.
- 4.2 Officers have considered the Golf Club’s proposal to remove common land status from a small piece of land in their ownership and transfer this to another, similar sized area of land. This exchange presents some advantages to the public as the land which will acquire the transferred rights presents some ecological advantages

for the Common. The proposal also deals with an anomaly, whereby the land currently subject to commons rights forms part of a gravel car park and has little, or no, ecological or recreational value.

- 4.3 The purpose of this report is to raise awareness of the Golf Club request and seeks approval to place the request to exchange common land before the Commission, who under the terms of the Act, are the final arbiters in such matters.

5 Supporting Information

Introduction

- 5.1 The purpose of this report is to raise awareness of the Newbury and Crookham Golf Club request to exchange common land status on one part of their land and transfer it to another piece of land in their ownership in order to accommodate a realigned access for a new club house (proposed). The club house, alongside other development plans, will have to be submitted as part of a planning application at some stage in the future. The areas of land (approx. 593m²) involved is shown within the attached report at Appendix C, (Report to the Greenham and Crookham Commons Commission July 2019).

- 5.2 Officers seek approval to place the request to exchange common land before the Commission, who under the terms of the Greenham and Crookham Commons Act 2002 (the Act), are the final arbiters in such matters.

- 5.3 The relevant section of the Act is section 18. This section deals with the exchange of common land:

<https://www.legislation.gov.uk/ukla/2002/1/section/18/enacted>

- 5.4 S18(30 states):

(a) that there has been or will be given in exchange for such land, other land, not being less in area and being equally advantageous to the persons entitled to rights of common and to the public and that the land given in exchange has been or will be vested in the Council; or

(b) that the effect of the exchange will be to improve the conservation and management of the Common as a whole and benefit the neighbourhood.

- 5.5 Considering clause (b), it is clear that the golf clubs request will improve the conservation of the Common and benefit the neighbourhood as the land being offered in exchange provides ecological advantages in that it is currently scrubland which is used by a number of species for feeding, shelter and nesting. The current common land is mostly gravel and is used as a car park and consequently has very little ecological value.

Background

- 5.6 The Golf Club consider that their club house at 33-35 Bury's Bank Road is in poor condition and needs to be replaced. Their favoured option is to build a new club house

further north in the middle of the course. They intend to fund this by demolishing the existing club house and selling the land for housing development.

- 5.7 In order to access the new clubhouse a realigned access would have to be created across their existing car park. As a consequence of an historic anomaly a small part of this car park is also common land. This land is subject to the Act.
- 5.8 Although the car park is owned by the Golf Club that part of their land which is common land is bound by the Act. Consequently the Golf Club have asked the Council to consider a request to remove common rights from the land within the car park and to then transfer those rights to a piece of land adjacent, such that there is no loss of rights overall. This is in keeping with the terms of the Act.
- 5.9 The council is not obliged to consider this request. Bearing in mind however the current anomaly and the fact that a piece of common land is currently part of a car park, it makes sense to acknowledge the potential benefits and apply the principles set out in the Act.
- 5.10 Having informally consulted the Commission, officers followed due legal process and carried out a public consultation exercise in December 2019 (Appendix C). This elicited 2 objections which after discussion with the relevant parties, were withdrawn.
- 5.11 Note that the future management of the land in question remains the responsibility of the Golf Club, although it will be bound by the terms of the Act.
- 5.12 In considering the Golf Club's request Officers are obliged only to apply the terms of the Act in any decision making as to whether this is referred to the Commission or not.
- 5.13 The Council can, after considering all relevant matters, then refer the Golf Club's request to the Commission who, under the terms of the Act, are the final arbiters. The Commission may or may not agree to the exchange.

Proposals

- 5.14 Officers are keen to progress this issue, which is effectively a very minor change in the common land register and place the matter before the Commission for determination.

6 Other options considered

- 6.1 The Council has no duty in this respect. It can choose not to agree to consider the matter and therefore no other action is required. This has been dismissed by officers as there is a clear ecological benefit in this exchange.

7 Conclusion

- 7.1 Officer consider that the Golf Club's proposal is worthy of consideration and should be placed before the Commission for determination.

8 Appendices

- 8.1 Appendix A – EIA
- 8.2 Appendix B – Data Protection

8.3 Appendix C – Background detail – land under consideration, consultation.

Corporate Board’s recommendation

Background Papers:

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council’s position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: Newbury Greenham

Officer details:

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Document Control

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Version	Date	Description	Change ID
2			

Appendix A

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:***
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;***
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:***
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;***
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;***
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.***
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.***
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.***

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

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What is the proposed decision that you are asking the Executive to make:	To refer this proposal to the Greenham Commission for determination.
Summary of relevant legislation:	
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Paul Hendry
Date of assessment:	25 th March 2021

Is this a:		Is this:	
Policy	Yes <input type="checkbox"/> No <input type="checkbox"/>	New or proposed	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Strategy	Yes <input type="checkbox"/> No <input type="checkbox"/>	Already exists and is being reviewed	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Function	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Is changing	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Service	Yes <input type="checkbox"/> No <input type="checkbox"/>		

What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	Exchange of common land
Objectives:	To remove an anomaly from the map of common land and move the rights from one piece of common land to another area of land of a similar size.
Outcomes:	The golf club car park no longer has commons rights attached to a small section.
Benefits:	The land the rights will be assigned to has a higher conservation value and is better than the current land.

Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.		
(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age	No	This request is to correct an anomaly. This is an administrative matter with no

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		impacts on users of the common.
Disability	No	As above
Gender Reassignment	No	As above
Marriage and Civil Partnership	No	As above
Pregnancy and Maternity	No	As above
Race	No	As above
Religion or Belief	No	As above
Sex	No	As above
Sexual Orientation	No	As above
Further Comments relating to the item:		

Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	

Timescale for Stage Two assessment:	
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Name:

Date:

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

Appendix B

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Place
Service:	Transport and Countryside
Team:	Countryside
Lead Officer:	Paul Hendry
Title of Project/System:	Exchange of Common Land
Date of Assessment:	27/08/2020

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><i>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be processing data on a large scale?</p> <p><i>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will your project or system have a “social media” dimension?</p> <p><i>Note – will it have an interactive element which allows users to communicate directly with one another?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will any decisions be automated?</p> <p><i>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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	Yes	No
Will your project/system involve CCTV or monitoring of an area accessible to the public?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Will you be using the data you collect to match or cross-reference against another existing set of data?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Will you be using any novel, or technologically advanced systems or processes?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised		

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Appendix C

Background Detail – land under consideration/ consultation.