

Proposed exchange of common land at Newbury & Crookham Golf Club

Derek Cutt 23 July 2019

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Background

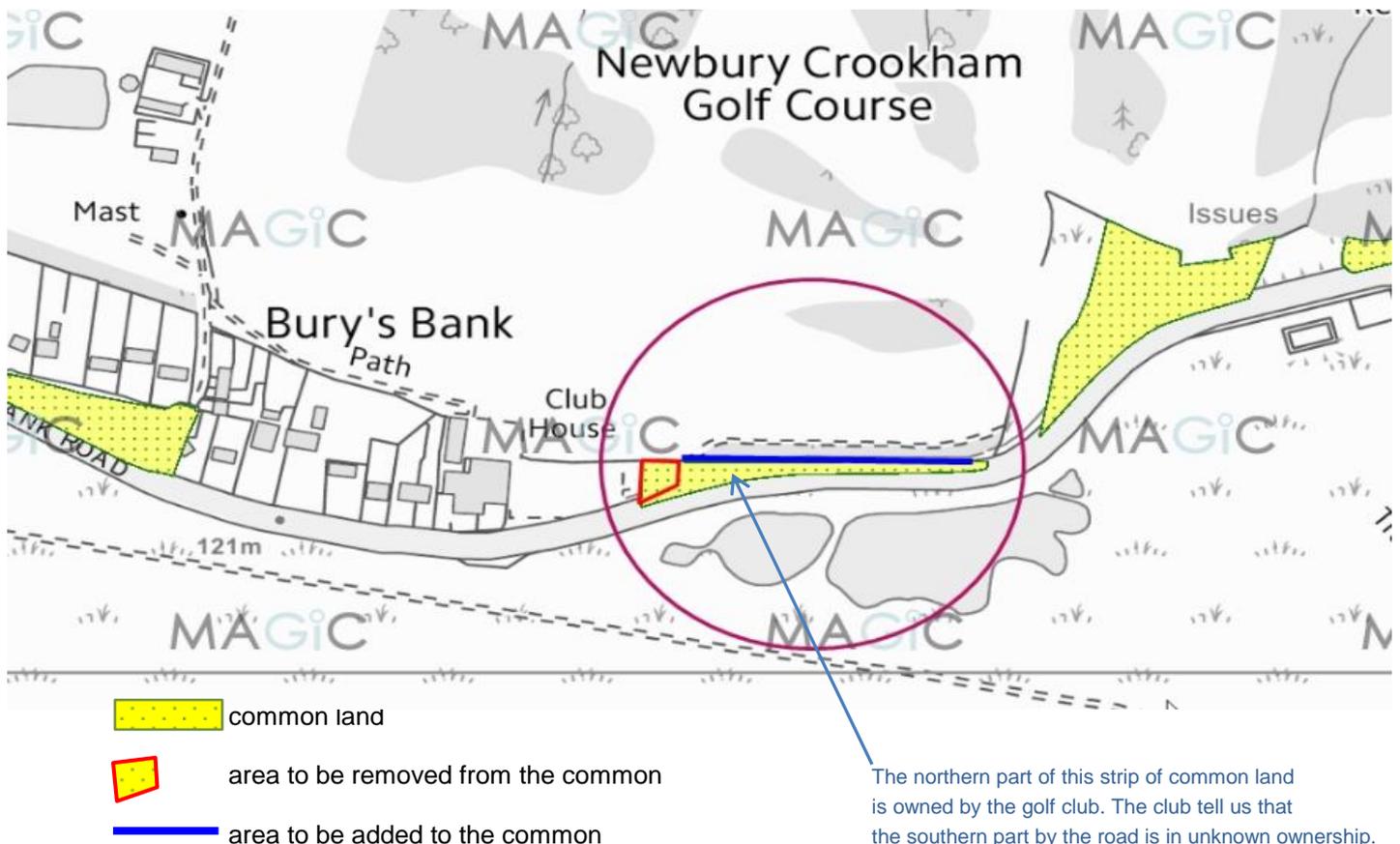
The golf club believe their club house at 33-35 Bury's Bank Road is dilapidated and needs to be replaced. Their favoured option is to build a new club house further north in the middle of the course. They would fund this by demolishing the existing club house and building a number of houses for sale, on the site currently occupied by it and the adjoining car park immediately to the north of Bury's Bank Road.

The car park is owned by the club. The whole of it is shown on Defra's MAGIC mapping system as CROW section 15 land. However only the eastern end of it is also part of Greenham Common as defined on the definitive map which accompanies the G&CC Act 2002. Therefore the Commission's interest is limited to this eastern section. **A new access road to the new club house would cross this piece of land.** Therefore the club would need to have the area removed from the common, and are offering an exchange in which a nearby strip of land, also currently in their ownership, would become common land.

On 03 July 2019 Paul Hendry (WBC), John Thorogood (Governance Committee), Liz Fricker (BBOWT) and Derek Cutt (Conservation Management Committee) met on site with Ivor Graham and Gareth Williams from the golf club. Our conclusion was that the area of common land to be given up has no obvious conservation value. It is currently a gravel-surfaced parking area verged with some grass and some bare ground. Almost any piece of land the common might gain in exchange would have similar or greater conservation value. Therefore those attending the meeting have no objection on conservation grounds.

A long narrow strip of common land, part of which is owned by the club, extends eastwards from the car park between the road and the golf course. The proposal is to expand the common rights here northwards, effectively widening the strip of common land as shown on the accompanying drawing [PWA-16001-SK-0134-P1_Common Land Swap \(004\).pdf](#) which was prepared by the club's architect.

The architect's drawing does not show the areas of common land clearly, so the sketch below is provided for context (base layer and common land boundaries from Defra's MAGIC GIS).



G&CC Act 2002: Section 18 Exchange of common land

(paragraphs 1 to 5 of 11)

- (1) If the Council consider that it will be conducive to the attainment of all or any of the purposes set out in section 8 (1) (a) to (c) (General duty of Council and Commission) above, the Council may, subject to the provisions of this section, exchange for any land forming part of the Common ("the land disposed of") other land ("the exchange land").
- (2) The Council may not exercise the power under subsection (1) above, unless it is satisfied that the requirement of subsection (3) (a) or (b) below is met.
- (3) The requirement of this subsection is—
 - (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.
- (4) Upon the exchange of any land under this section—
 - (a) the land disposed of shall cease for all purposes to form part of the Common and shall be freed from all rights and obligations whatsoever attaching to the land by virtue of its having been common land (whether under this Act, any other enactment or otherwise) but shall remain subject to any other rights to which it was subject before the exchange; and
 - (b) the exchange land shall become part of the Common and subject to all rights and obligations under this Act and any other enactment or rule of law to which the land disposed of was subject.
- (5) The Council may only exercise the power under subsection (1) above—
 - (a) where the area of the land to be disposed of is less than five hectares, with the prior approval of either the Secretary of State or the Commission; or
 - (b) in any other case, with the prior approval of the Secretary of State.

Points to note from Section 18

- 1 The area under consideration is much less than 5 ha. Therefore (5) (a) above applies, and the Commission can give approval.
- 2 The words "vested in" in (3) (a) above. Definition of vested from Collins dictionary:
property law
"having a present right to the immediate or future possession and enjoyment of property"
- 3 The "or" in (2) above suggests that the exchange land does not necessarily have to be vested in the Council, as long as (3) (b) applies instead. However, it might be argued that a housing development adjacent to the common fails to meet the test of (3) (b).

Decision points

Commissioners are asked to decide whether to...

- D1 Approve the proposal, on condition that (3) (a) above applies and the exchange land is transferred to WBC ownership, or
- D2 Approve the proposal, on the basis that while common rights are applied to the exchange land, there is no change in ownership and the exchange land remains the property of Newbury and Crookham Golf Club Ltd., or
- D3 Refuse approval for the proposal.