

**BUSINESS SUPPORT
OVERVIEW AND SCRUTINY COMMITTEE**

27 OCTOBER 2016

**MEMBER'S ITEM: COUNCIL LAND AT HALL WOOD AND
HOOK WOOD LORDSWOOD**

Report from: Chief Legal Officer

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Summary

This report sets out a response to a request from Councillor Wildey for action regarding the protection of amenity land and ancient woodland, which is owned by the Council at Hall Wood and Hook Wood in his constituency of Lordswood, following the receipt of correspondence from concerned local residents.

1. Budget and Policy Framework

1.1 Under Medway Constitution Overview and Scrutiny Rules (Chapter 4, Part 5, Paragraph 9.1), Councillor Wildey has requested that an item concerning the above matter is included on the agenda for this meeting.

2. The Issue

2.1. The issue raised by Councillor Wildey is the impact of the potential loss of amenity land and ancient Woodland in his constituency of Lordswood. Councillor Wildey has received letters (copies attached at Appendix 1) from concerned constituents and is proposing that Cabinet takes action to protect the Council's land.

3 Director's comments

3.1 The Council owns the land shown edged black, shaded grey, hatched black and cross hatched black on the plan (at Appendix 2) . This includes a play

area and ancient woodland; these areas are used by the public for recreational purposes.

- 3.2 The land is covered by a number of planning policies, which gives it a level of protection for continued public use, these are as follows:
 - 3.2.1 Hook Wood as edged black on the attached plan is designated as: An area of Local Landscape importance (Policy BNE34), a site of nature conservation interest and/or a local nature reserve (Policy BNE36), a proposed Community Forest/Woodland (Policy BNE44) and as protected open space (Policy L3).
 - 3.2.2 Hall Wood as hatched black on the attached plan is designated as: An area of Local Landscape importance (Policy BNE34) and a site of nature conservation interest and/or a local nature reserve (Policy BNE36).
 - 3.2.3 The area of land cross hatched black is designated as: An area of Local Landscape importance (Policy BNE34).
 - 3.2.4 The play area, shaded grey is designated as: An area of Local Landscape importance (Policy BNE34) and as protected open space (Policy L3).
- 3.3 The Council does have the option of adding an extra level of protection for the land by seeking as landowner to register the land as a "Village Green." This would assist in its retention as amenity land. The process for registration can be conducted by the Land Charges team in the Council as a "Commons Registration Authority."
- 3.4 However, Guidance issued by the then Department for Environment, Food and Rural Affairs under the relevant legislation on registering "Village Greens" the Commons Act 2006, includes the requirement where the landowner has a vested interest in the outcome of the registration process to refer the matter to the Secretary of State for decision.
- 3.5 The impact of registering land as a Village Green means that the residents of the locality will have the right to use the land for lawful sports and pastimes.
- 3.6 Village Greens also enjoy considerable statutory protection under Victorian statutes, namely the Inclosure Act 1857 and the Commons Act 1876. These statutes make it an offence, amongst other things, to encroach, enclose or erect structures (other than with a view to the better enjoyment) on a Village Green, or to do anything which interrupts the use of the Village Green as a place for exercise and recreation.
- 3.7 Should the Council wish to utilise the land at a later date an application to de-register the land would need to be made to the Secretary of State. Any application to de-register an area of this size (in excess of 200 square metres) must be accompanied by a proposal to register an alternative area under

Section 16(4) of the Commons Act 2006. Without such an alternative proposal any application to de-register would not be successful.

4. Risk Management

4.1 The following risks are considered relevant:

Risk	Description	Action to avoid or mitigate risk
No action is taken by the Council to register the land as a Village Green following the receipt of letters from local residents.	This area of public space/ancient woodland could be lost if the extra protection afforded a Village Green was not applicable.	Seek to register the land as a Village Green.
The Council has a vested interest in the outcome of registration	The decision process could be open to challenge.	The Council should refer any decision to register the land as a Village Green to the Secretary of State for determination.
The Council's land is devalued.	Registration of the Council's land as a Village Green could have an adverse impact on its value.	None.

5. Financial and Legal Implications

5.1 Rule 9.1 of the Overview and Scrutiny rules in the Council's Constitution provides that any member of an Overview and Scrutiny Committee is entitled to give notice that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. This is to comply with the requirements of section 9FC Local Government Act 2000. The consideration of this item is therefore a proper matter for this Committee.

5.2 The Commons Act 2006 sets out the process by which a landowner can voluntarily register land at Section 15(8) and it is set out below:

5.2.1 The Council as land owner makes a voluntary application;

5.2.2 The Council obtains consent from the holders of: any leases granted for a term of 7 years or more, registered charges over the land registered at the Land Registry or under the Land Charges Act 1972 or legal mortgages;

5.2.3 The required application form (Form 44) should be completed;

5.2.4 The application should be supported by a statutory declaration and evidence in support of the application setting out how the community use the area;

5.2.5 The application is then referred to the Secretary of State as the Council has a vested interest in the land.

6. Recommendation

6.1 Business Support Overview and Scrutiny Committee notes and debates this report.

6.2 Business Support Overview and Scrutiny Committee refers this matter to Cabinet with a recommendation that it considers seeking to register the land shown edged black, hatched black, cross hatched black and shaded grey on the plan attached to this report (at Appendix 2) as a village green and that if a decision is made that the Council will seek to register the land as a village green that this decision is referred to the Secretary of State for determination.

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Background Papers

None

Appendices

Appendix 1 - Letters from constituents

Appendix 2 - Hook Wood & Hall Wood