

Ongoing Management of Great Farleigh Green

Community Services Committee

Tuesday, 16 January 2024

Report of: Deputy Chief Executive

Purpose: For decision

Publication status: Open

Wards affected: All

Executive summary:

- The Council served notice to terminate its lease over Great Farleigh Green and the lease ended on 29 September 2023.
 - The decision to break the lease was taken to reduce costs and risk, in accordance with Council policies.
 - Local District and Parish Councillors have lobbied for the Council to continue management and maintenance of Great Farleigh Green and so Officers have reviewed options for future management.
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This report supports the Council's priority of: Building a better Council.

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Recommendation to Committee:

This report is brought so that the Committee can decide whether the Council should be involved in the ongoing management of Great Farleigh Green and, if so, what the nature of that involvement should be.

It is recommended that the Committee select one option from those listed in the report for the future management of Great Farleigh Green.

Reason for recommendation:

Members to agree which option to pursue.

Introduction and background

1. Great Farleigh Green is common land located between Chelsham and Farleigh, alongside Old Farleigh Road. It is owned by Merton College Oxford, who have other land ownership in the area.
2. The land was let to the Council under a lease, dated 10 September 1975. This lease incorporates the terms of a previous lease, dated 12 April 1951, between Merton College and Coulsdon District Council. The rent was £5 per annum.
3. The Council served notice to break the lease on 16 January 2023. The lease ended on 29 September 2023 and so responsibility for maintenance of the land has reverted to the Landlord, Merton College.
4. The reason for serving the break was to save the cost of maintaining the common, which was £11,321.00 in 2022 excluding the cost of Officer time. Tree work is needed at the common and so the cost during future years will likely be greater than this.
5. Some Parish Councillors wish the Council to continue to maintain the common and so Officers have explored the options for ongoing management.
6. The Council is looking to devolve community assets closer to local communities. Taking on additional obligations, where there are other management options, is contrary to this devolvement approach.
7. The options are summarised in the table below:

Option	Details	Pros	Cons	Annual Cost to TDC
1	Full responsibility remains with the freeholder, Merton College.	No further risk or cost to TDC.	This is not the Parish Councils' preferred option. They are concerned that Merton College will not maintain the common in the way residents wish to see it managed.	None

Option	Details	Pros	Cons	Annual Cost to TDC
2	Full responsibility remains with Merton College and a commons council is established to oversee management of the common.	<p>No further risk or cost to TDC.</p> <p>Commons council has statutory powers to shape management of the common and can make legally binding rules if stakeholders cannot agree on how to use the land.</p> <p>Commons council has access to funding not available to TDC.</p> <p>Commons council is run by elected members, who represent people with an interest in the common.</p>	<p>It may take some time to set up a commons council.</p> <p>There may be a reluctance for residents to step forward to be involved/lead.</p>	None unless TDC chose to be involved.
3	Full responsibility remains with Merton College and a voluntary group (commons association) is established to oversee management of the common.	<p>No further risk or cost to TDC.</p> <p>Commons association can shape management of the common by agreement.</p> <p>Commons association has access to funding not available to TDC.</p> <p>Commons association is run by non-elected members, who represent people with an interest in the common.</p> <p>Commons association is easier to establish than a commons council.</p>	<p>Lacks the legally binding powers of a commons council and so decisions must be made with the agreement of stakeholders.</p> <p>It may take some time to set up a Commons association.</p> <p>There may be a reluctance for residents to step forward to be involved/lead.</p>	None unless TDC chose to be involved.

Option	Details	Pros	Cons	Annual Cost to TDC
4	<p>A management group is established including TDC, Merton and the two Parishes. Each party makes a financial contribution to management costs (the Parishes' contribution will be limited to £2,000 a year each). No lease is created but a legal agreement formalises the relationship. Ultimate responsibility for large risks remains with Merton.</p>	<p>Risk of travellers and fly-tipping etc. ultimately sits with Merton. Association can shape management of the common by agreement. The management group may have access to funding not available to TDC. It is run by non-elected members, who represent people with an interest in the common. The Parishes feel that maintenance efficiencies can be made by using this model.</p>	<p>As option 3 above. Ongoing costs for TDC, including officer time. Merton do not favour this option, but their cooperation would be needed.</p>	<p>£2,000 – £5,000 (Cllrs can decide how much financial support to make) plus the cost of officer time.</p>
5	<p>TDC take a new lease over the common. Merton College, Chelsham & Farleigh Parish Council and Warlingham Parish Council to contribute towards grass cutting and other maintenance costs.</p>	<p>The Parishes have a desire for the maintenance of the common to remain with TDC.</p>	<p>Liability for injury from falling branches etc. rests with TDC. Risks and costs associated with fly-tipping and travellers rests with TDC.</p> <p>Parishes have limited funds and their contribution to costs is limited to £2,000 per annum each.</p> <p>Merton College have only offered a contribution of £2,800 per annum. The residents group disagrees with how TDC maintain the common. There is an ecological management plan for the common</p>	<p>£7,000 - £9,000 plus cost of officer time. However, should several trees need work then this cost will escalate significantly. Ad hoc costs - such as dealing with fly-tipping and travellers – are also not included and will be additional costs.</p>

Option	Details	Pros	Cons	Annual Cost to TDC
			which reduces flexibility in the management of the land and increases costs. TDC officer time involved in ongoing management.	

Key implications

Comments of the Chief Finance Officer

The financial implications of each option are set out in the report. Depending on the option selected, costs incurred by the Council would generate a financial pressure and savings would have to be found in other areas to balance the additional costs. This would need to be dealt with in the emerging 2024/25 budget process.

Comments of the Head of Legal Services

Section 1 of the Localism Act 2011 provides a “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.

Members are under a fiduciary duty to act prudently, responsibly, in a business-like manner and in their view of what constitutes the best interests of the general body of local taxpayers. The general requirement in administrative law is that that a local authority decision must be rational, authorised by law and must take account of all relevant considerations, whilst ignoring any irrelevant ones. Members are therefore encouraged during their discussion to satisfy themselves that their decision complies with this duty (e.g. weighing up the options including the key benefits of the proposals for the Council and coming to a conclusion that constitutes the best interest of the general body of local taxpayers).

Equality

There are no equality implications.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

None.

Background papers

None.