



CABINET

May 2023

Subject Heading:

Proposals for the voluntary making of five Village Greens within Havering.

Cabinet Member:

Councillor Graham Williamson – Portfolio Holder for Development and Regeneration.

SLT Lead:

Neil Stubbings – Director of Regeneration.

Report Author and contact details:

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Policy context:

This proposal sits within general health and well-being responsibilities of the Council and specifically planning, regeneration and place-making policies.

Financial summary:

There are no direct costs associated with the voluntary making of five village greens. However, the subsequent loss of land value is considered within the report.

Is this a Key Decision?

There is a significant effect on two or more wards.

When should this matter be reviewed?

12 months after the decision.

Reviewing OSC:

Places OSC

The subject matter of this report deals with the following Council Objectives

People - Things that matter for residents. X

Place - A great place to live, work and enjoy. X

Resources - A well run Council that delivers for People and Place. X

SUMMARY

This is a report to enable Cabinet to consider proposals to make voluntary village green registrations of five green spaces in the borough. If the recommendations in the report receive approval, Officers will carry out the necessary actions to ensure the delivery of the village greens.

RECOMMENDATIONS

Cabinet are asked to:

1. **Agree** to apply for the voluntary village green registration of the five pieces of open land considered in this report.
2. **Instruct** officers to carry out all necessary actions to achieve successful registration as agreed in recommendation 1 above.
3. **Agree** the attached engagement and consultation process.

REPORT DETAIL

Information. Summary.

High quality green space contributes to physical and mental well-being of individuals, provides a safe and inexpensive place to exercise, enables residents to benefit from social interaction, can be a refuge from stress, provides a social space where people of different ages and from different backgrounds can come together, thereby promoting social inclusion.

Green spaces face considerable challenges. There is tension between housing development to increase housing supply and provision of amenity space. Their maintenance by Local Authorities put additional pressure on the limited financial resources. Overcoming these challenges will require positive responses and support of principal stakeholders.

This report provides information on the specific sites and the process to be followed in the voluntary registration as village greens. An appendix provides more detail on the sites. A second appendix provides Cabinet with background information on protection for open space more generally.

Appendix 2, whilst not directly relevant to the making of village greens, provides background on the status of open land and other protections that could be considered through the Local Plan.

Sites to be considered.

The Council is considering registering a number of sites for Village Greens status – Land at Gooshays (Harold Hill), land at New Zealand Way (Rainham), land at Wennington Green (Wennington), land west of Taunton Road (Harold Hill) and land at Fleet Close Play Site (Upminster). Details of each piece of land is provided in Appendix 1 of this report.

Background.

Section 15(8) Commons Act 2006, provides that the owner of any land may apply to the commons registration authority (London Borough of Havering wearing a different statutory hat) to register land as a town or village green. This is subject to obtaining consent from any relevant leaseholder of the proprietor of any relevant charge over the land. An application may only be made with the consent of any relevant leaseholder (i.e. a lease in excess of 7 years or more than 7 years to run) of, and the proprietor of any relevant charge over the land. It is understood none of the sites are subject to any leasehold interests.

The Council in its capacity as Registration Authority can accept and recommend a nomination for registration of land as a Town and Village Green where that nomination is made by the owner of the subject land. Unlike the process where a third party nominates land they do not own to be registered, the process to be followed on an owner nomination is not prescribed and determinable by the Registration Authority alone. Whilst it is not possible to pre-determine the decisions of the Registration Authority, enquiries have been made with the lawyers acting for the Registration Authority (the Director of Legal and Governance has the authority to make the decision under the Constitution) and they have confirmed as to the process to be followed. Given the legislation does not require statutory tests to be satisfied, they have confirmed that they do not see a need for a hearing in the case of an owner application. The process is therefore likely to be straightforward.

It should be noted that two of the sites in question have already been subject to village green applications by local residents (Land at New Zealand Way in 2017/18, and Wennington Green in 2018/19). In both of those cases the Council lodged objections to the applications as Landowner. New Zealand Way went to hearing and following the recommendations of the Inspector the Registration Authority found that New Zealand Way did not meet the criteria for a village green. In particular the Inspector found that the regular activities on the land were not indulged in “as of right” but “by right” as required by s.15(2)(a) Commons Act 2006 and therefore did not satisfy the test for designation as a village green.

On New Zealand Way, an outline planning application (Ref: P1004.18) for the development of 30 new units of affordable housing comprising 2 bedroom and 3 bedroom houses with associated landscaping and car parking was approved by the Council in 2018.

Following the decision by the Registration Authority, a report was taken to Cabinet in March 2019: -

<https://democracy.havering.gov.uk/documents/s35863/Appropriation%20of%20NZW%20-%20Cabinet%20Report%20Final%2005%2003%202019%20Final.pdf>.

Cabinet agreed in principle that the land was no longer required for its current purposes and that it should be appropriated to planning purposes with a view to its subsequent development in due course. The decision to appropriate was delegated to the Director of Regeneration. These recommendations were not progressed following the announcement at Full Council in September 2019 by Cllr White (see below).

The Land at Gooshays has not been subject to a village green application, however the Council has had previous plans for disposal of this site. A report was taken to Cabinet in March 2019 and Cabinet agreed in principle that the land was no longer required for its current purposes and that it should be appropriated for planning purposes with a view to its subsequent disposal:

<https://democracy.havering.gov.uk/documents/s35839/Property%20Disposals%20Cabinet%20report%2013.03.2019-Final%20Version.pdf>.

The intention to appropriate and dispose of the land was advertised by the Council and the Council received a substantial number of objections to the proposals. An outline planning application ref: P0310.19 for the development of the site providing up to 64 residential units, creation of a new highway access, car parking, landscaping and related infrastructure was withdrawn in 2019.

In the cases of both New Zealand Way and Gooshays, these sites were the subject of an unscheduled announcement by the then Leader of the Council, Cllr Damian White at full Council in September 2019. He pledged to halt any prospect of council development on the two sites and that the future of the sites as open land would be secured through the future review of the Local Plan. In the case of Wennington Green the application for village green status by local residents was not progressed and fell away.

Wennington Green was, notably, within the inner fire zone of the “wild fire” of July 2022 that destroyed buildings and property. The fire was the result of the hottest spell of weather the UK have ever seen. The fire brigade report on the cause and spread of the fire is awaited but the impact and response of the fire has been reported to the council and cabinet. If the Cabinet were minded to progress this site as a Village Green, this could be seen as a fitting “memorial” to this event to the entire community for an area that is already well-used and loved by the villagers.

The fourth site is west of Taunton Road, Harold Hill (near Hitchin Close). This site is within the ownership of the Council and is prone to flooding. The fifth site is the Fleet Close Play site. Owned by the council within the General Fund, this area is designated and protected as Open Space under Havering Policy 18 and abuts green belt land. It currently contains some play equipment, mature trees to one end of the site and grassed areas.

None of the five sites are currently included within the Local Plan land supply to provide housing. A decision to seek voluntary registration as Village Greens on the five sites would therefore not impact on the current local plan housing delivery plan.

The effect of designating land for a village green is that the land will need to be kept undeveloped in perpetuity for village green purposes. With respect to Gooshays Gardens and New Zealand Way, where developable proposals had been submitted to the Council as planning authority, any development value associated with the sites or alternative sites will be lost once the land has been registered. There could therefore be a potential impact on the Council's future housing land supply figures as well as housing targets as the sites will effectively be sterilised due to the registration. As stated above, none of the five sites are currently included within the Local Plan land supply to provide housing and there would only be a negative impact if these sites were anticipated to be included as development sites in future. The Council is currently reviewing its Local Plan and is progressing the "call for sites" exercise to identify where new housing will be built. There is an expectation that sufficient sites and capacity will be identified through that process to establish the new land supply for housing without the need to use these five sites. (The number of homes the sites could theoretically provide is identified below).

The potential development opportunity for housing on these five sites has been reviewed in order to establish the quantum of delivery by reference to existing proposals and PTAL and thus inform potential values for the sites:

Site	No.of Homes	Indicative Value	Comments
Gooshays Gardens	64 (50% affordable)	£Nil	The site would not be viable assuming a planning compliant 50% affordable scheme. As a community asset, a notional book value of £1 is reported in the asset register.
New Zealand Way	30 (All Affordable)	£Nil	The site would not be viable assuming proposed 100% affordable scheme. As a community asset, a notional book value of £1 is reported in the asset register .
Wennington Green	10 (100% private)	£700,000	The site is located within the flood zone and therefore any proposals would need to overcome these environmental constraints.
Taunton Road	20 (50% affordable)	£800,000	The site contains mature trees therefore this assumes approximately 60% developable area.
Fleet Close Play Area	10 (100% private)	£700,000	This site is designated as Open space and is currently a play area with some mature trees.
Total	134	£2,200,000	

The notional values reported for the sites determined as community assets are based on the fact the Council intends to hold them in perpetuity and that they have no determinable useful life and they may, in addition, have restrictions on their disposal.

The nil values reported above for Gooshays Gardens and New Zealand Way reflect that the sites would not be viable for the proposed schemes. For the sites to become viable, it is likely that a developer would seek to reduce the quantum of affordable provision in the mixed tenure scheme proposed for a site like Gooshays Gardens and obtain grant funding for an 100% affordable scheme proposed for New Zealand Way. By registering the sites as Town Village Greens, the opportunity of bringing forward the sites as 'donor sites' on which the provision of affordable housing can be maximised while maximising the development value of alternative Council-owned sites will be lost.

The figures reported for Wennington Green and Taunton Road are based on comparable evidence if the sites are brought forward in their highest and best use assuming planning compliant schemes.

This development value is the highest valuation expected for these sites under current planning policy and circumstances. Therefore, consideration of these values identifies the maximum theoretical value and homes that would be foregone as a result of the registration for Village Greens.

In February of this year, Cabinet agreed a Disposals Report identifying sites that could be disposed of for housing. The expectation is that those sites would deliver in the region of £50m as capital receipts over a 5-year period. It is felt those sites are more appropriate for housing and disposal. Therefore, the Council has an agreed alternative method to deliver the necessary receipts within the current MTFS without the need to consider these sites.

Both the land at Wennington Green and at New Zealand Way is registered highway. It is considered that the highways purposes will not conflict with the village green purposes and therefore it is open to the Council to keep the sites as registered highways.

There is the potential for the receipt of requests for self-registration of Village Green sites. However, there is no obligation on the Council as landowner to even consider these. The usual method of a third party application for TVG registration would be by application to the registration authority not by request to the landowner. Applications to the registration authority cannot be controlled and would need to strictly adhere to the registration criteria set out in the relevant legislation.

Process to be followed to register sites as Village Greens:

This report Cabinet seeks approval to apply to the Registration Authority to register the five Council-owned sites as village greens and is a necessary part of the process.

Where the land forms part housing land and the sites are successfully registered as Village Greens, the sites will be required to be moved from the Council's Housing Revenue Account (HRA) to the General Fund. Notwithstanding the current status of the land as highways verges, both the Wennington Green and New Zealand Way sites were purchased by the Local Authority using housing powers and it is presumed in the absence of any records showing otherwise that they are continued to be held in the HRA. The Council is able to appropriate vacant housing land to general purposes pursuant to section 19(1) of the Housing Act 1985. The transfer between the HRA and General Fund will be for value. Finance have confirmed that both the land at New Zealand Way and Wennington Road green do not have net book values associated with them on the Council's fixed asset register and that they would be considered to be community assets (Assets that an authority intends to hold in perpetuity, that have no determinable useful life and which may, in addition have restrictions on their disposal). Community assets are held at historic cost (i.e. the cost to purchase the assets) which in this case is zero. In the event that these sites are registered as Village Greens, the appropriation between the HRA and General Fund will be implemented.

Consultation and Engagement

Due to the history and nature of the proposals in this report, it is unlikely that there would be negative impacts from residents involved or wider stakeholders on these particular sites. However, Cabinet will need to consider if this could create unintended consequences as described above.

Due to the positive nature of this paper, a communications and engagement strategy has been designed with the purpose:

- To outline the good news story for the village green proposals, considerations and adoptions, key milestones etc, through the democratic council process (Cabinet, Council meetings, etc).
- To champion this Administration's support to protecting well-loved, quality green spaces in the borough.

The main objectives for this communications plan are:

- To announce the intention to designate five open spaces to village green status.
- To increase awareness of how we are re-designating this land, protecting collective green space in the borough.
- To communicate the justification for this decision under the new administration.
- To potentially tie the first of the dedications to the first anniversary of the Wennington village fires (July 19).
- To set out clearly the criteria to be considered when applying for village green status.

REASONS AND OPTIONS

Reasons for the decision:

The decision will allow the protection of the five green spaces and the associated benefits detailed in the report.

Other options considered:

Not to approve the recommendations in this report would result in not progressing the voluntary registration as village greens of the five sites. Not to pursue that would result in the failure to protect these open spaces and the health and wellbeing benefits associated.

Another option would be not to seek to register sites to keep provision of other uses in the future to meet future Council priorities. However, this has been discounted due to the importance of providing open space within already developed areas as detailed in this report.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no direct costs associated with the voluntary making of five village greens. However, the subsequent loss of land value is totalling £2.2m of which £1.4m is potentially viable as development value. This is considered within the report.

There is a provision within Section 123 the Local Government Act requiring a Local Authority to be satisfied that it is achieving “best value” for the disposal of an asset. This requirement applies to a freehold disposal or lease exceeding 7 years. In these circumstances, the provisions do not apply as no disposal is taking place.

Legal implications and risks:

The Commons Act 2006 sets out the process by which a landowner can voluntarily register land as a village green 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.

The Council has the power to make the Commons Act 2006 application using its general power under Section 1 of the Localism Act 2011. This provides local authorities with the power to do anything an individual may do subject to a number of limitations.

Human Resources implications and risks:

There are no human resource implications associated directly with this report.

Equalities implications and risks:

It is not considered necessary for this report as the impacts are positive for the entire communities they serve.

Health and Wellbeing implications and Risks

As stated in the report this proposal will impact positively:

- An individual's behaviour and lifestyle such as smoking, diet, exercise, alcohol consumption, or self-care.
- Mental health and wellbeing.
- Access to green space, sports facilities, and opportunities to be active.
- Opportunity to interact socially with other people, social isolation, community support networks and being able to live independently.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The Council has set an ambitious target of becoming a carbon neutral organisation and borough by 2040.

The designation of the five sites as village greens will help safeguard against development and will ensure that the environmental benefits of these sites are retained in the long term. Small open spaces contribute to the borough's green infrastructure network and they play a role in providing biodiversity, enabling water attenuation, moderating temperatures and absorbing carbon from the air and improving air quality for residents.

If approved, the designation of these sites as village greens will have a positive environmental impact.

Cabinet, 03 May 2023.

There is none.

Appendix 1

Site 1: Land at Gooshays, Gooshays Drive in Harold Hill, Romford RM3 8AF

Gooshays green is located along Gooshays Drive in Harold Hill, and covers an area of about 0.81 hectare. It is roughly triangular in shape and creates a focal point for the low rise dwellings within its immediate vicinity. On the west the site is bounded by residential properties, on the south by Gooshays Gardens and on the east by Gooshays Drive and overlooked by residential properties and a community centre located to the other side of Gooshays Drive.

The Site is within close proximity to Central Park Leisure Centre, providing a range of fitness and sports facilities. The nearest Train Station is at Harold Wood which is located 0.98 mile to the South, providing access to regular TFL Rail services to Liverpool Street, with typical journey times of 33 minutes.

The entry in the Havering Asset Register identifies that the site is held in the General Fund and classified as a community asset. It is identified in the Council's open space assessment 2016 and classified as amenity green space from a land use perspective.



Site Location Plan (Extract)

Cabinet, 03 May 2023.



Gooshays from East-West Corner of Site.

Site 2: New Zealand Way, Rainham RM13 3JT.

New Zealand Way green space, which covers an area of 0.79 hectare, is bounded on its north by New Zealand Way, on the east by Gisborne Gardens and wrapped round from east to south by Queenstown Gardens. New Zealand Way is about 0.9 mile to the west of the M25 London Orbital Motorway and some 16 miles to the east of Central London. Romford town centre lies approximately 5 miles to the north of the site.

New Zealand Way is relatively flat with sparsely distributed trees along its perimeter. The site is designated highway verge with its boundary defined with concrete kerbs.



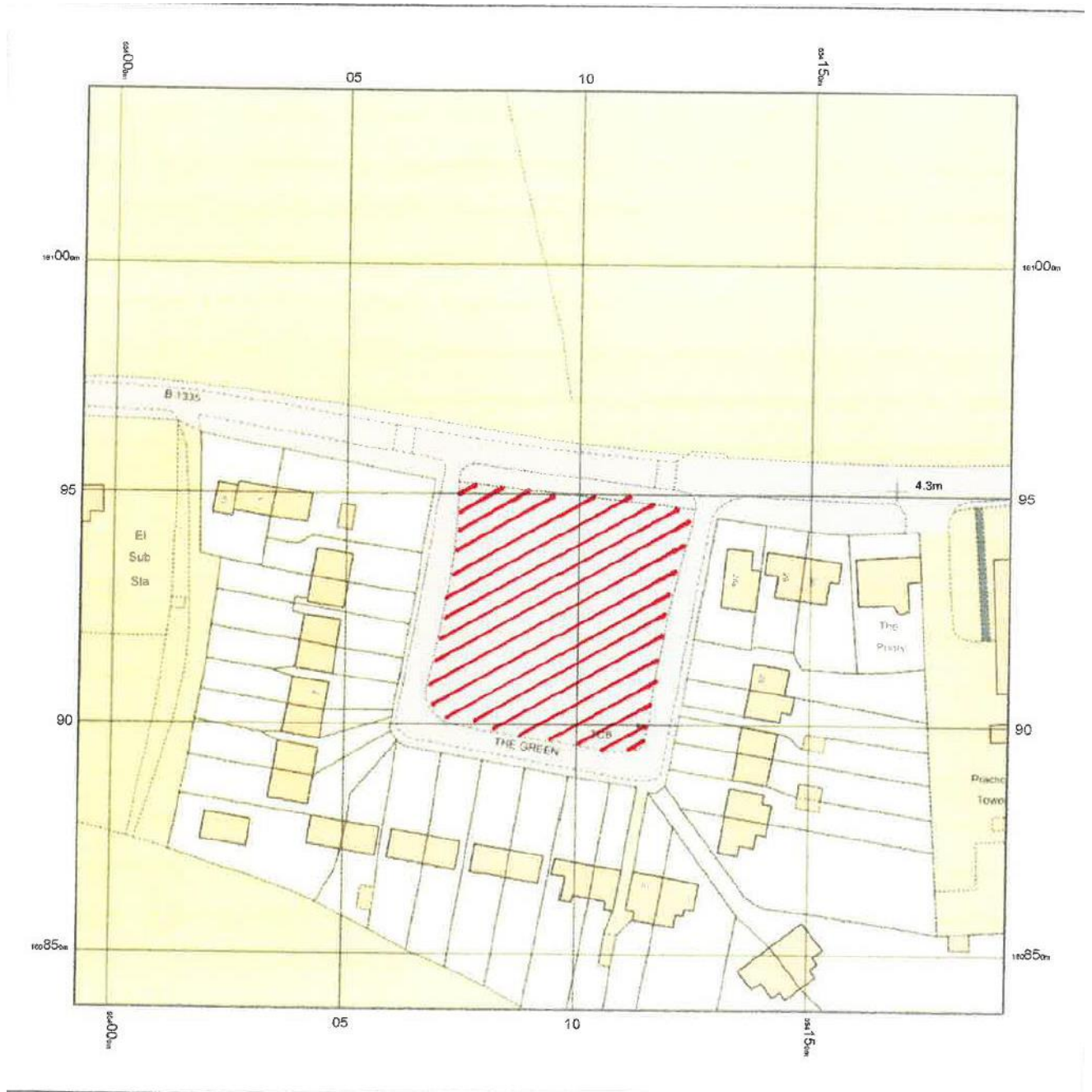
Site Location Plan (Extract)



New Zealand Way from North-West Corner of Site.

Site 3: Land at Wennington Green.

Asset Management records indicate that the land was acquired under Housing Acts, which would suggest HRA. Not included in the open space sites in the 2016 assessment.



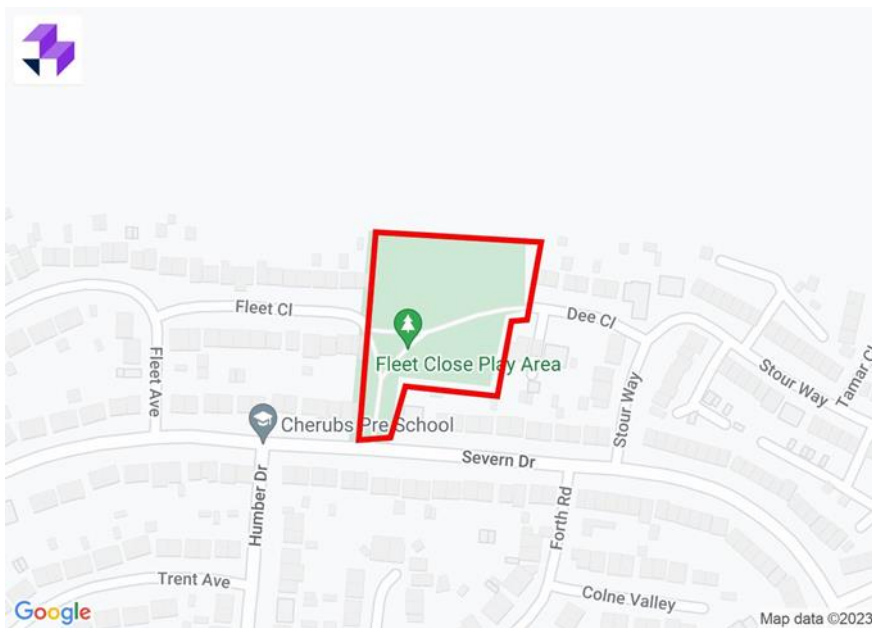
Site 4: Land west of Taunton Road, Harold Hill.

Havering Asset Register identifies this land as held within the General Fund and classified as a community asset. It does not appear to be included in the Council's open space sites in the 2016 assessment.



Site 5: Land at Fleet Close Play Site, Upminster.

This site comprises land On The North Side Of Severn Drive, Upminster RM14 1QD measuring 0.69 hectares bordering onto green belt land. It is classified as public open space under Havering policy 18. The entry in the Asset Register identifies the land it is held within the GF and classified as a Community Asset in the Asset Register. The land use is open space and it is included as one of the open spaces in the Borough's 2016 Open Spaces Assessment report. The site is given a low quality score in the report, which reflected its lack of controls to prevent misuse, paths and limited range of play equipment; the site was observed as having only two sets of swings and a see saw.



Appendix 2

Role of Green Space within the Community

Open space contributes to physical and mental well-being of individuals, provides a safe and inexpensive place to exercise, enables residents to benefit from social interaction, provides a refuge from stress and constitutes a social space where people of different ages and background can come together, thereby promoting social inclusion.

A well-maintained green space also forms part of our urban infrastructure because of their potential to temporarily absorb and hold excess rainwater as part of sustainable drainage system, thereby mitigating flood risk.

Classification of Green Spaces

Having highlighted some of the benefits of green space it would be worth considering the different types of designation of green spaces together with their characteristics and qualifying circumstances for the designation, the procedure for registration with the appropriate authority and the strength of their protection, with the view to protecting them from future development.

There are a number of options for safeguarding open or green sites and these are set out below and comprise:

- Local Green Space (as set out in the National Planning Policy Framework)
- Metropolitan Open Space
- Parks
- Planning policy provisions (through the Havering Local Plan)
- Designation as a Town Green or Village Green

1. Local Green Space

This is a relatively new designation that was created by paragraph 77 of the National Planning Policy Framework (NPPF) 2012 and paragraph 100 of the NPPF 2018. Local Green Space designation is a way to provide special protection against development of green area of particular importance to local communities. This type of designation allows local authorities to protect green spaces of local importance for reasons that include the setting and nature conservation.

Local Green Space designation is proposed by the Department for the Environment Food and Rural Affairs (DEFRA) as an alternative to registering a green space as town and village green. This form of designation will rarely be appropriate where the land has planning permission for a proposed development.

The Local Green Space designation is only appropriate and should be used in the following circumstances:

- When the green space is in reasonably close proximity to the community it serves;
- Where the green space is demonstrably special to the local community and holds a particular local significance by virtue of its beauty, historic significance, recreational value, tranquillity or richness of its wildlife; and
- Where the green space concerned is local in character and is not an extensive tract of land.

Designating a land as Local Green Space does not preclude it from all forms development. Hence developments considered appropriate as set out in the National Planning Policy Framework and in other relevant planning policies (such as the London Plan and the Havering Local Plan) could still be permitted.

2. Metropolitan Open Space

This is a key designation of public open space in London and is aimed at protecting outdoor spaces that are vital for the well-being of communities and local biodiversity as these are usually threatened by infrastructure development.

To designate land as Metropolitan Open Space, the land needs to meet at least one of the following criteria:

- it contributes to the physical structure of London by being clearly distinguishable from the built up area
- it includes open air facilities, especially for leisure, recreation, sport, the arts and cultural activities, which serve either the whole or significant parts of London
- it contains features or landscapes (historic, recreational, biodiversity) of either national or metropolitan value
- It forms part of a Green Chain or a link in the network of green infrastructure and meets one of the above criteria.

This form of designation would give protection consistent with that in respect of Green Belt, inappropriate development refused, except in very special circumstances and provides the same level of protection as in the Green Belt.

Any land designated by a local authority in London for recreational purposes would be pursuant to legislation that applies nationally, e.g. Open Spaces Act 1906. This does not confer on the land any particular protected status other than an obligation, prior to reaching a decision to dispose, to advertise the intended disposal for two successive weeks in a local newspaper and then consider any objections raised.

Hence, the designation does not preclude appropriate development and the protection afforded does not carry enough weight to prevent development of the land in perpetuity, as the boundary could be altered in some evidenced and justified exceptional circumstances and through strategic policy.

3. Parks

Parks are protected by open space restrictions. They are public green spaces often at the edge of urban areas which provide places to enjoy the outdoors and experience nature in an informal semi-rural setting. National parks are nationally protected areas in the UK because of their countryside, wildlife and cultural heritage value.

4. Designation within the Local Plan context.

The sites could be as specific allocations within the Local Plan and be afforded 'protection' through that specific designation.

This form of protection carries more weight than the three designations mentioned above in the sense that once the site is given the 'protection' on this ground it would be difficult to 'undo' if the Council intends to develop across all or part of the site. There is likelihood that more allocations of this sort would be requested by local residents to safeguard other similar sites/facilities within the borough. This may eventually jeopardise Council's development objectives.

- i. Including the sites within a general planning policy that seeks to protect open space (as it has already been done within the current policy) but make clear that it would apply to smaller parcels similar in size to New Zealand Way and Gooshays green.

For both approaches highlighted under this section;

- it may help if there is an up to date characterisation study in place to highlight the importance of the area(s) in its wider neighbourhood setting and provide some rationale for designation through specific allocation or a more general policy approach to safeguarding local open space(s)
- there would need to be a robust evidence base to justify the policy/site allocation. Whilst both may be supported 'locally', others may have concerns about the potential impact on addressing other borough

priorities particularly housing delivery and may choose to air this through the Local Plan preparation process

Careful consideration would need to be given to ensuring that using the planning 'system' for this did not have unintended consequences elsewhere with other sites within the borough.