

Title of Report : TRAP GROUNDS**Report of: Head of Legal and Democratic Services and Planning
Services Business Manager****To: Executive Board****Date 19th February 2007****Item No:****Purpose of report: To update members on the status of the Trap
Grounds as a Town Green and seek authority for further action.****Key decision:** Yes**Portfolio Holder:** Councillor John Goddard**Scrutiny Responsibility:** Environment**Ward(s) affected:** St. Margaret's**Report Approved by:** Councillor John Goddard; Lindsay Cane – Legal;
Andy Collett - Finance**Report Authors:** Kate Chirside: 01865 252782,
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- (1) that the planning permission for the use of the Trap Grounds for housing purposes be allowed to lapse.
- (2) that the land be appropriated from Housing to Leisure and Culture use
- (3) to leave the Trap Grounds in their present state
- (4) to authorise officers to discuss with local wildlife organisations the possibility of them managing and maintaining the Trap Grounds as a nature reserve.



1. Introduction

- 1.1 The Trap Grounds, which is shown on the plan attached in Appendix 1, is allocated for affordable housing in the 'Oxford Local Plan 2001 – 2016' and was granted outline planning consent for 45 units of affordable housing on 18th June 2004. The deadline for submission of the details of the reserved matters will expire on the 18th June 2007. Circumstances have now fundamentally changed since these planning decisions were made as a result of which Officers believe it is no longer viable to pursue affordable housing on the Trap Grounds. These reasons are outlined below.

2. Designation as a Town Green

- 2.1 In November 2006, following a decision by the House of Lords, Oxfordshire County Council registered part of the Trap Grounds, including the proposed development site, as a Town Green. The City Council can only use the registered Town Green area in a manner compatible not only with the bird watching/dog walking pastimes described by the applicant but also any other lawful sports and pastimes.
- 2.2 If the City Council wishes to use the Town Green for any other purpose it would need to find alternative land of equivalent size and accessibility in the area. In these circumstances the designation as a Town Green would transfer to the replacement land and the Trap Grounds would be de-registered. The legislative basis for de-registering Town Greens has recently been changed through Section 16 of the Commons Act 2006. In January 2007 the Department for Environment, Food and Rural Affairs issued a consultation document on the application of section 16. The determining factors are likely to be the provision of suitable replacement land, the interests of the neighbourhood and the public interest in nature conservation, conservation of landscape, protection of public rights of access and any other relevant matters.
- 2.3 Whilst a great deal of research would need to be undertaken to address the criteria set out in the consultation paper to identify land which would be a suitable replacement, a cursory trawl by Officers has not identified any land remotely meeting these criteria. In any event the Government need to finalise their procedure in the light of consultation responses so this option is some months away. Given the litigation over the Trap Grounds and the local opposition to housing on it, it is very unlikely that

the Secretary of State would approve an alternative Town Green site to release the Trap Grounds for housing.

3. Planning Issues

- 3.1 The deadline for submission of the details of the reserved matters on the outline planning permission for affordable housing will expire on the 18th June 2007. No further work has been undertaken on complying with these reserved matters pending a decision on the Town Green, and to comply with them would necessitate a significant investment of further funds.
- 3.2 The need for affordable housing is acknowledged as urgent and pressing. Oxford's Housing Requirements Study (August 2004) calculated that there is a shortfall of new affordable housing in Oxford of around 1,700 – 1,800 affordable homes per year. While only providing 45 units, the Trap Grounds would help to make a contribution towards satisfying that need.
- 3.3 If the City Council were to decide to continue to pursue the provision of affordable housing on the Trap Grounds site it would have to be included in the Site Allocations Development Plan Document on which work is due to start in December 2008. This would, however, be problematic as a result of recent strengthening of Government guidance especially in relation to flooding and biodiversity issues.

4. Flooding

- 4.1 Planning Policy Statement 25 (PPS25) on 'Development and Flood Risk', was issued in December 2006. This document instructs local planning authorities when allocating land for development to apply a 'Sequential Test' 'to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed' (paragraph 16).
- 4.2 The Trap Grounds development site is shown on the Environment Agency's Flood Zone maps as falling within Flood Zone 2, where there is a medium probability of flooding. This is defined as land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of flooding. PPS25 states that: 'In areas at risk of river or sea flooding, preference should be given to locating new development in Flood Zone 1,' where there is a low probability of flooding. Only if there is 'no reasonably available site in Flood Zone 1' should land be allocated in areas of greater flood risk. (paragraph 17). Given that there are Greenfield areas in the Safeguarded Land at Barton and Summertown, which fall within Flood Zone 1, it would probably be difficult to argue that it

was necessary to allocate this previously undeveloped land in Flood Zone 2.

5. Biodiversity

- 5.1 On biodiversity, the Government has issued Planning Policy Statement 9 (PPS9) on 'Planning for Biodiversity and Geological Conservation'. PPS9 states that local authorities should conserve important natural habitat types and species that have been identified in the *Countryside and Rights of Way Act 2000* section 74 list, as being of principal importance for the conservation of biodiversity in England.
- 5.2 The section 74 list includes two of the habitats on the Trap Grounds, namely reed beds and wet woodland and several species which feed and/or breed there, including linnet, reed bunting, bullfinch, song thrush, water voles, pipistrelle bat and buttoned snout moth. While the reed bed and wet woodland would be retained, some of the species, including linnet, reed bunting, bullfinch and song thrush would be affected, as they breed in shrubs and hedgerows, and these types of habitat are found predominantly within the proposed area allocated for development
- 5.3 PPS 9 also states that local authorities should aim to avoid 'the fragmentation and isolation of natural habitats.' The reed bed and wet woodland would become more isolated by development on the Trap Grounds.

6. Access Route to SS Philip & James Primary School

- 6.1 As well as the provision of affordable housing on the Trap Grounds there has also been the desire to provide a vehicular access across it to serve the primary school, which adjoins its southern end. In view of the designation of the Trap Grounds as a Town Green there are now significant problems in achieving the provision of an access road.
- 6.2 The school has a projected need for an increase in pupil numbers from the current 370 to 420 pupils in the academic year 2009/10. The County Council's Highway Engineer has investigated the issues around increased occupation and has concluded that the School's Travel Plan, which has been successfully operated by the school over a number of years, provides an adequate basis for judging that the school would be able to increase its numbers to capacity without the provision of a new access route. This view is subject to any consent for an increase to 420 being on a temporary basis until 2011 to allow monitoring of the additional numbers. In the event that there were problems alternative options for improving access would

need to be investigated and this could potentially include a route along the western edge of the Trap Grounds and the western side of the school. It is accepted, however, that the original proposed route through the middle of the Trap Grounds is no longer achievable.

7. Land Swap with County

- 7.1 Under the Section 106 Agreement relating to the Laing Homes development in Aristotle Lane, the City Council has a land swap option agreement. Under this land swap option the City Council was to acquire a strip of land at the northern edge of the SS Philip and James school site owned by the County Council, to be incorporated within the Trap Grounds development site. In exchange an area of land at the southern boundary of the school site, would be given to the school. The land swap agreement expires on the earlier of the 31.3.07 or the registration of the land as a Town Green (unless the City Council commences legal proceedings against the County Council for procuring registration as a Town Green). The land swap agreement has therefore now lapsed.

8. Future of the Trap Grounds

- 8.1 If the Trap Grounds is to remain as a Town Green it would need to be appropriated from Housing to Leisure. Maintenance of the site would have cost implications but given the local interest in the site it may be possible to arrange for a local wildlife group to manage the site.
- 8.2 Some costs, however, would need to be incurred by Leisure. Invasive and harmful vegetation exist on the land. In the first year, if Leisure and Culture take on management of the Trap Grounds, pernicious weeds including Giant Hogweed will need to be eliminated and a number of willow trees will need to be pollarded or stubbed to make them safe. The estimated cost of this work totals £3,140. Thereafter the annual cost of maintenance of the path network and habitats in their current condition, the collection of litter and routine maintenance of trees is estimated at £730.
- 8.3 Site investigations previously carried out identified contaminated soils and water as a result of historical uses of the land. The cost, however, of removing the contaminated material would be very expensive and also destroy the existing habitat, thereby necessitating the translocation of the slow worms and common lizards to another site.

- 8.4 Environmental Health officers advise that if the site is left largely inaccessible and overgrown, and used by a small number of people, the risk of exposure to contaminated soil and water would be minimal. However, if the site were to be opened up giving greater access to the community, the risks would need to be properly evaluated and appropriate remedial measures taken. It is therefore proposed that, subject to further site risk assessments, which may have further cost implications, the site be left as it is, with notices erected warning people of the risk from contaminated material.

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Background papers: None