



Officer decision record

Directorate **Regeneration**

Date **29 June 2018**

Contact Name **Ashley Curzon**

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Subject Matter **Proposal by the Isle of Wight Council to correct the Commons Register by removing the toilet which forms part of common land parcel CL20 St Helens Green, Ryde**

Summary In February 2016 full council resolved that the funding for the public conveniences had to be withdrawn as part of the ongoing savings that were required to set a legally balanced budget. In order to try and prevent the toilets being closed the council also decided to offer the assets to the relevant Parish or Town Council.

Following this decision officers have been working to complete the transfer of titles for the public conveniences to the Parish and Town Councils.

An anomaly exists preventing the council from transferring the title of the public conveniences located on St Helens Green (Site plan attached). Namely the toilet is within the common land parcel CL20. In order to be able to transfer the title of the toilet the council must carry out a number of steps. The first step is to apply to correct the Commons Register by proposing to remove the toilet block as it already existed at the time of the provisional registration and should not have been included in the registration.

As the Commons Registration Authority for the Isle of Wight the Isle of Wight Council is not permitted to determine any application where it has an interest in the application. That being the case, following the public consultation, the application and all related material must be sent to the Planning Inspectorate for determination.

If the application is successful the council can then proceed to register the title of the toilet at the Land Registry and once this is confirmed the council can then move on to completing the conveyance of the property to St Helens Parish Council.

Best Consideration The council is transferring the asset to St Helens Parish Council in order for the facility to remain open to the public. The property will be transferred for £1 however uses will be restricted to a public convenience and store.

Risk Management There are two major risks attaching to this decision.

The first is for whatever reason the consultation is unsuccessful and/or the Planning Inspectorate do not allow the Commons Register to be corrected.

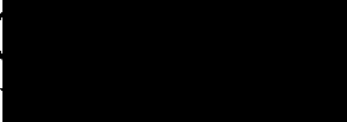

To mitigate the risk the council must;
Ensure the proper processes and procedures are followed and complied with throughout the application process.

Gather sufficient evidence to inform the application and demonstrate it is justifiable.

The second is that previous works that have been carried out on the Green do not have permission e.g. the car park. The process of making this application may highlight these unconsented works and the worst case is that the council has to reverse the changes.

To mitigate the risk the council must;
Unfortunately there is not much, if anything that can be done to mitigate this risk but it has to be flagged up.

Delegation Being Exercised Officer decision to go ahead with the proposal to correct the Commons Register.

Signed: 	Date: <u>2/7/18</u>
I have consulted on the above decision, (for use if it is considered appropriate to consult the relevant Member in taking a decision).	
Signature of relevant Cabinet Member (If required)	
Signed: 	Date: <u>02/07/2018</u>

**The Commons Act 2006
Section 19 and Schedule 2(6)**

Notice is hereby given that a proposal has been made by the Isle of Wight Council as Commons Registration Authority for the Isle of Wight, concerning land at St Helen's Green, St Helen's, Ryde described more fully below.

A summary of the effect of the proposal is as follows: the land in question is covered by a building or is within the curtilage of a building, namely the public toilets and should not have been registered under the Commons Registration Act 1965.

If the application is granted, in whole or in part, the registration authority will give effect to the determination by removing the land from the register of common land.

Representations:

- must quote the Application No.
- must state the name and postal address of the person making them, and the nature of that person's interest (if any) in any land affected by the application, and may include an e-mail address;
- must be signed by the person making them;
- must state the grounds on which they are made; and
- must be sent to Clive Joynes, Commons Registration Office or Local Land Charges, County Hall, High Street, Newport, PO30 1UD or by email to XXXXX

Representations cannot be treated as confidential.

The date on which the period for making representation expires is *(not less than 42 days after the date of the publishing, posting or service of the notice)*

Documents relating to the application are available for inspection at the Help Centre, County Hall, High Street, Newport between the hours of 09.00 and 16.30 Monday to Friday
The Notice and accompanying plan can also be viewed by accessing the Council website, Common Land page: XX from the following link: XX

Dated: XX

Signed: Ash

Description of the land concerned:

197m² (0.0197 hectares) of land at St. Helens Green, Station Road, St Helens in the parish of St. Helens
Centred on O.S. grid reference: SZ 62681 88980
As edged red on the accompanying plan.

register St Helen's Green as common and the Chief Commissioner's decision appear to have been mislaid, probably due to the various local government reorganisations which have taken place during the intervening years. However, it is apparent from the entries on the Commons Register (attached) (document 7) that the "objection" related to the fact that St Helen's Green had also been provisionally registered as town or village green. A dual registration of this nature was treated as an objection until disposed of by the Commons Commissioners. In this case, the final decision and status of the land as common land was not confirmed until 1978.

- 5) The Commons Map which accompanies the Register does not show the toilet block. This can be explained by the fact that the scale of the Ordnance Survey Map used as the base for the Commons Registration Map was too small to show details such as this. Regulation 16 of the Commons Registration (General) Regulations 1966 provided that the scale of the map to be used should not be less than or substantially less than 6 inches to 1 mile (equivalent to 1:10,560). However, the 1971 edition, at the larger 25 inch to the mile scale, clearly shows the toilets (see attached) (document 8).
- 6) On 16 November 1993 planning permission was granted for the demolition of the public conveniences and the erection of a new toilet block to include a disabled persons' toilet and cricket equipment store (reference TCP/21400/MB/1636). The works to replace the block were carried out in 1994 on the site of the previous toilet block. This is the block which exists today. A copy of the planning permission is attached (see document 9).
- 7) It is clear from the above information that there has been a toilet block on the Land continuously since before 1939 until the present day. The toilet block was on the Land at the time of the provisional registration of St Helen's Green and should have been excluded at the time of registration since its presence meant that the Land did not fall within the definition of Common Land in the Commons Registration Act 1965.
- 8) As the toilet block was on the Land at the time of its provisional registration as common land and a toilet block has remained on the Land at all times since then, the current block having replaced the earlier block in 1994 in the same location, the criteria of paragraph 6 of Schedule 2 to the Commons Act 2006 are fulfilled such that the Land should be removed from the Commons Register.

Ashley Curzon

Strategic Manager Property and Assets