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BOROUGH COUNCIL

A meeting of the Borough Council will be held in the Council Chamber, Civic Centre, Lampton Road, Hounslow on Tuesday, 16th July 2013 at 7.30 pm

MEMBERSHIP

The Mayor and Deputy Mayor
All other Members of the Council

AGENDA

1. Apologies for Absence, Other Announcements and Declarations of Interest from Members

2. Announcements

To receive announcements (if any) from the Mayor, Leader, Members of the Cabinet or the Head of Paid Service

3. Minutes

(Pages 1 - 16)

To approve the minutes of the meeting held on 11th June 2013

4. Petitions

(Pages 17 - 21)

Report of the Head of Democratic Services

5. Isleworth Green - Determination of Village Green Application (CR97)

(Pages 22 - 27)

Report by Councillor Sue Sampson, Cabinet Member for Performance and Customer Care

6. Brabazon Estate - Determination of Village Green Applications (CR96)

(Pages 28 - 73)

Report by Councillor Sue Sampson, Cabinet Member for Performance and Customer Care

7. Treasury Management Annual Report 2012/13 (CR99) (Pages 74 - 82)

Report by Councillor Jagdish Sharma, Leader of the Council.

8. Formal Establishment of Health and Wellbeing Board, Confirmation of Appointments and Changes to the Constitution (Pages 83 - 94)

Report by Councillor Jagdish Sharma, Chair of the Hounslow Health and Wellbeing Board.

9. Confirmation of Revised Terms of Reference for the Corporate Parenting Panel (Pages 95 - 106)

Report by Councillor Lily Bath, Cabinet Member for Children's Services.

10. Amendment to the Scheme of Members' Allowances (Pages 107 - 111)

Report by Councillor Jagdish Sharma, Leader of the Council.

11. Appointments to Committees and Other Bodies

Members are asked to make any appointments that are nominated at the meeting for the remainder of the municipal year and delegate authority to the Chief Executive, in consultation with the Mayor and Deputy Mayor, to make any adjustments necessary to ensure political proportionality.

12. Decisions Taken Under Urgency Arrangements

The Council is asked to note the following uses of the urgency arrangements:

- Council and Cabinet Decisions Taken Under Urgency Arrangements: Cabinet Decision: Purchase of long leasehold interest building in Brentford Town Centre (part 2 item) 6th June 2013
- Forward Plan Urgency Notices: None

Questions from Members

13. Councillor Ruth Cadbury to ask Councillor Colin Ellar, Deputy Leader and Cabinet Member for Environment

Can the Cabinet Member for Environment outline the programme for street lighting in the Borough?

14. Councillor Rebecca Stewart to ask Councillor Tom Bruce, Cabinet Member for Education and Human Resources

Can the Cabinet Member for Education tell the Chamber how many children in our primary schools are being taught in temporary classrooms?

15. Councillor John Todd to ask Councillor Jagdish Sharma, Leader of the Council

Could the Leader of the Council state the total cost for the recent refurbishment of the toilets in Pavilion D?

16. Councillor Peter Thompson to Councillor Jagdish Sharma, Leader of the Council

Could the Leader of the Council confirm that no bailiffs employed by Hounslow Council have overstated their powers, acted aggressively or bumped up debts by levying excessive fees and charges?

17. Councillor Paul Lynch to Councillor Colin Ellar, Deputy Leader and Cabinet Member for Environment

Could the Cabinet Member for the Environment explain to residents in my ward why much of the newly installed street lighting is so out of keeping with what was there before?

Motions

18. Proposed by Councillor Steve Curran and Seconded by Councillor Shantanu Rajawat

This Council notes the suffering forced upon Hounslow residents as a result of this Coalition Government's cuts programme, and asserts that there is an alternative to its ideologically driven attack on public services – namely the levy of a Financial Transaction Tax (FTT) on the speculative activities that have accelerated the recent enrichment of the few to the detriment of the many. This Council therefore calls upon Government to enact the FTT and use the revenues from this measure to reverse ongoing shrinkage in central grants to our Council.

19. Proposed by Councillor Peter Thompson and Seconded by Councillor Liz Mammatt

Mindful of its duty to promote and maintain high standards of conduct, this Council reaffirms its support of and commitment to the Nolan Principles of Public Life.

20. Any Other Matters That the Mayor Considers Urgent

21. Date of Next Meeting

The next meeting of the Council is scheduled for Tuesday 17th September 2013 and will commence at 7.30pm in the Council Chamber

DECLARING INTERESTS

Committee members are reminded that if they have a personal interest in any matter being discussed at the meeting they must declare the interest and if the interest is also a prejudicial interest then they may not take part in any discussion or vote on the matter.

Mary Harpley
Chief Executive,
Civic Centre,
Lampton Road,
Hounslow,
TW3 4DN

Published on: 8th July 2013

AGENDA ENDS

**At a meeting of the Borough Council held on Tuesday, 26th June 2013
at 7.30pm in the Council Chamber at the Hounslow Civic Centre,
Lampton Road, Hounslow**

Present: The Mayor, Councillor Sachin Gupta (in the Chair)
The Deputy Mayor, Councillor Corinna Smart

Councillors: Mindu Bains, Alan Barber, Felicity Barwood, Lily Bath, Raj Bath, Colin Botterill, Mark Bowen, Tom Bruce, Ruth Cadbury, Peter Carey, John Chatt, Melvin Collins, Steve Curran, Linda Davies, Samantha Davies, Theo Dennison, Ajmer Dhillon, Gopal Dhillon, Poonam Dhillon, Colin Ellar, Jason Ellar, Brad Fisher, Pamela Fisher, Mohinder Gill, Ajmer Grewal, Darshan Grewal, Pritam Grewal, Matt Harmer, Barbara Harris, Sam Hearn, David Hughes, Gillian Hutchison, Paul Jabbal, Kamaljit Kaur, Adrian Lee, Paul Lynch, Liz Mammatt, Amrit Mann, Ed Mayne, Gerald McGregor, Andrew Morgan-Watts, Shantanu Rajawat, Sheila O'Reilly, Robert Oulds, Barbara Reid, Sue Sampson, Jagdish Sharma, Balvir Sond, Rebecca Stewart, Peter Thompson, John Todd, Peta Vaught, Beverley Williams and Allan Wilson

1. Apologies for Absence, Other Announcements and Declarations of Interest from Members

Apologies for absence were received from Councillors John Cooper, Elizabeth Hughes, Gurmail Lal and Sohan Sangha.

Several Members stated that they were in receipt of a freedom pass which was mentioned as part of agenda item 5, Budget 2013/14 – Growth, but it was noted that this did not preclude them from being involved in the discussion on this item.

There were no declarations of interest.

2. Announcements

The Mayor expressed his delight at being able to invite Ms Jo Amand, Operations Manager for the Duke of Edinburgh Awards in London, to address Members about some good news for the Borough and its strong involvement with the Award scheme.

Ms Amand then addressed Members and made the following statement:

“Good evening, I am pleased to have the opportunity to speak to you. The Duke of Edinburgh Awards in London is delighted to present the Licence Certificate for London Borough of Hounslow following the continued support from the Council. In Hounslow, we have all senior schools delivering the Awards with the exception of one. I am also pleased to see the take up of the Awards in the Youth Centres – The Hub, Hogarth and Hanworth. The more targeted

work with young people with additional support needs is fabulous and an example to Duke of Edinburgh Award scheme groups across the capital.

In the last 12 months 883 participants have enrolled while 727 young people have achieved a Duke of Edinburgh Award. The completion rate in Hounslow is the highest in London. While many young people start the scheme, only 50% will complete it. The higher rate in Hounslow is testimony to the hard work and determination of both participants and leaders.

So why is the Award so popular in Hounslow? The world we live in is becoming more competitive; that competition extends to places at university, for apprenticeships and a job. For this reason, the Award scheme is more relevant today because these institutions and businesses are looking for candidates who bring something extra to the role. We have independent research to show that the Duke of Edinburgh Award is the most valued Award outside of academic qualifications. The United Learning Trust (ULT) carried out research with major businesses - 12% of all UK employers. What did employers say? They said that they rated the following things the highest when employing new staff: leadership, teamwork, self-motivation, communication, confidence, consideration and the ability to learn. All of these aspects will have been instilled in young people whilst participating in the Duke of Edinburgh's Award programme. So, apart from giving something back to the community through volunteering and enhancing a range of personal skills, they have also given future prospects a boost.

So what next for the Duke of Edinburgh Awards in Hounslow? We are extending the offer of the Award to all Sixth form students and developing programmes for post-16 year olds in anticipation of education participation age to 18 by 2015. I would like to give a big thank you to Dot Hasler and Michael Marks for their hard work and support. Thank you to everyone else responsible for making the Duke of Edinburgh Awards such a success in Hounslow: teachers, youth workers, volunteers and assessors; it is important to remember that all of them give up their time to ensure that young people have an engaging, positive and enjoyable experience. I would like to extend my thanks to senior officials and Councillors within Hounslow for recognising the value and positive impact of the Duke of Edinburgh's Award and protecting its delivery in challenging financial times. It is important to recognise the impact that programmes like these have on young people and on their local community through their volunteering activities."

Ms Amand then formally presented the Duke of Edinburgh Award Licensing Certificate to the Mayor.

Members showed their appreciation with a round of applause.

Councillor Shantanu Rajawat, Cabinet Member for Adult Social Care and Health Services, then made the following statement in relation to Adult Abuse Awareness Week:

"The London Borough of Hounslow's Eighth Annual Safeguarding Adults Awareness week is taking place from the 10th to the 14th June in a variety of venues across the Borough. Yesterday, the Mayor and Deputy Mayor hosted two events to start the week off. The purpose of the week is to bring into our focus the importance of safeguarding our vulnerable residents, to inform and to empower our residents to protect themselves. Some highlights – on Thursday there will be a conference for residents and service users, chaired by the Mayor.

On Friday there is a staff conference with presentations from several national experts plus a number of workshops for staff and volunteers working with vulnerable adults at risk. I do hope Members will take every opportunity to participate in the events scheduled over the week."

Councillor Rajawat then made the following statement on Carers Week:

"This week is Carers Week. We are very aware of the support that carers provide to their loved ones or friends and how this saves the Council and the Health Service a great deal of money. To support carers to continue this vital support the Council ran a successful event today in the Conference Centre for our local carers. The day provided information for carers from a variety of organisations including all of our newly commissioned Carer Support Services, Social Services, Leisure Centres, Libraries and other Voluntary Sector Services. Activities throughout the day included a local GP (General Practitioner) talking about the Health Checks available to cCarers, the National Gallery bringing famous works of art to our local community, the Department of Works and Pensions explaining the impact of the Welfare Reform changes on working age Carers and the Healthy Lifestyles Roadshow carried out health checks. Finally, in recognition of Carers UK's 25 years contribution to the support of carers, Ms Cherna Crome from our local Carers UK branch gave the signature address at the event."

Councillor Rajawat then concluded his address to Members by making the following statement in relation to the Sandbanks Resource Centre:

"Sandbanks is a Resource Centre that meets the needs of people living with the experience of Dementia as well as frail older people. During the latest inspection at Sandbanks, inspectors used the Short Observational Framework for Inspection (SOFI). SOFI is a specific way of observing care to help inspectors understand the experience of those residents who could not talk with them. The Inspectors observed positive interactions between staff and the people using the service. This is part of the inspection, however, there are also direct interviews with relatives, residents other professionals and questionnaires. Inspectors received very positive comments from residents including "staff treat us really well", "I have a carer who is very good, so kind and will get you anything you want as soon as they possibly can" and "Residents said they felt safe and care for, night staff check on us and make sure we are safe". Relatives said that the staff were "always very helpful", "very nice, happy, cheerful and there was always enough staff on duty to meet resident and needs". Many relatives gave feedback to the inspectors directly or by questionnaires. The inspectors do not supply their names, however one Borough resident whose mother has been resident for the past 2 years made his feelings known to the staff "that his mother is very happy at Sandbanks and that he is impressed by the excellent standard of care that his mother receives".

The Mayor then reminded all Members that they had been invited to the Mayor's Dinner on 22nd June and he expressed the hope that everyone would be able to attend.

The Mayor then extended an invitation to all Councillors and members of the public to attend the annual Armed Forces Day being held on Monday 24th June 2013 at 10.45 am which was to take place in the Members' Car Park at the Civic Centre.

The Mayor then ended the agenda item on announcements by speaking about the recent sad death of Drummer Lee Rigby in Woolwich. He explained that Drummer Rigby had had strong

links with Hounslow, living in the Borough at the Barracks between 2008 and 2010. He had served with the Second Battalion, the Royal Regiment of Fusiliers, whom the Council had Awarded the freedom of the Borough in 2009 and he had then moved with them to Woolwich where the tragic incident which led to his death occurred. On behalf of all Members, the Mayor sent the Council's sympathies and condolences to Drummer Rigby's family and friends.

The Council then stood in silent tribute for one minute.

There were no further announcements.

3. Minutes

It was

RESOLVED –

That the minutes of the meetings of the Council held on 30th April and 14th May 2013, having been confirmed as correct records, be signed by the Mayor.

TO NOTE: All

4. Petitions

Members considered a report by the Head of Democratic Services.

There were no new petitions presented to the Mayor.

The Mayor then advised that there were three petitions for consideration by the Council itself, the details of which were included in the agenda report, and he invited representatives of each group of petitioners to address Members.

He first invited Ms Tessa Cleaver to address Members on Petition One, as listed in the agenda report.

Ms Cleaver thanked the Mayor for allowing her to speak and then reminded Members that Councillor Colin Ellar, as Cabinet Member for Environment, in response to a petition considered at the April meeting of the Council, had stated that paving stones would be retained for pavements in the Glebe Estate. She therefore asked him to do the same for the residents of the ABC Estate who were equally strong in their view that they wished the refurbishment of the pavements should result in the laying of paving stones rather than an asphalt covering. The estate was in Chiswick and comprised late eighteenth century industrial workers accommodation and were examples of some of the smallest scale, finest grain buildings in the Borough. As such, she and the local residents considered the retention of the character of the streets to be important. She noted that guidance by English Heritage, the Mayor of London, Transport for London and the Council itself all pointed to the continued use of paving stones in areas such as this. She concluded by noting that the Council had

looked favourably on two similar petitions in the last few months and she asked that the current one be given similar treatment and that the Council reconsider the decision to use asphalt as paving throughout the Borough.

In response, Councillor Colin Ellar confirmed that all conservation areas in the Borough would get replacement paving on a like for like basis. He added that this would also be the case for areas around conservation areas, to be known as the heritage fringe: this would therefore be the case for the ABC estate and he was pleased therefore to confirm to Ms Cleaver that paving stones would be used for the replacement pavement works in that area. He regretted that there was a need to consider asphalt in other areas within the Borough and attributed this to the significant reduction in the Private Finance Initiative funding from the Government – the consequence of this was that the Council had had to adjust its workplan to match the available resources. He then reminded Members that no other Borough in London was planning to improve and refurbish so many footpaths and street surfaces as Hounslow.

Members noted this response.

The Mayor then advised that the organisers of the second petition in the agenda papers, relating to a complaint against the Metropolitan Housing Trust, were not in attendance at the meeting to introduce their petition. He therefore invited Councillor Steve Curran, Cabinet Member for Housing, Planning and Regeneration, to respond.

In doing so, Councillor Steve Curran expressed his regret that residents had felt the need to use the Council's petitions process to make a complaint against the Metropolitan Housing Trust. He urged residents experiencing anti-social behaviour to report it to the Police. He also stated that Council officers had approached the Trust on the issues raised; consequently, the community safety team were in the process of arranging a meeting with the Trust to take matters forward to alleviate the problems for residents.

Members noted this response.

The Mayor then advised Members that the organisers of petition four in the report were unable to be in attendance at the meeting but they had instead provided some additional information for Members, which had been included in the tabled document which had been circulated to those present.

He then invited Councillor Colin Ellar to respond to the petition. In response, Councillor Ellar stated that he had spoken to the petition organiser on the matter. He then explained that the role of the Council in the matter had been to give permission to a private landlord to tidy up the trees after a request from that landlord to do so. The Council had not seen any reason to refuse the request and it had therefore given permission. The work then carried out to the trees included the reduction of foliage, the felling of a small number of the trees and some pollarding of others. The Council had not acted in error in giving this permission to a company acting as a private landlord and the conflict was therefore between two private parties – the residents and the company. As such there was no duty on the Council to build a replacement fence as had been requested. He then explained that the Council used discretion on whether or not to consult on tree applications. The key consideration required for such notifications was the impact on the conservation area rather than on residents

themselves: he expressed some sympathies for the residents in this case but confirmed that the Council could not tailor its policies to protect residents rather than the conservation area.

Members noted this response.

It was then

RESOLVED –

- That the petitions that had been forwarded to other formal bodies of the Authority for consideration be noted; and
- That the responses to the petitions heard at the meeting also be noted.

TO NOTE: All

5. Budget 2013/14 - Growth (CR76)

Members considered a report by Councillor Jagdish Sharma, Leader of the Council, who briefly introduced the item. In doing so, he explained that the report sought approval to allocate a proportion of the growth allowance to areas of Council priority. He then formally proposed the recommendations in the report.

Councillor Colin Ellar seconded the recommendations.

The Mayor then invited debate on the report and the following comments were made:

- Councillor John Todd noted that it was not clear if references to balances referred to reserves, contingencies, special reserves or other similar funds. He observed that the last meeting of the Cabinet had been advised of departmental underspends in the Council amounting to £11.77 million. He objected to the failure to use other budgets for maximum benefit and stated that of the £7.5 million allocated to the Council under the New Homes Bonus scheme, only £22000 had so far been spent. Similarly, Greater London Authority (GLA) monies for the Brentford and Hounslow Town Centre redevelopments had yet to be used, as well as over £3 million of underspending in the Housing Revenue Account. He noted too that both the Leader and the Chief Executive held funds which were not fully utilised. He considered that this showed that the Council's approach to budgeting and finance was devoid of leadership. He then questioned why the inefficiencies illustrated in the report were not also presented to the Cabinet for its quarterly monitoring meetings. At the same time, the Council was failing to provide a satisfactory service – and he quoted the recent finding by the police of the sale of counterfeit wine within the Borough as an example, as well as failings in the Council website and inadequate support and service to the pensions fund between March and November 2012. He concluded by stating that the Conservative Group supported the growth bids for children and social care but considered much else to be inappropriate usage.
- Councillor Steve Curran noted that the Conservative Group had not presented a detailed alternative to the budget at the February meeting of the Council. He then stated that residents wanted to know if the Council was managing its budgets

efficiently to which the response was that it had healthy balances and had managed to cut the Council Tax whereas the Conservative Group had not been able to do so during its time in Administration. He also observed that the office of the Mayor of London was happy with the Council's approach to its regeneration budget. He concluded by stating that the Administration needed no lectures on how to operate a budget effectively from the Conservatives as it was doing well without them.

- Councillor Gerald McGregor wondered if Councillor Sharma had studied the details in the appendices to the report; he was concerned at the growth bid for social workers (pages 60-64 of the report) as he considered the responses from officers in the report to be inadequate in the light of the recent report by Lord Lamming following on from the tragic Victoria Climbié case, where insufficiently funded social services had failed to prevent the murder of a child. He considered that the Council needed to do more financially to help this area of its work. He also criticised the report for poor qualification of details and quoted the use of "very high" as a measure to be too vague to have any meaning and there being no definition of "police merlins" in the text (both on page 65 of the report). He then concluded by observing that the Council had unspent balances and contingency funds which were tax payers money and should be returned to them – as well as expressing concern that there was insufficient time for the Council to give due diligence to the details in the report.
- Councillor Ruth Cadbury stated the report showed that the current Administration was well able to run a budget effectively and the report before Members illustrated that the Council was responding to areas of pressure and political priority. She also questioned the financial competency of Councillors Todd and McGregor and drew attention that references to the Housing Revenue Account were irrelevant to the matter being discussed. Similarly, the monies described as GLA monies were in fact one off funding grants from the Mayor of London for specific projects which were endorsed by the Mayor of London, but were also irrelevant to the report. She then explained that elements of the growth proposals before Members related to areas that had been historically underfunded, including the pension fund and ICT (information and communication technology). She congratulated the Members and officers who were involved in developing the growth proposals in the context of the extremely difficult economic situation. She also commended the proposals for an increase in the London Living Wage and for increasing economic development which was an area in which she considered the previous Administration had failed properly to fund or utilise for the benefit of residents.
- Councillor Liz Mammatt considered that the Council's recent cut in Council Tax owed much to the grant provided by the Government to allow this to happen rather than by any action by the Administration itself. She also noted that the Conservative Mayor of London had been able to reduce the GLA precept element of Council Tax bills over the last two years. She considered that the Council currently accepted grants and funding support from the Government to provide particular services but then failed to deliver them effectively. She also congratulated Councillors Todd and McGregor for their sound analysis of the report being presented to Members. She then addressed elements of the report and stated that whilst it was appropriate for the Council to want local people to have employment, it was not the role of the Council to facilitate this and attempts to do so were merely inappropriate meddling with business and industry. She considered that the proposals for enhancing planning enforcement were "too little, too late" and that this area should be significantly reprioritised to give it greater prominence

and support – observing that with 1363 outstanding cases, the Planning (Enforcement) Committee had only been able to determine four cases at its last meeting.

- Councillor Lily Bath expressed pride in being able to support a budget that provided growth in areas of need in a difficult economic context and after significant reduction in Government funding to local government. She did not understand objections to helping social workers increase their capacity to help residents. She welcomed the detail in the report and stated that this was necessary to provide Members with sufficient information to allow them to make decisions safely. The proposals would assist families who were suffering due to Government funding cuts and so she supported the report.
- Councillor Linda Davies asked why, if the Labour Group had such faith in its budget, it had not submitted the details to the scrutiny panels for closer examination, as the previous Administration had done.

There being no more comments, the Mayor invited Councillor Jagdish Sharma to sum up the debate. In doing so, Councillor Sharma made the following comments:

- The Council was not debating the overall budget but merely a set of proposal for growth, a fact which seemed to have eluded some Members of the Conservative Party.
- He considered that as 50% of the national non-domestic rate (business rate) came to the Council it was entirely appropriate for the Authority to be involved in local business and industry, including the creation of jobs that could help benefit residents.
- He noted that the proportion of cuts made to local government and to Whitehall by the Government were not the same, and that Councils were affected more profoundly.
- The Council's budget was nuanced and the Administration was well able to manage it effectively; the fact that the Council was able to manage both savings and growth showed that it was responding to external pressures and needs intelligently.
- He concluded by thanking officers in the Finance Section for their help in writing the report and commended it to Members.

It was then

RESOLVED –

- That £3,122,890 inflation and external pressures funding be committed from the pay, inflation and external pressure funding budget to support the pressures outlined in this report.
- That £965,000 provisional funding be committed from the pay, inflation and external pressure funding budget to fund any pay inflations Awarded to staff pending formal agreement of any pay Award.
- That £1,979, 693 be committed from growth provision to support the activities outlined in this report.

ACTION BY: Director of Corporate Resources

This was a majority decision.

6. Borough Wide Controlled Drinking Zone (REG61)

Members considered a report by Councillor Ed Mayne, Cabinet Member for Community Safety and Regulatory Services, who proposed the recommendations and made the following comments:

- 91% of the respondents to the consultation on the proposals welcomed the introduction of a Borough wide controlled drinking zone (CDZ).
- Of the 9% who objected, he considered that some may have misunderstood the principle behind the proposals, as was shown in the appendix to the report.
- He clarified that the introduction of the proposed CDZ would not result in a blanket ban in drinking in public but the ability for the police to confiscate alcohol from people who displayed anti-social behaviour.
- Similar proposals had been introduced in neighbouring Boroughs with success.
- He acknowledged the civil liberties arguments that were supported by some Members and considered them to be a legitimate position but he did not agree with them.
- He confirmed that the new powers would be used responsibly.

Councillor Steve Curran seconded the recommendations in the report.

The Mayor then invited debate on the proposals and the following comments were made:

- Councillor Barbara Reid stated that, whilst 91% of respondents supported the recommendation, it should also be remembered that only 81 residents replied at all. She expressed concern whether basing a decision on such a small response was safe.
- Councillor Adrian Lee stated that the Conservatives had agreed to have a free vote on the issue and he would be opposing the proposals as unnecessary as he considered that the Criminal Justice Act 1961 and the Public Order Act 1985 were sufficient; all that was needed was proper enforcement of the law as it stood. Cases of alcohol related anti-social behaviour were heard daily at magistrates' court and this would not be helped by the proposals. He noted that in the W4 postcode area, there had been six respondents to the consultation of whom four had objected. He then went through various aspects of the report and identified how they were unnecessary as they were already covered by legislation. He considered that it was being introduced for "cosmetic reasons" and feared that it could be misused and as such, and because it was unnecessary in his view, he would not be supporting the recommendations.
- Councillor Liz Mammatt observed that since February, the Feltham area no longer had a local CDZ so she welcomed the report. She also noted that the consultation for the Borough wide CDZ had been online only and requested that future consultation exercises also use hard copies which would also increase the number of respondents. She then stated that whilst some parts of the Borough did not suffer with alcohol related anti-social behaviour, others did and so she considered the proposals not to be a narrowing of freedoms but a widening of them, allowing people who were previously concerned or frightened to leave their houses to do so safely. The local Police Consultative Group had recently seen figures showing that anti-social behaviour related to alcohol abuse affected fourteen out of the twenty wards comprising the Borough. She also observed that neighbouring Boroughs had been able to introduce the proposals with no ill effects and did not see why it would be different in Hounslow. The residents in Bedfont Ward supported the proposals and so she would be voting for the recommendations.

- Councillor Colin Botterill observed that the problems relating to alcohol induced anti-social behaviour had noticeably dropped in the Feltham area once the local CDZ had been introduced there, and had begun once again to increase since February when the Zone had expired.
- Councillor Samantha Davies disagreed with the statement by Councillor Mayne that those who had opposed the proposals in the consultation exercise had not understood what was being asked of them. She also considered that the introduction of a CDZ across the whole Borough was a “sledgehammer to crack a nut” and worried that in the W4 postcode area, where two thirds of respondents objected to the introduction of such a zone, their views were to be subsumed by a “one size fits all” Borough wide CDZ which ignored the preferences of the localities. She considered this to be high handed behaviour by the Cabinet Member and was similar to his approach to the introduction of a controlled parking zone in an area of Chiswick where it was not wanted. She observed that just because the Police had asked for a Borough wide CDZ, that in itself was not enough reason to introduce it – and gave the example of the putative introduction of identity cards by the last Government which though supported by the police, had been widely opposed by the public. She concluded by expressing the view that the Council was wrong to introduce a CDZ across the Borough as a whole.
- Councillor Steve Curran expressed his support for the arguments made by Councillor Liz Mammatt. He also congratulated Councillor Thompson, as Leader of the Conservative Group, for allowing a free vote on the issue. However, he (Councillor Curran) supported the proposals in the report as he considered that the lives of some people were blighted by alcohol related anti-social behaviour and he wished to help the residents rather than the drinkers.
- Councillor Brad Fisher expressed support for the proposals but noted that that on many occasions the police did not step in to use the CDZ powers in the areas where it was already in place. He questioned how the zone would be enforced by the police when it covered the whole Borough.
- Councillor Tom Bruce confirmed that the zone would not prohibit holding alcohol or drinking in public and so enforcement was only needed occasionally when anti-social behaviour ensued. He also confirmed that the Police supported the proposals and concluded by expressing his wish to live in a Borough free of such behaviour.
- Councillor Sam Hearn opened by congratulating the Mayor on his even-handed approach to controlling the meeting. He then addressed the proposals in the report and considered that the small number of respondents in the consultation meant that it had failed as an exercise and that it would be unsafe to proceed on its findings. He asked Councillor Mayne to consider withdrawing the report and consulting again on the proposals in a way that gave a more accurate picture of what residents across the Borough thought about them. This would not only allow Members to make a safe decision in future but also address the concerns of many residents associations that the Council only used consultation exercises as “a fig leaf” before proceeding with the introduction of things regardless of the outcome of the exercise.
- Councillor Pritam Grewal stated that following the introduction of a local CDZ in the Hounslow Central Ward, alcohol related anti-social behaviour had been reduced in both the park and at the bus station where they had been of significant concern and so he supported the recommendations.

- Councillor Andrew Morgan-Watts observed that whilst the subject was an important one, Members had spent more time discussing the proposals on the Borough wide controlled drinking zone than they had on budgetary matters. He clarified that this was no criticism of the Mayor.
- Councillor Ajmer Dhillon stated that local CDZs had proven themselves successful in the past and so the Borough wide one would do so in the future and he therefore supported the proposals.
- Councillor Lily Bath noted that the CDZ in Hounslow Central had been effective and that the police had publicly supported the introduction of such zones in the Borough at area forum meetings including one at which Councillor Brad Fisher was present. The police had supported the zones being rolled out across all of the Borough as a way of avoiding displacement.

There being no more discussion, the Mayor invited Councillor Mayne to sum up the debate and in doing so, he made the following comments:

- He was pleased that the Labour Group did not need a free vote on the issue as all its Members supported the proposals.
- He would have liked to see more respondents to the consultation but the Council had met its statutory duty to consult on the matter.
- He considered that the implications that the introduction of the proposals would be the first step on the road to the creation of a police state to be scaremongering – and noted that the Government itself often created law following consultations with fewer respondents.
- He clarified that the laws identified by Councillor Lee did not permit the confiscation of alcohol which would allow much alcohol related anti-social behaviour to be neutralised without recourse to the criminal justice system.
- The measure was proportionate and had already been successfully adopted by neighbouring Boroughs, some of which were controlled by the Labour Party and some by the Conservatives.
- It would be irresponsible to introduce a scheme covering most but not all of the Borough as this would create displacement
- He therefore commended the report.

In accordance with paragraph 12.6(f) of the Council procedural rules in the constitution, the Mayor permitted Councillor Lee to make a point of explanation. Councillor Lee stated that Councillor Mayne had misunderstood his points and clarified that the Police already had the power to confiscate alcohol under the current statutes.

It was then

RESOLVED –

That the whole Borough be designated as a Controlled Drinking Zone

This was a majority decision.

ACTION BY: Director of Regeneration, Economic Development and Environment

7. Appointment of Returning Officer and Deputy Electoral Registration Officer (CEX28)

Members considered a report by Councillor Jagdish Sharma, Leader of the Council which was proposed by him and seconded by Councillor Colin Ellar.

Mary Harpley, the Chief Executive, left the Council Chamber for the duration of the debate on this report.

Councillor Gerald McGregor regretted that there was insufficient detail in the report and expressed the wish to have the pay scale and other facts included. He also identified several spelling errors which he considered unsatisfactory in a public document.

There being no other comments, the Mayor invited Councillor Sharma to sum up. In doing so, he said that the report was a making a straightforward recommendation to follow the advice of the London Leaders Committee. However, he would be happy to provide Councillor McGregor with more details.

ACTION BY: Councillor Jagdish Sharma

It was then

RESOLVED –

- That Mary Harpley, Chief Executive, be appointed as the Proper Officer for the purposes of Section 35(3) of the Representation of the People Act 1983 and Section 270(3) of the Local Government Act 1972.
- That Cassie Triggs, Electoral Services Manager, be appointed as Deputy Electoral Registration Officer for the Feltham and Heston and Brentford and Isleworth Constituencies.
- That the Scale of Returning Officers'/Counting Officers' Fees and Expenses 2014/15 recommended by the London Councils' Leaders' Committee in respect of London Borough Council Elections, Referendums and Mayoral Elections held during the 2014/15 financial year be adopted;
- That the constitution to be amended to reflect these appointments.

ACTION BY: Chief Executive/Director of Corporate Resources/Head of Democratic Services

8. Appointments to Committees and Other Bodies

Members considered a report by the Head of Democratic Services.

The Mayor drew Members' attention to some nominations in the tabled paper which had been circulated to those present.

Councillor Andrew Morgan-Watts advised that he was a trustee of the Hanworth Poorsland Trust and that this organisation no longer wished to have Councillors appointed to it. He therefore asked that the nomination to the body included in the report not be proceeded with. He also observed that he had clarified this situation at the last meeting of the Council.

There being no further nominations, it was

RESOLVED –

That the following appointments be made for the remainder of the municipal year:

- Licensing Committee: Councillor Elizabeth Hughes
- Complaints Panel: Councillors Mel Collins, Amrit Mann, Corinna Smart and Peta Vaught
- Standards Committee: Councillor Darshan Grewal to replace Councillor Theo Dennison
- SACRE: Councillor Peta Vaught to replace Councillor Elizabeth Hughes
- Fostering Panel: Councillor Corinna Smart
- Brentford Relief in Need Charity: Councillors Mel Collins and Matt Harmer
- London Home & water Safety Council: Councillors Mel Collins and Poonam Dhillon to replace Councillors Elizabeth and David Hughes
- Mortlake Crematorium: Councillors Ruth Cadbury and Shantanu Rajawat to replace Councillors Colin Ellar and Corinna Smart

ACTION BY: Head of Democratic Services

9. Decisions Taken Under Urgency Arrangements

Members considered a report by the Head of Democratic Services

It was

RESOLVED –

That the report be noted.

Motions

10. Proposed by Councillor Liz Mammatt and Seconded by Councillor Peter Thompson

The Mayor drew Members' attention to the tabled document circulated to those present in which Councillor Steve Curran, Cabinet Member for Housing, Planning and Regeneration, had provided a clarification for Members on matters forming the basis of the proposed motion.

The Mayor then invited Councillor Liz Mammatt to introduce the motion. In doing so, she made the following comments:

- She thanked Councillor Curran for the clarification in the tabled document but questioned if the reference to Rectory Court in paragraph four should in fact relate to Burlington House as the former had already been mentioned earlier in the document.
- The motion was asking the Council to help many of its residents in sheltered accommodation who were despondent over the changes being made to their support arrangements.
- Pre-consultation on proposals had taken place in 2011, with formal consultation taking place in 2012 and recommendations being approved by the Cabinet in April 2013 – which had resulted in some residents losing their wardens and the linkline service being reduced.
- The outcome was that many residents felt increasingly vulnerable.
- She also regretted the use by the Council of officious words like “decant” when communicating with the residents in sheltered accommodation as she considered it impersonal.
- Nor were the changes being carried out swiftly – as there were residents remaining in Lorraine House, consultation was due for Rectory Court “in due course” and there had been no consultation for residents of the Maltings yet which left many residents feeling “in limbo”.
- The slow nature of the process overall was hanging over many vulnerable residents and affecting them adversely which was compounded by the sense of insecurity and also of loneliness as buildings were slowly emptied.
- She noted that the Isleworth and Heston Charity in Tollworth House had held an exhibition to help inform and calm its residents as to future plans, and this had been successful, so she suggested that something similar should be carried out for residents in sheltered Council properties.
- She concluded by asking the Council to treat the residents with compassion and make particular effort to make contact with them to help allay their concerns and fears, including writing to them with a proposed timetable for action.

Councillor Peter Thompson seconded the motion and made the following points:

- He clarified that the motion was not an attack on any individual but instead was aimed at addressing a clear problem being suffered by Borough residents of Council run sheltered accommodation.
- Conversations with residents showed that they were uncertain of the future and the planned changes.
- Change was upsetting for them and they wanted security.
- He welcomed the information in the tabled paper as it was helpful
- The last Administration had undertaken a similar project in Heston and he acknowledged that it took time to carry out in order to best help residents and as the current project was larger still, he accepted that it would take more time.
- He acknowledged the steps already taken by the Council to keep in touch with affected residents but they remained concerned and so he requested that the Council at least write to them all again, avoiding complex English, to update them on what was going on.

The Mayor then invited debate on the motion and the following comments were made:

- Councillor Paul Lynch thanked Councillor Curran for the tabled information and particularly the last line which said the Council was “committed to keeping tenants informed”. He acknowledged the compassion shown by officers in helping to allay the concerns of individual residents but as the scale of the project affected large numbers of residents in sheltered accommodation requiring them to move house with long periods of uncertainty about when this would occur, the Council needed to remain constantly aware of the stress and anxiety it was causing and manage information in a better way to help alleviate the problems. This also meant quashing rumours and ensuring regular up to date information was provided in a friendly, helpful, regular and professional way. No-one was suggesting deliberate neglect in this area but when a matter was difficult, it was necessary to reconsider a communications strategy to ensure it was effective to help prevent people become obsessed by their concerns and problems.
- Councillor Steve Curran stated that he was unable to support the motion. He thanked Councillors Thompson and Lynch for their measured and thoughtful contributions but he considered the approach taken by Councillor Mammatt to be inappropriate. He considered that the Council had done everything that it could to communicate with affected residents, as evidenced by the information in the tabled document. He acknowledged that the residents in question were vulnerable people who were understandably wary of change and so the Council had been continuing an ongoing process of keeping them informed. The changes were complex and naturally took time to carry out safely and effectively and so could not be hurried. He accepted that it was a serious point that Councillor Mammatt had raised but observed that she had not raised it with him prior to submitting the motion, although she had been able to approach the local newspaper and get a photograph of herself published where she objected to grass having not been cut. He considered that if she was sincere in her concerns, she would have been trying to contact him as the relevant Cabinet Member and also the relevant council officers. He stated that it was Councillor Mammatt who owed an apology to residents for trying to make political capital out of their concerns and as no wardens had lost their jobs, she should withdraw the motion. He then concluded by stating that in his opinion the long grass featured in the newspaper photograph he had mentioned was where Councillor Mammatt should perhaps be best put.

The Mayor then interceded and reminded Members of the need to avoid making personal remarks about other Members.

He then invited more debate on the motion and the following comment was made:

- Councillor Colin Ellar stated that one of the sheltered housing units was in his ward and he had visited it during the consultation exercise. He was pleased to report that residents had known more of the detail of what was going on than he had as ward Councillor. The process seemed to be clearly explained and he was happy with how it had occurred. Many of the residents welcomed the plans as they would provide communal living rooms which had previously not been available to residents based in sheltered bed-sitting rooms. He therefore considered that the concerns reported in the motion were not necessarily widespread.

There being no further discussion, the Mayor invited Councillor Mammatt to sum up the debate. In doing so, she made the following comments:

- She was disappointed that the Labour Group would not be supporting the motion, which fairly reflected the views of the sheltered housing residents to whom she had spoken.
- She saw at first-hand how unsettled and despondent many of the residents were and cited an example of a man who no longer gardened such was the weight of his concerns.
- She strongly objected to the implication made by Councillor Curran that she was a liar.
- She had not spoken to Councillor Curran but she had spoken to the residents and those living in Wynne Court, Burlington House and Rose Gardens were very worried and felt as if they had been left “in limbo”.
- She objected to Councillor Curran’s attitude that the process could not be speeded up and reminded him that they were talking about people’s lives and they should be treated with kindness and consideration.
- She then concluded by asking Members with a sense of decency to support the motion.

The Mayor then put the motion to the vote and it was

RESOLVED –

That the motion not be agreed.

This was a majority decision.

11. Any Other Matters That the Mayor Considers Urgent

There were no such matters.

12. Date of Next Meeting

Members noted that the next meeting of the Council was scheduled for 16th July 2013 and would commence at 7.30 pm in the Council Chamber.

The meeting ended at 9.20pm

Mayor

MINUTES END

Contains Confidential or Exempt Information	No
Title	Petitions
Member Reporting	Councillor Sue Sampson, Cabinet Member for Performance and Customer Care
Contact Details	Thomas Ribbits, Head of Democratic Services. Telephone: 020 8583 2251 Email: thomas.ribbits@hounslow.gov.uk
For Consideration By	Borough Council
Date to be Considered	16 th July 2013
Implementation Date if Not Called In	Not applicable
Affected Wards	See below
Keywords/Index	Petitions

1. Details of Recommendations

Members are asked to:

- Note the petitions that have been forwarded to other formal bodies of the Authority for consideration; and
- Note the responses from members to any petitions heard at the meeting.

If the recommendations are adopted, how will residents benefit?	
<i>Benefits to residents and reasons why they will benefit, link to Values</i>	<i>Dates by which they can expect to notice a difference</i>
Not applicable	

2. Report Summary

This report identifies the petitions previously presented to the Mayor for consideration by the full council or other formal bodies of the Authority.

3. Reason for the Report

- 3.1 At its meeting in July 2010, the Council agreed a new scheme for dealing with petitions. This was revised in January 2012, and allows for petitions to be considered either at borough council or by other formal bodies of the authority.

- 3.2 Below is a table of petitions received by the Mayor and the bodies which will be considering each one. This has been attached as an appendix to this report.
- 3.3 Under the petition scheme, some petitions may still be considered by the Council itself. In some cases the organisers or nominated spokesperson will introduce the petition, after which the relevant Cabinet Member or Committee Chair will respond (usually in writing) and Members will be invited to agree the response. The appendix to this report lists any such petitions.
- 3.4 The Scheme allows for one or more of the following outcomes:
- taking the action requested in the petition
 - considering the petition at a council meeting
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a meeting with petitioners
 - referring the petition for consideration by the Council's Overview and Scrutiny Committee
 - writing to the petition organiser setting out our views about the request in the petition
 - Other responses
- 3.5 Attached as an appendix is a list of petitions received by the Mayor and the bodies at which they will be considered.

Option	Comments
As this report is for noting, there are no options to consider.	

4. Key Implications

- 4.1 The targets and measures in relation to each petition presented will be considered by the council body at which each petition is considered.

5. Financial Details

Financial Impact On The Budget

- 5.1 There is no impact on the budget as this report is purely for information.

Comments of the Assistant Director Strategic Finance

- 5.2 The Assistant Director, Strategic Finance has been consulted on this report and advises that the financial implications of any actions arising from these petitions will need to be considered at the appropriate time.

6. Legal

Legal Details

- 6.1 There are no legal implications identified in the noting of this report. Further reports on petitions presented to other council bodies will include relevant legal comments in relation to the requests in each case as necessary.

Comments of the Assistant Director Corporate Governance

- 6.2 The Assistant Director, Corporate Governance has been consulted on this report and has no comments.

7. Value For Money

- 7.1 The report is for noting and so there are no value for money implications.

8. Sustainability Impact Appraisal

- 8.1 The report is for noting and as such no appraisal is necessary.

9. Risk Management

- 9.1 There are no risks related to this report.

10. Links to Council Priorities

- 10.1 The consideration of requests in petitions presented to the Mayor relate to the Council's priority to create an ambitious council which improves the lives of residents and works in a transparent way.

11. Equalities, Human Rights and Community Cohesion

- 11.1 The Council is not being asked to make any decisions on the petitions presented to it, and so there are no implications in relation to equalities, human rights and community cohesion.

12. Staffing/Workforce and Accommodation implications

- 12.1 The Council is not being asked to make any decisions on the petitions presented to it, and so there are no implications in relation to staffing or accommodation.

13. Property and Assets

- 13.1 The Council is not being asked to make any decisions on the petitions presented to it, and so there are no implications for property or assets.

14. Any Other Implications

14.1 There are no further implications.

15. Consultation

15.1 No consultation is required for this report.

16. Timetable for Implementation

16.1 The petitions presented to area forums or other council bodies would normally be considered at the next meeting of that body to take place.

17. Appendices

17.1 Appendix A comprises a table of petitions received by the Mayor and the bodies which will be considering each one.

18. Background Information

18.1 There is no background information and no background papers in relation to this report.

PETITIONS TO BE CONSIDERED AT OTHER BODIES

Please note that the petitions below which have been presented to the Mayor. In each case the relevant Cabinet Member has determined which body would be appropriate for them to be considered by.

No	Details	Signatures	Cabinet Member	Ward	Committee Dealing (or alternative action)
1	Request to remain open the access points for cycling under the railway near Feltham Marshalling Yards and to complete the Crane Valley Path between Twickenham and Heathrow/ Crane Park	162	Cllr Colin Ellar	Hanworth Park and Hanworth	Bedfont Feltham and Hanworth Area Forum
2	Removal of Food Stalls on Hounslow High Street	16	Cllr Ed Mayne	Hounslow Central	Licensing Committee
3	Request for the creation of a safe play area for the children in Feltham	234	Cllr Ajmer Grewal	All wards in Feltham	Bedfont Feltham and Hanworth Area Forum
4	Hounslow Council to withdraw Schedule 2 Class E of the Permitted Development Order 1995 under Article 4 direction from West Area.	82	Cllr Steve Curran	All wards	Council

A petition objecting to a planning application relating to Heston Park has also been received but this is being dealt with as part of the planning application process which is outside the council's scheme for dealing with petitions.

REPORT ENDS



Contains Confidential or Exempt Information	No
Title	Isleworth Green (Lower Square Open Space)
Member Reporting	Councillor Sue Sampson Cabinet Member for Performance and Customer Care
Contact Details	Richard Gruet
For Consideration By	Borough Council
Date to be Considered	11 June 2013
Implementation Date if Not Called In	
Affected Wards	Isleworth
Keywords/Index	

1. Details of Recommendations

The Borough Council is asked to agree the following:

- That the Isleworth Green (Lower Square Open Space) should be registered as a village green.

If the recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit, link to Values	Dates by which they can expect to notice a difference
The change in status of the green will confirm its use for lawful spots and pastimes for the residents of the area	From date of confirmation of status as a village green

2. Report Summary

1. This report deals with an application for registration of land as a town or village green at Isleworth Green (Lower Square Open Space)
2. It recommends that the land known as Isleworth Green (Lower Square Open Space) be registered as a town or village green.
3. These recommendations are being made because the Council is the local

4. registration authority and has a duty to assess such applications.
5. If adopted, there are no financial implications for the Council.

3. Reason for Decision and Options Considered

- 3.1 The Council is the registration authority responsible for maintaining the register of town or village greens and the Commons Registration Act 2006 provides the legal framework within which applications for town or village greens are made. The Commons Registration Act 2006 ("the Act") provides that land may only be registered as a town or village green where:
- (a) A significant number of the inhabitants of any locality or any neighbourhood within a locality have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and
 - (b) They continue to do so at the time of the application.
- 3.2 The application subject of this report has been made by The Isleworth Society under section 15(2) of the Act. The application was advertised in a local paper, the London Gazette and site notices were erected around the green as required by the Act.
- 3.3 No objections were received and the land in question is wholly owned by the Council. The green is public open space and is maintained as part of the parks management contract with John Laing Integrated Services so there will be no additional cost to the Council. The Council as owner of the land has no objection to its registration as a village green.
- 3.4 The evidence submitted by the applicant included numerous letters of support which referred to various activities including walking, playing games, picnics and dog walking. Also various community fairs and festivals have taken place on the green for more than 20 years.
- 3.5 The evidence would support that the green has been used by a significant number of residents for lawful sports and pastimes for more than 20 years. There is no evidence that these uses were done with the permission of the Council and so the use would be as of right and complies with the requirements of the Act.
- 3.6 As a result of amendments made under the Localism Act and the Functions and Responsibilities Regulations it is necessary that this is made by Borough Council.

Option	Comments

4. Key Implications

4.1 Targets and measures to be explained here using either paragraphs or table below or both.

How is success to be measured?					
Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be deliver by

N/A

5. Financial Details

a) **Financial Impact On The Budget (Mandatory)** N/A

b) **Comments of the Assistant Director Strategic Finance**

Isleworth Green (Lower Square Open Space) is maintained as part of the parks management contract with John Laing Integrated Services. The cost of maintaining this space must be met within the contract sum agreed for the parks management contract.

6. Legal (to be completed in conjunction with the Legal Department)

a) **Legal Details**

The Council as registration authority needs to asses any village green application and it is a legal requirement that Borough Council makes the final decision.

b) **Comments of the Assistant Director Corporate Governance**

The Assistant Director Corporate Governance supports the recommendation.

7. Value For Money

N/A

8. Sustainability Impact Appraisal

N/A

9. Risk Management

N/A

10. Links to Council Priorities

Bright futures for the borough's children and young people and; An active, healthy borough

11. Equalities, Human Rights and Community Cohesion

The council has to give due regard to its equalities duties and in particular with respect to the public sector equality duty as provided in the Equality Act 2010, section 149. As such, the Council as a public authority must in the exercise of its functions have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

An assessment for relevance (which is available at:

http://www.hounslow.gov.uk/index/council_and_democracy/equality/eias/environment_eias.htm)

has been undertaken to determine whether the public sector equality duty is engaged by this proposal. The relevance assessment gave due regard to the following equalities protected characteristics age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

There is no evidence to indicate that the equality duties have been engaged by this proposal. The assessment concluded that none of the equalities protected characteristics are affected by this proposal because the proposal is remote or peripheral to the substance of the equality duty. Therefore, it is considered that there is no need for an Equalities Impact Assessment to be carried out and that in approving this proposal the Council will be acting in compliance with its duties under the Equality Act 2010.

12. Staffing/Workforce and Accommodation implications:

N/A

13. Property and Assets

Registration of the green will result in a change in the status of the land within the Councils ownership.

14. Any Other Implications

There are no other implications.

15. Consultation

See paragraph 3.2 above

16. Timetable for Implementation

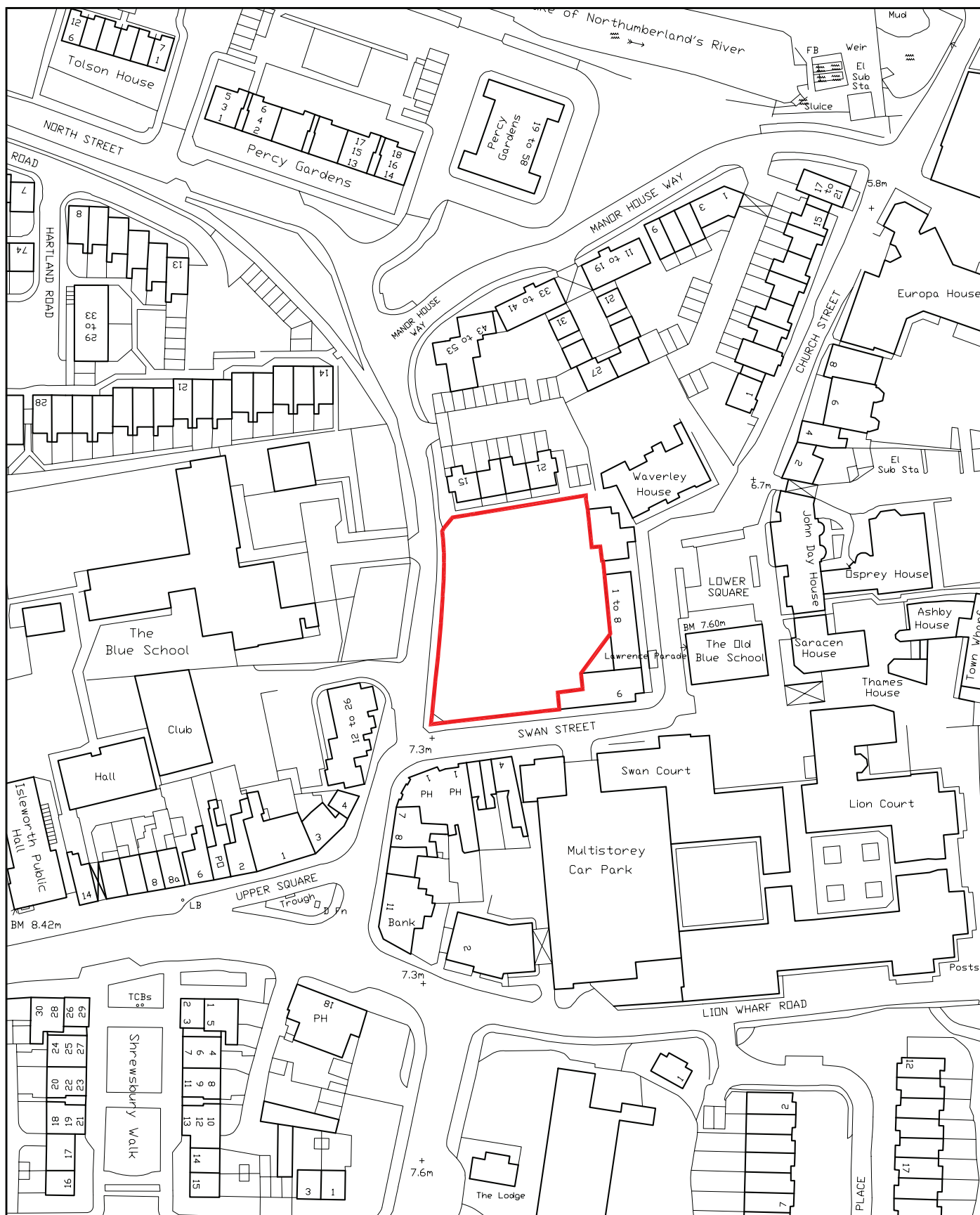
N/A
17. Appendices

Plan of green and locality

18. Background Information

Application and supporting papers

REPORT ENDS



Hounslow

Lower Square Open Space, Isleworth

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Project Co-ordination & Corporate Property
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Drawn by RSE

Date May 2007

Scale 1/1250

File Ref

27

Drawing Ref:- Lower Square



London Borough of Hounslow

Report for:
ACTION / INFORMATION

Contains Confidential or Exempt Information	No
Title	Village Green applications at Brabazon Estate Heston
Member Reporting	Councillor Sue Sampson Cabinet Member for Performance and Customer Care
Contact Details	Richard Gruet Tel: 020 8583 2024
For Consideration By	Borough Council
Date to be Considered	16 July 2013
Implementation Date if Not Called In	
Affected Wards	Heston West
Keywords/Index	

1. Details of Recommendations

The Borough Council is asked to:

- Note that the following Town or Village Green applications have been made to the Council as Registration Authority
 - i) Land known at the Small Green between Johnson Road and Brabazon Road, Heston
 - ii) Land known at the Brabazon Road/Cranford Lane Green adjacent to Cranford Lane and Brabazon Road
- Consider the contents of the Inspectors report and recommendations in relation to both applications made following a public inquiry
- Determine both applications in accordance with the recommendations from the Inspector that no part of either of the two application sites should be added to the Register of Town or Village Greens.

If the recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit, link to Values	
There will be no change to the status quo should the recommendations as set out above be agreed.	

2. Report Summary

1. This report deals with two applications for registration of land as a town or village green within the Brabazon Estate, Heston
2. That both areas of land be not registered as Town or Village greens in accordance with the Inspectors recommendations.
3. These recommendations are being made because the Council is the local registration authority and has a duty to asses such applications.
4. The applications were referred to an independent Inspector and a public inquiry was held on the 10th & 11 April 2013.

3. Reason for Decision and Options Considered

- 3.1 The Council is the registration authority responsible for maintaining the register of town or village greens and the Commons Registration Act 2006 ("the Act) provides the legal framework within which applications for town or village greens are made. The Act provides that land may only be registered as a town or village green where:
 - (a) A significant number of the inhabitants of any locality or any neighbourhood within a locality have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and
 - (b) They continue to do so at the time of the application.
- 3.2 The applications subject of this report were made under section 15(2) of the Act. The applications were advertised in a local paper, the London Gazette and site notices were erected around the greens as required by the Act.
- 3.3 The Council as the freehold owner of the all the land in question was the only objector to both applications through its Housing Client and Partnership Unit. On that basis it was decided that the applications should be referred to an independent Inspector for consideration at a public inquiry which took place on 10th and 11th April 2013.
- 3.4 The Council is the registration authority responsible for maintaining the register of town and village greens under the 2006 Act. The Council in its capacity as landowner is the only objector to the applications but it is under a duty to act fairly and impartially in relation to the application in its capacity as Registration Authority.
- 3.5 The Inspector for the inquiry was appointed by the Council as the Registration Authority and was independent of the Council as the landowner of the land in question. While both applications were separate and to be decided on their own merits the Inspector agreed with the Council that procedurally they should be decided at the same time.
- 3.6 The Inspector's conclusions and recommendations following the 2 day public inquiry are attached at appendix 1. The Inspector's report contains a full

summary of the evidence submitted by the applicants and the objection by the Council, as well as a legal analysis of the cases.

- 3.7 Members are asked to consider the applications and the report and to determine the applications in accordance in with the Council's capacity as Registration Authority.
- 3.8 The Inspectors report addresses the elements of the law as set out at Para 3.1 under the following headings
- i) Neighbourhood and Locality
 - ii) Lawful sports and pastimes on the land
 - iii) For a period of at least 20 years
 - iv) A significant number of inhabitants of any locality or any neighbourhood within a locality
 - v) As of right

These are the important elements that need to be carefully considered when determining and application. While all the Inspector's findings as to evidence do not have to be accepted and this may particularly be so with regard to his findings about a significant number of inhabitants of the relevant locality or neighbourhood, his conclusion was unequivocal that neither application met the requirement for registration that the use claimed for the land was "as of right". On this basis alone officers supports the Inspectors recommendation that no part of either of the two application sites should be added to the Register of Town or Village Greens, under Section 15 of the Commons Act 2006.

Option	Comments

4. Key Implications

4.1 Targets and measures to be explained here using either paragraphs or table below or both.

How is success to be measured?					
Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be deliver by
N/A					

5. Financial Details

a) Financial Impact On The Budget (Mandatory)

The approved (revenue or capital) budget contains £xxx in 20xx/xx for

Example	Year1 (state year)	Year2 (state year)	Year3 (state year)
	Capital £000	Capital £000	Capital £000
Addition			
Reduction			

Example	Year1 (state year)	Year2 (state year)	Year3 (state year)
	* Revenue £000	Revenue £000	Revenue £000
Addition			
Reduction			

** Revenue figures need to be shown as incremental/year on year to the budget*

b) Comments of the Assistant Director Strategic Finance

This report recommends that neither of the sites should be added to the Register of Town or Village Greens. There should therefore be no change to the cost to the Council of maintaining these sites.

The cost of the public inquiry needs to be met from within approved budgets.

6. Legal (to be completed in conjunction with the Legal Department)

a) Legal Details

The report by the Inspector is only a recommendation based on the evidence and the law the Council as Registration Authority needs to assess any village green application and it is a legal requirement that Borough Council makes the final decision.

b) Comments of the Assistant Director Corporate Governance

The Assistant Director Corporate Governance supports the recommendations.

7. Value For Money

N/A

8. Sustainability Impact Appraisal

N/A

9. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
N/A			

10. Links to Council Priorities

Bright futures for the borough's children and young people and; An active, healthy borough

11. Equalities, Human Rights and Community Cohesion

The council has to give due regard to its equalities duties and in particular with respect to the public sector equality duty as provided in the Equality Act 2010, section 149. As such, the Council as a public authority must in the exercise of its functions have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and eliminate any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

An assessment for relevance (which is available at:

http://www.hounslow.gov.uk/index/council_and_democracy/equality/eias/environment_eias.htm)

has been undertaken to determine whether the public sector equality duty is engaged by this proposal. The relevance assessment gave due regard to the following equalities protected characteristics age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

There is no evidence to indicate that the equality duties have been engaged by this proposal. The assessment concluded that none of the equalities protected characteristics are affected by this proposal because the proposal is remote or peripheral to the substance of the equality duty. Therefore, it is considered that there is no need for an Equalities Impact Assessment to be carried out and that in approving this proposal the Council will be acting in compliance with its duties under the Equality Act 2010.

12. Staffing/Workforce and Accommodation implications:

N/A

13. Property and Assets

There are no property implications should the recommendations be agreed.

14. Any Other Implications

There are no other implications.

15. Consultation

As part of the statutory consultation the applications were advertised in a local paper, the London Gazette and site notices were erected around the greens.

The housing and the leisure provision of the council were consulted on the applications.

16. Timetable for Implementation

N/A

17. Appendices

Plan of green and locality and Ins

18. Background Information

None.

REPORT ENDS

**COMMONS ACT 2006, SECTION 15
REGISTRATION AUTHORITY:
LONDON BOROUGH OF HOUNSLOW**

**RE: (1) LAND KNOWN AS THE SMALL GREEN,
between Johnson Road and Brabazon Road, Heston; and**

**(2) LAND KNOWN AS THE
BRABAZON ROAD/CRANFORD LANE GREEN,
adjacent to Cranford Lane and Brabazon Road, Heston**

**REPORT OF THE INSPECTOR
MR ALUN ALESBURY, M.A., Barrister at Law**

into

**APPLICATIONS TO REGISTER THE ABOVE-NAMED
AREAS OF LAND**

as

TOWN OR VILLAGE GREEN

CONTENTS:

1. Introduction
2. The Applicants and Applications
3. The Objector
4. Directions
5. Site Visits
6. The Inquiry
7. Approach to Recording of Evidence
8. Site No.1 – Evidence for the Applicant
9. Site No.1 – Submissions for the Applicant
10. Site No.2 – Evidence for the Applicant
11. Site No.2 – Submissions for the Applicant
12. The Case for the Objector – Evidence (Both Sites)
13. Submissions for the Objector
14. DISCUSSION AND RECOMMENDATIONS

Appendix I - Appearances at the Inquiry

Appendix II - List of Documents produced in evidence

1. INTRODUCTION

- 1.1. I have been appointed by the Council of the London Borough of Hounslow (“the Council”), in its capacity as Registration Authority, to consider and report on two applications to register land situated within or adjacent to what is known as the Brabazon Estate, Heston, as Town or Village Green under Section 15 of the Commons Act 2006. The sites are within the administrative area for which the Council is responsible, and both sites are also within the freehold ownership of the Council.
- 1.2. The Council, in its capacity as owner of the two sites concerned, was also the only Objector to each of the two applications. It is important to record that my instructions in relation to this matter have come from the Council solely and exclusively in its capacity as Registration Authority under the Commons Act. I have had no involvement with the Council in its capacity as landowner or objector, other than in the context of receiving evidence and submissions from the Council in those capacities, as one of the parties to the disputed issues relating to the applications.
- 1.3. I was in particular appointed to hold a Public Local Inquiry into the two applications, and to hear and consider evidence and submissions in support of them, and on behalf of the Objector to them. Hence I was provided with copies of the original applications and the material which had been produced in support of them, the objections duly made to them, and such further correspondence and exchanges as had taken place in writing from the parties. Save to the extent that any aspects of it may have been modified by the relevant parties in the context of the Public Inquiry, I have had regard to all of that material in compiling my Report and recommendations.
- 1.4. It is somewhat unusual to consider at the same inquiry two separate applications, made by two separate Applicants, in relation to two separate and distinct pieces of land. However the two sites are both physically within or on the edge of the Brabazon Estate, an estate of housing originally developed in the 1950s by the Council’s predecessor; they are both still owned by the Council, which as noted is the sole Objector to both applications. The sites are also physically quite close to each other and, as will be seen, the disputes in relation to each of them raise extremely similar issues.
- 1.5. Accordingly I agree with the view which the Council as Registration Authority has taken, that it is appropriate that the two applications should be heard and considered together. Further, it was apparent that both applicants were entirely content with this approach. Clearly however each site and application will need to be considered individually, both by me and by the Registration Authority, and in the light of the specific evidence and submissions particular to each of them, to the extent that they differ. And formal decisions will be required from the Authority which cover each individual application at the end of the process.

2. THE APPLICANTS AND APPLICATIONS

The “Small Green”, or “Site No.1”

- 2.1. The Application in respect of the “Small Green”, between Johnson Road and Brabazon Road, was dated 2nd July 2010 and made by Mr Mahendra Kumar, of 17 Johnson Road, Heston, who is accordingly “the Applicant” for this application. The application form indicated that the application was based on *subsection (2) of Section 15* of the *Commons Act 2006*. It also suggested that the relevant ‘locality’ or ‘neighbourhood within a locality’ for the purposes of the application is “*Brabazon Road Estate, Heston, Hounslow, TW5*”.
- 2.2. The boundaries of the application site were shown on a plan which accompanied the application. The site is (as I was able to see it) a reasonably well maintained area of mown grassland lying between Johnson Road and Brabazon Road, and between two transverse, hard-surfaced footpaths running between the two roads, approximately at right angles to those roads.

The Brabazon Road/Cranford Lane Green, or “Site No.2”

- 2.3. The application in respect of Site No.2 was dated 16th August 2010, and was made by Ms Debbie Noad, of 216 Brabazon Road, Heston (“the Applicant”). This application was also based on *subsection (2) of Section 15* to the *2006 Act*. Again this application suggested that the relevant ‘locality’ or ‘neighbourhood within a locality’ is the “*Brabazon Road Estate, Heston, Hounslow, Middlesex*”.
- 2.4. The boundaries of this application site were clearly shown on a plan accompanying the application. The site is at the northern edge of what I believe is correctly known as the ‘Brabazon Estate’ (no issue turns upon this terminology), with different arms of Brabazon Road running along its southern and western sides, and Cranford Lane on its north. The eastern boundary of the application site, which is clearly marked on the plan, is approximately in line with the western pavement of Cobham Road, at its junction with Brabazon Road.
- 2.5. Site No.2, visually, presents itself as an area consisting mainly of reasonably well maintained, mown grassland, but with various groups of trees/shrubs/bushes situated mainly towards its northern (Cranford Lane) side.

3. THE OBJECTOR

- 3.1. As I have already noted, the only objector to each of the two applications was the Council of the London Borough of Hounslow itself, through its ‘Housing Client and Partnerships Unit’, in the Council’s capacity as freehold owner of the areas of land

concerned. The Council in that capacity is therefore “*the Objector*” for the purposes of this Report.

4. DIRECTIONS

- 4.1. Once the Council as Registration Authority had decided that a local Inquiry should be held into the two applications (and the objections to them), it issued Directions to the parties, drafted by me, as to procedural matters, in February 2013. Matters raised included the exchange before the Inquiry of additional written and documentary material, such as any further statements of evidence, case summaries, legal authorities, etc. Although one or two minor queries arose, the spirit of these Directions was broadly speaking observed by the parties, and no material issues arose from them, so it is unnecessary to comment on them any further.

5. SITE VISITS

- 5.1. As I informed parties at the Inquiry, I had the opportunity on the Saturday before the Inquiry commenced to see both of the application sites, unaccompanied. I also observed the surrounding area generally.
- 5.2. At the close of the Inquiry, on 11th April 2013 I made a formal site visit to both sites, accompanied by representatives of both Applicants and the Objector. In the course of doing so, I was once again able to observe parts of the surrounding area more generally.

6. THE INQUIRY

- 6.1. The Inquiry was held in the Council Chamber at the Civic Centre, Lampton Road, Hounslow, on 10th and 11th April 2013.
- 6.2. At the Inquiry submissions were made on behalf of both of the Applicants and the Objector, and oral evidence was heard from witnesses on behalf of all of those parties, and subjected to cross-examination, and questions from me as appropriate. With the agreement of the parties participating in the Inquiry, all of the oral evidence was heard on oath, or solemn affirmation. Evidence was also heard, on the same basis, from Mr David Blackett, Chairman of the Heston Residents Association, in support of both of the applications.
- 6.3. As well as the oral evidence, and matters specifically raised at the Inquiry, I have had regard in producing my Report to all of the written and documentary material submitted by the parties, including the material submitted in the earlier stages of the process, which I have referred to above. I report on the evidence given to the inquiry, and the submissions of the parties, in the following sections of this Report.

7. APPROACH TO RECORDING OF EVIDENCE

- 7.1. As I have already to some extent noted above, the original Applications in these cases were supported and supplemented by a number of documents including plans, some completed evidence questionnaires, and letters from local residents, and various other supporting material, including photographs.
- 7.2. Other written or documentary material was submitted on behalf of the Applicants and Objector in the run-up to the Inquiry, in accordance with the Directions which had been issued. Some of this consisted of written statements from witnesses who would in due course give evidence at the Inquiry itself.
- 7.3. I have read all of this written material, and also looked at and considered all the photographs and other documentary items with which I was provided, and have taken it all into account in forming the views which I have come to on the totality of the evidence in each case.
- 7.4. However, as is to be expected, and as indeed was mentioned in the pre-Inquiry Directions, and at the Inquiry itself, more weight will inevitably be accorded (where matters are in dispute) to evidence which is given in person by a witness, who is then subject to cross-examination and questions from me, than will be the case for mere written statements, evidence questionnaires etc, where there is no opportunity for challenge or questioning.
- 7.5. With all these considerations in mind, I do not think it is generally necessary for me specifically to summarise in this Report all the evidence contained in any statements, letters, or questionnaires etc by individuals who gave no oral evidence. In general terms they are broadly consistent with the tenor of the evidence given by the oral witnesses and, apart from specific points which I note later in this Report, nothing else stands out as particularly needing to have special, individual attention drawn to it by me.
- 7.6. In any event all of the written and documentary material I have referred to is available to the Registration Authority as supplementary background material to this Report, and may be referred to as necessary.

8. SITE No.1 (the Small Green) – EVIDENCE FOR THE APPLICANT

- 8.1. *Miss Eshia Garcha* lives at 47 Johnson Road. She said that she has lived here for 15 years. She has regularly used the Small Green for riding bicycles with her brothers and for playing games with her cousins. She had regularly seen other people walking with or without dogs and playing games on the Small Green.
- 8.2. *In cross-examination* Miss Garcha said that by the sides of the central green area there are two footpaths. She confirmed that people do use those two footpaths to cross the estate between Brabazon Road and Johnson Road.
- 8.3. *To me* Miss Garcha confirmed that she had regularly seen dog walkers both on the grass of the Small Green and on the hard surfaced paths which had been referred to.
- 8.4. *Mr Mahendra Kumar*, the Applicant, lives at 17 Johnson Road adjacent to the Small Green. He said that at the time of the Inquiry he had lived there for approximately 5 years. He said that his son goes out and regularly plays on the green with his friends. They might indulge in cycling or playing football or Frisbee for example. Mr Kumar has often noticed youngsters playing there with their parents. Elderly people walk on the green every day in summer.
- 8.5. Mr Kumar said that he had sometimes noticed some people from outside his own immediate area who would come to the green and use it.
- 8.6. Mr Kumar confirmed that as the Applicant he had submitted the application for the Small Green, and had accompanied it with a letter of his own in which he had pointed out that the application was being submitted on behalf of the residents of the Brabazon Road estate. He had then pointed out that the open green area of the Small Green had been there since the estate was built in the mid-1950s, and was part of the original plan. The green had continued to be a feature of the estate in the same manner since then, with local children using it to play on, for such games as football, cricket, other ball games, riding bikes and scooters and so on. Due to the location and the size of the green it is often used by smaller children with parental supervision, and other children use it on their own, as the larger green on the estate is often being used by older children and adults.
- 8.7. He had pointed out that there are no fences or walls restricting access to the green, allowing it to be used freely and without having to ask for permission.
- 8.8. Mr Kumar had pointed out that although the estate when first built was a council estate, since Right to Buy had been possible a great number of residents now owned their property, and newcomers have also been buying properties in the locality. Thus

while when first made available the green was used by Council tenant occupiers, it had subsequently been, and is now used by both property owners and tenants in exactly the same way.

- 8.9. Mr Kumar had also completed an evidence questionnaire which he had provided with his application, in which he set out some details of the various activities which either he and his family had indulged in on the Small Green, or which he had seen other people engaged in on that green.
- 8.10. *In cross-examination* Mr Kumar agreed that he understood that the merits of whether it would be desirable to have this land as a village green or not are not relevant to the determination of an application under the *Commons Act*.
- 8.11. He confirmed that his letter of the 28th June 2010 accompanying the application had acknowledged that the open space of the small green had been provided as part of the original plan for the Brabazon Estate. However his personal knowledge was only since 2008. It thus followed that what he had said in his letter about the use of the land since the 1950s was evidence which he had got from talking to neighbours who had lived on the estate for much longer than he had.
- 8.12. Mr Kumar acknowledged that only six statements had been put in in support of his application. Nevertheless those letters made clear that a great number of residents had used the green. All of those making statements came from very close to the Small Green.
- 8.13. Mr Kumar acknowledged that in a petition opposing possible development on green areas of the estate, only seven people had actually referred to the Small Green specifically. That petition had been a very general one relating to all of the open spaces on the estate, Mr Kumar said.
- 8.14. Mr Kumar had thought at all times that he had been entitled to use the Small Green as open space.
- 8.15. *In re-examination* Mr Kumar said that he still used the green on a regular basis up to the date of the Inquiry. He confirmed his view that the Brabazon Estate is quite a large area, and that some people come to the green by car and bring their children with them in the car in order to play on the green. He acknowledged that this meant that these people and their children might not be from the estate at all, but he repeated the point that the Brabazon Estate is itself quite a large area. Thus those people might be from the estate or not, he simply did not know. Most of the people using the green from his observation do come from the more immediate surroundings he said.

- 8.16. **Mr Cyril Lindsey** lives at 33 Johnson Road. He said that he had lived on the estate for about 31½ years as at the time of the Inquiry. He had regularly used this green, and when his sons were younger they had played there, such games as cricket and football. He recalled that when they first moved there there was a notice about no ball games being played. Mr Lindsey said that he appreciated that the *Commons Act* application had no relevance to potential building plans for the site.
- 8.17. He confirmed that a letter from him had been included in support of the application when it was submitted in 2010. In that letter he had pointed out that the Small Green had during the years that he had lived there been used freely and without permission from anybody. The green had been used during that time for football, picnics and the riding of bikes and scooters. He had commented on how nice it was to see the next generation of children using it.
- 8.18. *In cross-examination* Mr Lindsey acknowledged that there is now a bus stop on one corner of the green which people do walk to along paths across the green area, but the land has always been used as a green open space as well.
- 8.19. When cycles are used, he acknowledged that they would usually be on the surfaced paths rather than on the grass area.
- 8.20. Some of the people using the green were people that Mr Lindsay recognised from Johnson Road and other parts of the estate. Thus it would be fair to say that some of the people using the green were people Mr Lindsey knew, others he recognised from the estate, and other users he did not personally recognise.
- 8.21. *In re-examination* Mr Lindsey said that the people he did not recognise could perfectly well have been people from the estate, he does not recognise every single person from the estate.
- 8.22. Although I indicated above that I did not generally intend to set out detailed summaries of evidence which was not given in person at the Inquiry, I do note here that *several of the letters* put in in support of the application on Site No.1 were from residents who claim very long periods of familiarity with the Small Green, and the use local people have made of it over the years. For example I note that **Mr and Mrs Aitken** of 37 Johnson Road said they had lived on the estate for 42 years, and had seen it in use for recreation by local people during that entire period. **Mrs Margaret Adams** of 19 Johnson Road had said in June 2010 that she and her family had lived on the estate for approximately 40 years, and had seen the green in constant use daily during that period for dog walking, children playing, and the elderly and disabled from the

surrounding area walking there. The green is also used as a thoroughfare to the bus stop. And *Miss C Lewis* of 25 Johnson Road had said in June 2010 that she had lived on the Brabazon Estate for 60 years, since its erection in the 1950s. She had observed the green being used by children playing during that entire period.

9. SITE NO.1 – SUBMISSIONS FOR THE APPLICANT

- 9.1. *Mrs Sukhvinder Garcha* (of 47 Johnson Road) acted at the Inquiry as advocate for the Applicant, Mr Kumar. In opening she said that she was speaking on behalf of Mr Kumar, and also on behalf of neighbours and residents on the Brabazon Estate, in support of the application to register the Small Green as a Town or Village Green.
- 9.2. She said that the land the subject of the application has been part of the Brabazon Estate since it was built in the 1950s. It is situated between two residential streets, and was clearly part of the original design as a break between the built up residential areas. It is an open grassed area which has no restrictions or fencing around it.
- 9.3. Residents, friends, families and locals have used the open area over and far beyond the last 20 years, for pastimes such as walking, playing, bicycle riding, dog walking or picnics, ball games, sitting and snowman building, freely and with no restrictions from any member of the Council, police, neighbourhood warden or environment officer, or any challenge being made to those pastimes.
- 9.4. A petition submitted to the Council in December 2010 with 417 signatures also listed some of those pastimes being carried out on the green spaces of the Brabazon Estate.
- 9.5. The Applicant believes that his application meets the criteria to register the land as a Town or Village Green and accordingly seeks that result.
- 9.6. In her closing submissions for the Applicant on Site No.1, Mrs Garcha again pointed out that residents, neighbours and locals had enjoyed the open green areas on the Brabazon Estate for beyond the last 20 years for pastimes and lawful sports, as had been described in evidence and in the material supporting the application, freely and with no restrictions from anyone.
- 9.7. Six letters had been submitted as evidence, but they were not stating that only six households had used the green, but that other residents, their children and families had done so as well. In addition, in support of the point that there had been a significant number of users, 417 signatures on a petition submitted to the Registration Authority in December 2010 had also confirmed the usage of the greens under the qualifying pastimes. In her view that should also be taken into consideration. As the green is situated in a residential area with over 500 properties, it is obvious that the green

would be used by a significant number of people as it is not situated in a high street or in an industrial area with little housing, for example.

- 9.8. The Brabazon Estate is, she suggested, a neighbourhood within Heston. It is not merely a street with a small number of properties. As was evident in the Open Spaces Society questionnaire provided with the application, it (the estate) is in a school catchment area, has a residents' association, a community centre, a sports facility, local shops, area police officers, community activities, neighbourhood watch, and previously had a doctor's surgery and a scout hut. All these points related to the Brabazon Estate.
- 9.9. All are agreed that the green spaces on the estate are identified as local open spaces by the Council. With a diverse make-up of different cultures, both English speaking and non-English speaking residents, a resident would not necessarily understand the idea of these green spaces being appropriated by the Council for recreational purposes, and as the Objector states, used "*by right*", but local people would simply use these spaces for their own recreational use, as there are no restrictions on doing so.
- 9.10. Since the 1980s, newcomers to the area, i.e. private home owners, may have initially thought the green space was for use by council tenants only, but after no restrictions were imposed by the Council, they carried on using the green spaces "*as of right*".
- 9.11. Many residents would not know of the formal definitions of a green area such as this; such things are not normal public knowledge. The fact that the greens are open green spaces does not mean that they cannot be registered as Town or Village Greens on an application such as this one.
- 9.12. It is important that we preserve the right for our future generations to use the green as people have done so freely up until now, without permission. The green provides open and free space for residents to use for pastimes, and promotes positive health and well-being for all.
- 9.13. In the Applicant's eyes he and his supporters are confident that the Small Green meets the criteria to be registered as a Town or Village Green under the *Commons Act*.

10. SITE No. 2 (Brabazon Rd/Cranford La) – EVIDENCE FOR THE APPLICANT

- 10.1. *Ms Debbie Noad*, the Applicant in respect of Site No.2, lives at 216 Brabazon Road, opposite the application site. She has lived opposite what she called the Brabazon Road green for 38 years, originally at No.212, and then she bought 216 Brabazon Road. Even prior to that she had lived in the nearby area to the north, albeit not on the Brabazon Estate.
- 10.2. She said that she had witnessed the green being used by a large number of inhabitants for more than 20 years, its location playing an important part, the main area of activity being the largest and widest area of green space along Cranford Lane towards the west end of the site. This green space is significant in bringing the communities of the surrounding area together, she said, with a large open space, trees, shrubbery and seating. The local residents have used this area for years for various activities. It also plays an important part in reducing the social detriments of health which are particularly high in an area of large social housing.
- 10.3. Ms Noad said that the Assistant Head Teacher of the local school, Cranford Academy, had acknowledged that the local area has very few social amenities and has stated that he feels this green space is vital for the continuation of community activities. The school had been using the green for a number of years as a place where both children and their parents, and residents, gather for the start of their carnival parades. There is a lot of social interaction at these events, the most recent parade being their Olympic parade which attracted a large number of the community. The school intends to use this green for future events, as they have in the past few years, and this demonstrates how significant its value is in the community.
- 10.4. The green has been used for many years by local inhabitants for social pleasure, and has been important in creating a very socially cohesive environment in a community which has become very diverse. Residents from both social housing and private housing have had the opportunity to engage in both leisure and social activities freely and undeterred by any constraints. These green spaces play an extremely important part for vulnerable groups such as children and older people on the estate, offering the opportunity to exercise and socialise together. She has witnessed, in the shaded area under the trees, local people, some of whom live in flats, using the area to picnic, chatting with other residents enjoying the surroundings. Other activities that take place are games of football, cricket, youngsters practising cycling, and generally people relaxing. It is important that the green should be safeguarded for the future for the purpose for which it was originally intended. This green marks the boundaries of the Brabazon Estate and is very pleasing on the eye and an enhancement to local residents' lives.
- 10.5. Since 1974 she had used the green as a training ground, and local children and students have met up weekly from the surrounding area. They train in athletics and cross country, predominantly using the long strip opposite 214 Brabazon Road, in both

summer and winter months, running to the bottom of the green and back, warming up before their time trials take place. The coach had been her father Terry Noad, who was there in all weathers, and on some days having as many as 15 children to coach after school and at weekends.

- 10.6. The green played an important role in keeping the local children and students fit and out of trouble. The green had a purpose for all local people, it created a socially interactive area which could be accessed freely and easily. Many of the children went on to be local champions in the Borough. There was a great sense of achievement for the community which brought children from the estate from all backgrounds together. Without the use of the green as a training ground this would never have happened. Many of her friends on the estate continued to use the area as they grew up, training for half marathons, charity runs etc. The green was always busy being the focal point of their meetings. The green should continue to provide lawful sports and activities for the wellbeing of the population that live here.
- 10.7. For many years she and the local residents have regularly walked their dogs on the green, stopping to chat. There are a large number of residents on the estate who use this area at all times day and night for this activity. Residents should not be denied the opportunity to use the land for the purpose it was put there for.
- 10.8. The local shops in close proximity to the green offer both residents and workers in the surrounding area the opportunity to purchase take-away food. The green is often used at lunchtime and early evening for people to sit on and have their lunch or tea, especially in the summer months. It is also used by workers from the office and industrial estate opposite at lunch times to enjoy the tranquillity that a green space offers, against the urban environment where they work.
- 10.9. In past years the green was also used for Union meetings by workers from the aviation company that was opposite, before the buffer planting was put on the green. The Southern Counties Road Relays also took place along Cranford Lane, with the green being used as a warm-up area for athletes and spectators.
- 10.10. In the summer months when there is a cultural event on the area behind Brabazon Road, on the Rectory Farm land, which attracts the Sikh community, many people use the green to socialize and get together for a drink and picnic.
- 10.11. The green has always been used as of right, there are no signs, no fencing to discourage activities. It has always played a significant part in community life on the estate, where there is now a very diverse community and many languages. Language barriers are however forgotten when residents have the opportunity to mix freely with other residents in an area of tranquillity, and they should have the right to continue

this. It is important that this green (Site No.2) should remain for the very purpose for which it was intended, to promote a healthy environment for local people to enjoy. Residents need to continue both social and leisure activities promoting the best in public health.

- 10.12. Ms Noad confirmed that she had written a supporting letter accompanying her original application, and the written grounds provided in justification of the application, as well as having completed and submitted an evidence questionnaire explaining some of the activities she had either indulged in herself, or seen others indulging in on the application site over the years. She had also submitted a number of letters from other local people, some of whom had lived in the neighbourhood for very long periods, well in excess of the 20 years requirement under the *Commons Act*, confirming the use that had taken place of the green over the years.
- 10.13. *In cross-examination* Ms Noad confirmed that she did understand the criteria which are relevant under *section 15* of the *Commons Act*. However, having used the green as a child, she knows herself that green spaces such as this are absolutely vital for well-being. She has known this green for a very long time since she has always for the last 50 years lived in the vicinity of it, and has always used it even when she lived over the road (Cranford Lane) and not on the estate. The green has always been there as part of the Brabazon Estate, and has always been freely used as open space.
- 10.14. She confirmed that she had seen the documents which the Council had submitted for the Inquiry to do with the history of the estate, and said that those documents were consistent with the points that she relies on. She acknowledged that the Council in its documents showed that it regarded this land as “*open space land*” which it (the Council) owned.
- 10.15. In connection with the questionnaire which she had originally completed, she acknowledged that there are some pathways over the green area between Brabazon Road and Cranford Lane which were used partly to go to and from the bus stop, but that is by no means the only use of the land. She accepted that only two of the six letters she had originally submitted actually referred specifically to use of the land of the application site, but she said that due to the socio-economic status of the people in the neighbourhood, from various different original nationalities, not a lot of people can give evidence extending back over 20 years or more, and they do not necessarily understand public notices and the like.
- 10.16. She also said that as with anywhere on the estate, people tend to see things going on more when they are right in front of their own doors, rather than anywhere else. That was why most of the support for her application had come from people from Brabazon Road right opposite the land. There are other people who use the land but who have not given evidence.

- 10.17. She said that she herself would call the Brabazon Estate both a locality and a neighbourhood. She acknowledged that the additional letters she had submitted in the run-up to the Inquiry were all bar one from people in Brabazon Road itself, seven out of those eight letters. The other letter was from a gentleman from Isleworth. All of the ones from Brabazon Road itself were from people fairly close to the site. She agreed that the only evidence we have as to where people come from is the letters which have been sent. She thought however that some of the workers who used the green and came from the factory estate opposite, on the other side of Cranford Lane, would be people who in fact live on the Brabazon Estate.
- 10.18. **Mr Terence David Noad** lives at 212 Brabazon Road. He said he has lived there, opposite the application Site No.2, for over 40 years. Indeed he had bought his house because of the green opposite to it. Over the last 40 years he had used the green for many activities, walking his dogs or for various athletic activities. He would use the land for warm-up training in connection with athletics. His daughters would also play on the green.
- 10.19. He became a successful athlete, and the green opposite his house was a great place for athletes to train, especially his young daughter, and his other daughter would join in as well. His daughter Debbie became a successful athlete who had won the Middlesex Junior Championship. He himself had been a trainer, and has trained many athletes who have used the green opposite his house. That green was used repeatedly in their training schedules.
- 10.20. In addition to that sort of use, parents use the green with their children or play there with their dogs. The green provides a very calming atmosphere for people. If the green were to be built on he would lose a great grass training ground. As he had said, he bought his house opposite the green because he was keen on athletics. Both he and his daughter still use the green. His daughter Debbie and he both feel very passionate about it. He very much hopes that the land will be saved from development.
- 10.21. He has noticed that when local residents have visitors the children often get out and play on the green. And as he had noted many athletes over the years had used the green.
- 10.22. He produced a letter from Mr Richard Ashe, who lives in Iver Heath, Bucks. In that letter Mr Ashe had said that although he was not a resident in Hounslow Borough he had used the green as a training venue for almost 20 years while pursuing his career in athletics. Mr Ashe had confirmed that Terry Noad, his coach, had used the green for training sessions for himself and many other young athletes during his coaching career. That training had led Mr Ashe to compete at international level, representing

Great Britain on several occasions, and had culminated in Mr Ashe becoming the UK National Men's 1500 metres Champion in 1997. The green had been a pivotal training venue for Mr Ashe and all the other athletes. It would be a huge loss to aspiring athletes, as well as dog walkers and general residents if the green was lost.

- 10.23. Mr Noad also produced a letter which had been written by a Mr Coombe who lives in Dartford, Kent. Mr Coombe in that letter had expressed alarm at the possibility that the green might be lost for development, and emphasised its importance in providing future generations the opportunity to play sport, meet with friends and socialise with their community. He, Mr Coombe, had had a strong personal connection to the green in Brabazon Road, as for four years at Brunel University he would warm-up and train there with his coach Terry Noad. Numerous other athletes had also used that green, but more importantly local residents always used it as a place to walk their dogs, eat picnics and generally enjoy the open space.
- 10.24. *In cross-examination* Mr Noad said that in general none of his athletes had been residents on the Brabazon Estate. Some of them had been in the early days, but most of them not. Mr Noad said that he could see right from the start the potential of this green opposite his house for developing youth into sport. Mr Noad has been coaching young athletes for well over 30 years.
- 10.25. When Mr Noad had seen cricket being played on the green it was knock-about cricket, not formal matches. He explained that he in his evidence had tried to mention the things that he had seen going on on the land over the last 40 years or so. Cricket is undoubtedly limited by the busy road that runs alongside the north side of the site.
- 10.26. *In re-examination* Mr Noad said that the green brought a great quality of life to the neighbourhood. Drivers would stop by the green to walk their dogs.
- 10.27. I have noted already that several written statements were submitted in support of Ms Noad's application. These were largely supportive of the evidence given by Ms Noad herself and her father orally, and I do not need to summarise any of these letters specifically. An additional set of written statements or letters, all except one from local people from the adjacent area, was submitted by Ms Noad in the run-up to the Inquiry; as I note later, a number of these were quite strongly supportive of the claim that recreational use of the application site has been made by local people over very many years.
- 10.28. Evidence was also given at the Inquiry by **Mr David Blackett**, the Chairman of the **Heston Residents Association**, *in support of both of the applications*. Mr Blackett personally lives at 16 The Glen, Norwood Green, Southall.

- 10.29. Mr Blackett had said in his written submission before the Inquiry that he believed it was vitally important to acknowledge the original design concept for the Brabazon Estate. That concept, which he believed was quite unique at the time, expressed the worth of residential gardens, grass verges and shrubberies. But most importantly it recognised the significant values, benefits and opportunities made available by the inclusion of large public open/amenity spaces for the community. The two application sites serve to enhance considerably the appearance of the Brabazon Estate and the wider area. The areas which are the subject of the Inquiry provide residents with the very opportunity for recreation, space, relaxation and social interaction on which he believed the original concept was developed. It is vitally important for village green status to be awarded to these two areas to safeguard them for the future.
- 10.30. In further evidence to the Inquiry Mr Blackett explained that he has lived in Hounslow Borough all his life, and in Heston specifically for nearly 50 years. He had been Chairman of the Heston Residents Association for 9 years, and prior to that was Treasurer for 8 years.
- 10.31. Mr Blackett was concerned to establish some clarity in relation to the precise areas of the application sites, in particular Site No.2. [That clarification was duly established during the course of the Inquiry]. Whatever were the precise figures for the sizes of the sites (he said), the two application sites represented a very substantial proportion of the public open space available on the Brabazon Estate.
- 10.32. Mr Blackett did not agree with the Council's argument that the relatively small number of letters submitted by the two applicants suggested that little use was made of the application sites. He, Mr Blackett, felt that the small number of letters was not in any way representative of the true position. Also the transient nature of much of the local population makes them less likely to participate in matters such as this. He himself firmly believed that residents attach considerable importance to these two areas of open public amenity space, as is demonstrated by the presentations made on behalf of the two applicants.
- 10.33. The importance of the two sites cannot be understated, each in their own way offering opportunities for usage which one associates with the average town or village green, especially the Cranford Lane green. They are areas on which physical and general recreational pursuits can be indulged, some serious and some more relaxed and casual.
- 10.34. They also provide the necessary opportunities for general relaxation, social interaction and general cultural activities. When the Brabazon Estate was designed in the 1950s it was done with the knowledge that there was a need for family housing following World War II, particularly in the London area, and in addition there was a growing demand from the then developing Heathrow Airport. However the designer still considered it vital to include areas of public open space for the activities that he had

outlined. In visiting the estate one could not fail to be impressed by the openness, quite apart from the gardens of the individual properties. The roadways have apparent width afforded by generous grass verges and shrubberies. In addition there are several dedicated open space areas, as could be seen on plans produced by the Council. In summary there was considerable generosity in the planning associated with the concept of providing householders with open space on the estate.

- 10.35. The two open spaces offer a better quality of life for local residents, and it is vitally important that the two applications should lead to the safeguarding of these areas of land. Mr Blackett fully supports the two applications for village green status.

11. SITE NO.2 – SUBMISSIONS FOR THE APPLICANT

- 11.1. In addition to the submissions which were included within the evidence that she gave to the Inquiry (noted above), Ms Noad had submitted supporting material before the Inquiry which pointed out that the Brabazon Road green had been used by a significant number of residents for a period of at least 20 years, and had been frequented by a significant number of local inhabitants to walk their dogs and the like for an unbroken period of well over 20 years. The green has also been used for pleasure and leisure purposes for over 20 years.
- 11.2. The green has provided picturesque views for the residents of the estate since it was built. It has been enjoyed freely and undeterred by residents and members of the community of all ages, whether it be for pleasure or exercise, e.g. cricket, picnics, general socialising. The Council have installed seating which the residents normally sit on, and drink and eat food bought from the local shops. It should be mentioned that historically the Brabazon Road estate was used to house airport workers, and was a council estate to provide social housing. Today it is populated by a large number of property owners and private tenants. These new owners and tenants have exercised the same right to use the green.
- 11.3. The green has been used to enhance the environment for many years. The Council has planted many trees and bushes, and this has helped to improve the neighbourhood visually and soak up some of the pollution from the traffic on Cranford Lane and the trading estate. Green spaces such as this are particularly important to the well-being of the residents both mentally and physically.
- 11.4. The green marks the boundaries for this very historic estate where road names honour pilots and aircraft. It has been used for Union meetings by workers from Fairey Aviation who used to be opposite the green, it has also been used for athletes to congregate on before annual road relays which took place down Cranford Lane. Green spaces like this are very important to people's lives.

- 11.5. In closing Ms Noad said that she felt she had fully demonstrated that the requirements of village green status had been met, on the evidence provided. The land has been used for well over 20 years for sporting activities and pastimes as of right. Activities had taken place at different times throughout the year.
- 11.6. In her view the evidence which her father, Mr T Noad, had given had fully demonstrated the intensity and quality of use that had been made of the application site during the qualifying period. It is very important that this green space should not be lost from the purpose for which it was originally intended.

12. THE CASE FOR THE OBJECTOR – EVIDENCE (Both Sites)

- 12.1. **Mrs Suzannah Taylor** is lead officer for the Heston Estates Regeneration Scheme, within the London Borough of Hounslow. In formal terms her post is that of Housing Development and Regeneration Coordinator in the Regeneration, Economic Development and Environment Directorate of the Council. Her responsibilities include the delivery of new Council housing on land belonging to the Council, and the negotiation of new affordable homes through the planning process. Her evidence related to both applications and both application sites.
- 12.2. She personally is familiar with both application sites by virtue of her involvement in a regeneration scheme including the development of new homes within the Brabazon Estate. However she had no direct personal knowledge of either application site prior to 2008.
- 12.3. In January 2011 she had submitted the objections to both applications on behalf of the Council's Housing Client and Partnerships Service. The key reasons for objection were common to both applications, and in summary were: that the applicants had failed to demonstrate that the claimed sports and pastimes had been carried out by a significant number of inhabitants from the qualifying area; that the applicants had failed to demonstrate that the use of the sites was of such an amount and intensity throughout the 20 year period as to merit registration of either of the sites as a town or village green; the activities claimed to have been indulged in "*as of right*" by the applicants had in fact been indulged in "*by right*".
- 12.4. She said that since writing the original objections the factual and legal position had become clearer, and in particular her research had confirmed that the land which includes the two application sites was acquired by the Council's predecessor for housing purposes under the ***Housing Acts 1936 – 1952***. She understood that those Acts empower the building of houses, and the laying out of public open space. All the evidence indicates that the two application sites were laid out as public open spaces as part of the original estate development, and each site has been held since then for that purpose.

- 12.5. Thus the Objector's principal contention is that, even if all the other statutory criteria were demonstrated on the balance of probabilities by the Applicants, neither site can be registered as a town or village green since any qualifying recreational use had not been "*as of right*".
- 12.6. The Brabazon Estate is a London Borough of Hounslow housing estate containing nearly 500 dwellings.
- 12.7. Her researches had established that in October 1951 the Housing Committee of Heston and Isleworth Borough Council resolved to recommend that that Council enter into negotiations to purchase from the Ministry of Civil Aviation 50 acres of land fronting Cranford Lane, for development as a housing site. The relevant minutes were produced.
- 12.8. At a special meeting of that Council's Housing Committee in September 1952 a letter from the Air Ministry concerning the conditions of sale of the relevant land was discussed, and the terms under which the Council purchased the land were agreed. Again the relevant minutes were produced.
- 12.9. At a meeting of the Parks Open Spaces and Burial Committee of Heston and Isleworth Council in November 1953 the Town Clerk had reported that the layout plan for the Cranford Lane housing site, as approved by the Council's Housing Committee, had made provision for 7.99 acres of open space land. The relevant committee resolved that it was prepared to agree to the appropriation as open space of 7.99 acres of land at the site. Again the relevant minutes were produced.
- 12.10. In December 1953 the Town Clerk reported to the Housing Committee a number of detailed matters in relation to the then proposed acquisition of the land for the housing estate.
- 12.11. At another meeting of the Parks Open Spaces and Burial Committee in December 1953 it was resolved to finance the appropriation of 7.99 acres of land for open space purposes. Consent was to be sought from the Minister for Housing and Local Government to use the relevant funds for this purpose. Again the relevant minutes were produced.
- 12.12. The appropriation of 42.01 acres of land at the Cranford Lane housing site for housing purposes, and the appropriation of 7.99 acres of land at the site for open space was approved at a meeting of the Heston and Isleworth Borough Council on 29th December 1953, and again the relevant minutes were produced.

- 12.13. The 50 acres of land including both application sites was transferred by the Minister for Transport and Civil Aviation to the Borough of Heston and Isleworth on 2nd June 1954. The transfer was made to the Council for the purpose of the *Housing Acts 1936 – 1952*.
- 12.14. On 31st March 1952 the Borough Surveyor had submitted to the Housing Committee preliminary draft plans for the development of the new housing site, and the committee resolved to refer consideration of those draft plans to the Estates Layout sub-committee.
- 12.15. On 4th September 1952 the Housing Committee of the Council approved the plan for the new housing estate. On 10th October 1952 outline planning consent was granted for the development of the land to provide 498 dwellings, 6 lock-up shops, garages and provision of open space and allotment gardens. Detailed plans etc., were to be submitted for approval.
- 12.16. Further minor amendments were submitted and approved. Plans dating from between February 1954 and April 1956 show how the estate was eventually developed, and in fact reflect the estate exactly as it is laid out today, with the exception of a small area in the north-east corner of the site which has since been altered by works to straighten and widen Cranford Lane.
- 12.17. The current Aviation –related street names on the estate were approved by Heston and Isleworth Borough Council in October 1954.
- 12.18. An Ordnance Survey Map dated 1962, and aerial photographs taken in 1963 (both produced to the Inquiry) show that the Brabazon Estate has been maintained in its original layout since its development during the late 1950s, with the exception of the small area given over later to road widening.
- 12.19. Mrs Taylor produced a plan showing the public open spaces currently situated within the Brabazon Estate, which include several other areas additional to the two application sites. She explained how the various green open spaces are regarded by the Council in a Town and Country Planning context.
- 12.20. The analysis she had been able to carry out of the history relating to these areas of open space all support her understanding that the open spaces on the Brabazon Estate, including both of the application sites, were laid out as public open space by Heston and Isleworth Borough Council in the 1950s as part of the original design of the estate, and they had been held as such to the present day by Hounslow London Borough

Council as the successor to Heston and Isleworth Borough Council. These open spaces on the Brabazon Estate had been maintained by the Council in their current layout since the estate's construction in the 1950s.

- 12.21. In relation to the Small Green (Site No.1) Mrs Taylor pointed out that the application to register the land was accompanied by six letters of support from residents of the estate. As there are approximately 500 households on the estate, this number represents only 1.2% of the total inhabitants supporting the application. It was also clear from plotting the houses of the writers of the letters on a plan that all the households who had submitted letters of support are located in close proximity to the application site.
- 12.22. Mr Kumar had referred to a petition submitted to a meeting of the Council in December 2010, which 417 residents had signed, objecting to the proposed building plans on the open green spaces on the estate. Fourteen reasons had been given in support of that petition, but only one of them had specifically related to the Small Green, and the remaining points related to the estate green spaces in general, rather than being specific to either of the application sites. Indeed 10 of the 14 points of objection to the development of spaces on the site did not relate to the use of those green areas for leisure purposes. It cannot therefore be inferred that the 417 signatories to the petition can be taken as having been in support of the applications under the *Commons Act* to register the Small Green as a town or village green, or indeed as indications of any claim to have used the Small Green or the other application site.
- 12.23. As far as Site No.2, the Cranford Lane green, was concerned Mrs Taylor pointed out that that application had also been accompanied by six letters of support from residents of the estate. Again that represented only 1.2% of the total inhabitants. Again it could be seen that all except one of the letters had come from households living in very close proximity to the application site. Additional letters submitted later in support of the application for Site No.2 do not change this position.
- 12.24. Mrs Taylor said that both of the application sites are public open spaces, and she does not therefore contest that they have been used by a number of people for recreation. Indeed the land was laid out as open space for this very purpose, so some use of it for recreation purposes is to be expected. However she did suggest that the evidence submitted in respect of the applications to register the open spaces as town or village greens is insufficient to justify those applications.
- 12.25. In relation to Site No.2 (Cranford Lane Green), she also pointed out that of the original six letters submitted in support of the application, only two had indicated that the inhabitants had at any time used the land for lawful sports and pastimes. The

remaining four letters referred only to the visual, environmental and ecological value of the sites.

- 12.26. Thus although both of the application sites were public open spaces, which would have been used for leisure activities which probably would meet the definition of “*lawful sports and pastimes*”, the evidence submitted by the applicants in support of the applications was insufficient to demonstrate that that use had been of an amount and intensity throughout the qualifying period so as to merit registration of the areas under the *Commons Act*.
- 12.27. *In cross-examination by Mrs Garcha*, Mrs Taylor said that in respect of the letters relating to the Small Green, they had all mentioned not just use of the land by the writers themselves but use by neighbours and other people too. Mrs Taylor acknowledged that that was true. Mrs Taylor also acknowledged that although the Small Green was only mentioned once specifically in the points made in the 417 person petition, it nevertheless is one of the overall green spaces on the estate which the petition refers to.
- 12.28. *In cross-examination by Ms Noad* in respect of Site No.2, Mrs Taylor said that the purpose of her evidence had been to show how the land had been provided historically. She was not intending herself to deal with the legal points which arose.
- 12.29. She, Mrs Taylor, was unable to comment on how many people might have attended Site No.2 in relation to such matters as road races or carnivals.
- 12.30. *In re-examination* Mrs Taylor said that in her view the evidence of the applicants had not given any detailed account of the use of the land. It was surprising for example that photographs had not been produced showing people including children playing on the land. Parents do not need permission to photograph their own children playing on the land, and she would have expected to have seen a number of such photographs in relation to claims that there had been events involving quite large numbers of young people indulging in activities, in particular on Site No.2.
- 12.31. **Mr Andrew Smith** also gave evidence for the Objector in relation to both application sites. He holds the post of Client Manager – Leisure Services, within the Housing, Leisure and Public Health Department of the Council. His responsibilities include the management of the borough’s 200 parks and public open spaces, totalling some 740 hectares of green spaces. He explained his own qualifications as a Parks Professional.

- 12.32. He explained that he has worked for the Borough Council from July 2009 specifically on the grounds maintenance contract. Prior to that the service was delivered and managed by a previous officer.
- 12.33. Mr Smith explained the arrangements by which the green spaces owned by the Council are managed. Many of the staff involved in grounds maintenance for the Council have been continuously working on that task for several years, whatever the formal administrative arrangements.
- 12.34. The current grounds maintenance contract for the Council's open spaces has been running since July 2008; prior to that sites were maintained by a Trust set up by the Council to deliver services on its behalf, and before that (prior to about 1998) the sites would have been maintained directly by the Council as public open spaces.
- 12.35. The two application sites are maintained and treated in the same way as all public open spaces within the Borough. Their maintenance schedule includes mowing to amenity standard, litter collection twice a week and the emptying of litter bins twice a week. This applies whether public open spaces are laid out as part of a housing estate, a public park or otherwise. The application sites are considered by the Council to be public open spaces accessible by all, and as such both have unrestricted access.
- 12.36. The Council treats all public open spaces equally and will not restrict public access. Some of the Council sites have specific covenants or restrictions on them, but the two application sites are not within such areas.
- 12.37. Both of the application sites fall within larger parcels of land than the sites themselves, which have public footpaths running through them to allow public access, for example to the neighbouring roads or bus stops, both from within the estate and from outside the estate. Those paths and the open spaces are accessible by the general public at all times. Neither application site has any kind of restricted access or fencing or gates limiting access to the public.
- 12.38. *In cross-examination by Mrs Garcha*, Mr Smith said that his department do not maintain highway verge green spaces. He also commented that there are no registered village greens in the Borough of Hounslow. Nevertheless whatever the designation of a piece of land, its maintenance by the Council would be no different.
- 12.39. The Council also submitted a written statement by a **Mr Stephen Widger**, who did not in the event appear to give oral evidence. That statement did not raise any matters which are pertinent to the determination of the two applications.

13. THE SUBMISSIONS FOR THE OBJECTOR

- 13.1. The Council in its capacity as landowner and Objector had made extensive submissions in writing prior to the start of the Inquiry. However the Council in that capacity was represented at the Inquiry by Counsel, who made full submissions incorporating the gist of all of that earlier material. Accordingly I summarise here the submissions made on behalf of the Objector as presented at the Inquiry which I held.
- 13.2. The Objector's principal contention is that each of the two application sites has been held by the Council as public open space. The sites have been maintained as such at all relevant times. This contention has not been challenged by anyone. Indeed that view is consistent with the understanding and knowledge of local residents in relation to both of the sites.
- 13.3. Thus the Objector contends that any recreational use of the land has been "*by right*" and not "*as of right*". This position is supported by the case of *R (Beresford) v Sunderland City Council* [2004] 1 AC 889, and *Barkas v North Yorkshire County Council* [2012] EWCA Civ 1373.
- 13.4. However even if the use of the land had not been "*by right*", the Objector's contention is that neither applicant has demonstrated compliance with **section 15** of the *Commons Act 2006*, in respect of either the quality of any user which had taken place, or the locality or neighbourhood within a locality requirement of the section.
- 13.5. Indeed the evidence of use in accordance with the terms of **section 15** was extremely weak in several key respects. These points are not raised as additional make-weight points, on top of the main point about the use being "*by right*". This failure to meet the statutory requirements is raised by the Objector because the two points amount to stand-alone reasons that are fatal to each application in themselves.
- 13.6. Counsel for the Objector acknowledged that at first blush it might seem difficult to argue that it has not been demonstrated by either applicant that the land has been used by a significant number of people, but yet to recognise that the land is public open space. However the evidence in these cases does support that argument.
- 13.7. The burden of proof lies on an applicant to demonstrate that the statutory criteria of **section 15** are satisfied. The standard of proof is the civil one of balance of probabilities, or put simply that it is more likely than not.
- 13.8. From **Section 15(2)** and the relevant caselaw it can be seen that an application under this provision has to satisfy a number of elements. The first is that the application land has to have been used for lawful sports and pastimes.

- 13.9. In relation to Site No.1, the Small Green, it should be noted that either crossing the land, or crossing on paths adjacent to the land, en route to and from the bus stop or otherwise, does not qualify as a use for lawful sports and pastimes. So any such use has to be discounted, and it is not clear that the Applicant in relation to the Small Green has done that. In relation to the Small Green not only are there two adjacent paths, which it appears have always been present, but the witness Miss Garcha had acknowledged there are indentations showing other paths across the grassed area, which is a clear indication of desire lines. Indeed Miss Garcha had acknowledged in her evidence that the walking of dogs on the land for example had been both on the paths and on the green itself.
- 13.10. Mr Kumar had referred in evidence to his children riding bicycles, but in cross-examination he had accepted that this was on the made-up paths, not the application site.
- 13.11. Additionally, to meet the statutory criteria the use for claimed green has to have been by a significant number of people who come either from the locality or from a neighbourhood within a locality. The Applicant on the Small Green, Mr Kumar, had asserted that a great number of residents have used this land. However he personally only had knowledge of the land since 2008. Only six letters in support were received, and these provide very little detail of the use of the land.
- 13.12. On the locality/neighbourhood issue, it is not clear whether the Brabazon Estate is relied on as a locality or as a neighbourhood. That point has not been established clearly by the Applicant, either in the application or at the Inquiry. A locality is required to be identified in any event.
- 13.13. It is difficult to see how the Brabazon Estate could be a locality, as a neighbourhood and locality are two different entities, as envisaged and provided for by the statutory framework. However it is accepted by the Objector that a housing estate can in principle constitute a neighbourhood.
- 13.14. Nevertheless if the Brabazon Estate is to be regarded as the relevant neighbourhood, it must still be demonstrated that a significant number of inhabitants from the Brabazon Estate have used the Small Green for lawful sports and pastimes. Even if it is accepted that a significant number of people have used the land, that does not in itself satisfy the statutory requirement. The Objector's concern that a significant number of users from the claimed neighbourhood has not been demonstrated arises from the very small number of supporting letters, and the small number of witnesses called, and the overall lack of evidence relating to the quality of the user. Indeed Mr Kumar in answer to the Inspector had referred to some people coming by car, and thus not from close by. Mr

Lindsey had also confirmed that there were some using the land that he did not recognize.

- 13.15. These concerns are reinforced by the failure of the evidence to demonstrate a spread of users from over the neighbourhood, as is required. All of the letters in support, and all of the witnesses (only three of them), are not only solely from Johnson Road, but from a very limited part of it.
- 13.16. The paucity of this evidence is not rescued by the existence of the petition which has been referred to. As Mrs Taylor had demonstrated, that petition provided very little evidence of use of the Small Green that would satisfy *section 15* of the *Commons Act*. There has to be a degree of cogent evidence, which has simply not been met by what the Applicant had provided.
- 13.17. Furthermore all of the requirements have to be demonstrated to have been met throughout the 20 year period from 1990 – 2010, and again the Applicant's evidence has been lacking in this respect.
- 13.18. In relation to Site No.2, the Cranford Lane green, once again use of the land to cross en route elsewhere does not qualify. Again it is significant that only two of the six original letters in support mention use of the land at all. One would anticipate that the site's close proximity to a busy road would have a limiting effect on certain lawful sports and pastimes, particularly ball games.
- 13.19. An event organised by a local community college to which Ms Noad had made reference had only taken place for one year in the latter part of the relevant 20 year period. This plainly could not be taken as part of a demonstration of significant levels of use over 20 years.
- 13.20. The evidence of significant numbers of users from the neighbourhood, if the Brabazon Estate is being relied on for that purpose, is troubling in this instance. Mr Noad understandably places great value himself on the use of this site by athletes. However it was clear that most of this use was by people from outside the area, other than in the early days of Mr Noad's athletics training. Mr Noad had also talked about van drivers passing by with dogs and stopping to use the land. That rather suggests and supports public open space use by people from a wider area, rather than use by the inhabitants of a neighbourhood or particular locality. It certainly does not in itself as evidence support a claim for use by a significant number of people from the Brabazon Estate.
- 13.21. Again the employees using the land to have their lunch, which Ms Noad had referred to, had not necessarily been local inhabitants; there was no direct evidence that any of

them, let alone many of them, were residents of the relevant neighbourhood or locality.

- 13.22. Moreover again the geographical spread of user evidence in the letters of support was extremely limited. This did not in any way at all tend to satisfy the requirement that a significant number should come from the neighbourhood being relied on. In summary both applications were unusually lacking in specific evidence in relation to local users. For example there was very little specific identification of many people from the neighbourhood. There were very few photographs showing many people on the land. Counsel for the Objector said that one could understand the difficulty local people have in producing evidence meeting the statutory requirements, but nevertheless the lack of quality of evidence of user, in terms of meeting the statutory criteria was extreme in this case. Nor did the statement and evidence from Mr Blackett of the Heston Residents Association support the Applicant's cases in this particular respect.
- 13.23. Registration of land as a town or village green has serious consequences for a landowner. The courts have clearly stated that it is thus important for the decision-maker to consider carefully whether all the ingredients of the statutory definition have been met before land is registered. That has certainly not been established in these cases.
- 13.24. On the principal issue concerning the use of the land having been "*by right*", the factual and legal position has become considerably clearer as a result of the researches undertaken since the lodging of the original objections in January 2011. In short, and as detailed in Mrs Taylor's evidence and not challenged by anyone, it has become clear that the land that includes the two application sites was acquired by the Council's predecessor for housing purposes under the **Housing Act 1936-1952**. Each application site was appropriated in a proper way for use as public open space.
- 13.25. Thus there appears to be no substantive dispute as to how the two application sites came into being and have been used as public open space. The key facts relating to the acquisition of the land for the overall housing estate, and the provision within that area of areas of public open space, was explained in detail by Mrs Taylor's evidence. It is clear from all that evidence, and indeed this is confirmed by local residents, that both sites were laid out originally as open space, and have been retained and maintained as such ever since the estate was first laid out.
- 13.26. It is often difficult for Councils to track down old documents such as those which have been produced here. In this case however the evidence is remarkably cogent and convincing. In the **Barkas** case it was said in the circumstances there "*that it would be wholly unreal to conclude that the field had not been appropriated for the purposes of public recreation in the sense in which Lord Walker had referred to in paragraph 87 of his Opinion in Beresford*". That same view can fairly be said to apply to each

application site here, on the evidence before the Inquiry. It would be wholly unreal to conclude that the two sites had not been appropriated for public open space purposes.

- 13.27. *Section 79(1)(a)* of the *Housing Act 1936* provides that, where a local authority has acquired land for the provision of housing accommodation for the working classes, the authority may lay out public open spaces on the land. The right to use these public open spaces is not restricted to the working classes – see *Barkas v North Yorkshire County Council*.
- 13.28. The documentary evidence here demonstrates that the two application sites were acquired and/or appropriated for public open space purposes, and then laid out as public open spaces as part of the original estate development, and each site has been held since then for that purpose. This is what was expressly empowered by the *Housing Act 1936*.
- 13.29. As had been discussed in the *Beresford* case in the House of Lords (but not finally determined), if the use is pursuant to a statutory right of public recreation then that use is “*by right*” and not “*as of right*”. Such a right of public recreation exists for example under *section 164* of the *Public Health Act 1875* and *sections 9 and 10* of the *Open Spaces Act 1906*.
- 13.30. The approach of the House of Lords in *Beresford* is fully examined in the *Barkas* case in the Court of Appeal.
- 13.31. The local inhabitants can fairly be said to have a statutory right to use land that has been thus appropriated, for lawful sports and pastimes. That is because the local authority, having exercised its statutory powers to make the land available to the public for that purpose, is under a public law duty to use the land for that purpose, until such time as the authority formally determines otherwise.
- 13.32. While there is no general exclusion of local authorities from the scope of the *Commons Act 2006*, local authorities holding land for a particular statutory purpose are not in the same position as private landowners who may, subject to planning controls, change the use of their land at will. A local authority holding land for a particular statutory purpose may not use it for any other purpose, and if it simply ceases to use the land for the statutory purpose for which it was held it must be able to justify its decision to do so on public law grounds.
- 13.33. Thus the Objector’s principal contention with regard to both applications is that, even if all the other statutory criteria are demonstrated on the balance of probabilities by the

Applicant to be met, neither site can be registered as a town or village green, since any qualifying recreational use has not been as of right, but ‘by right’.

- 13.34. Even if that were not the position, neither application in these cases has demonstrated that the statutory requirements are met in terms of either the quality of the user that has taken place, or on the question of “*neighbourhood within a locality*”. Therefore both applications should be refused.

14. DISCUSSION AND RECOMMENDATIONS

- 14.1. The applications in this case were both made under **Subsection (2)** of **Section 15** of the **Commons Act 2006**. That section applies where:

"(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application."

The application in respect of Site No. 1 (the Small Green) was dated 2nd July 2010, and that in respect of Site No.2 (Brabazon Road/Cranford Lane) 16th August 2010. Both appear to have been submitted to the Registration Authority on or shortly after those dates. No issue arose between the parties in either case as to the very precise dates which should be taken as “*the time of the application*”. They clearly must have fallen in July and August 2010 respectively. There was no suggestion from any party that it would make any difference to the eventual conclusion on this application which particular date within July or August 2010 respectively should be taken to be the date on which the application was formally made.

- 14.2. Clearly if there were any question of the claimed use for lawful sports and pastimes having started for the first time during the months of July or August 1990, any uncertainty about the precise dates on which the applications were received might present a serious evidential problem. Conversely, if, on the evidence, it would not make any difference to the conclusion whether the relevant 20 year period had commenced on *any* date within either July or August 2010, there is no reason for the Registration Authority (or myself) to be concerned over the very precise date which should be taken as the ‘time of the application’.

The Facts

- 14.3. In these two cases there was very little dispute of fact in relation to many of the matters which are relevant to the determination of applications of this kind. In particular there was no dispute that the areas of the two sites had been in more or less the same condition during the whole of either relevant period of 20 years, and well beyond it, in either direction (in terms of time). Likewise there was no dispute that both sites had remained unfenced, and freely available for local people (and indeed members of the public generally) to use at will for recreational purposes during the whole of either relevant period.
- 14.4. As I understood the position, almost the only area of dispute which could be said to be ‘factual’ [as opposed to matters of law or submission] was the question whether sufficient evidence had been produced by either applicant to show that “*a significant number*” of the inhabitants of the relevant ‘neighbourhood’ (or locality) had actually used the sites for lawful sports and pastimes over the relevant period(s).
- 14.5. To the extent that there was any factual dispute, in respect of this or any other matter, it is necessary to reach a judgment, on the balance of probability, as to the disputed aspects of the evidence which has been given, insofar as that evidence was relevant to the determination whether the statutory criteria for registration have been met. The point was also quite reasonably made on behalf of the Objector that it must in any event be carefully questioned whether the evidence produced or called on behalf of the relevant Applicant really did meet the statutory criteria or tests prescribed by the wording of **subsection 15(2)**.
- 14.6. So, where there are material differences, or questions over points of fact, the legal position is quite clear that they must be resolved by myself and the Registration Authority on the balance of probabilities from the totality of the evidence available – and bearing in mind the point, canvassed at the Inquiry itself (and mentioned by me earlier in this Report) that more weight will (in principle) generally be accorded to evidence given in person by witnesses who have been subjected to cross-examination, and questioning by me, than would necessarily be the case for written statements, questionnaires and the like, which have not been subjected to any such opportunity of challenge.
- 14.7. I would say at this point that I do not think that the nature of the evidence given to me in these two cases necessitates my setting out in my Report at this point a series of ‘findings of fact’. Rather, what I propose to do, before setting out my overall conclusions, is to consider individually, in respect of each of the two cases (though they have a great deal in common), the various particular aspects of the statutory test under **Section 15(2)** of the **2006 Act**, and to assess how my conclusions (on the balance of probabilities) on the facts of the two cases relate to those aspects. It

should not however be assumed that any facts I mention under one heading are only relevant to that heading. I have in each case taken into account the totality of the underlying facts in reaching my conclusions under all the headings, and (of course) in reaching my overall conclusions as well.

“Neighbourhood” and “Locality”

- 14.8. There was no dispute in respect of either application that the Brabazon Estate is capable of being seen as a relevant *“neighbourhood”*. That is what both of the original Application Forms suggested (albeit calling it the ‘Brabazon Road Estate’. No party to the proceedings suggested that any smaller (or indeed larger) area should be considered as the ‘neighbourhood’.
- 14.9. The Brabazon Estate certainly appears, from all the evidence, to be a well known ‘entity’ with boundaries and extent that were familiar to all sides. It appeared to me, both from the evidence and my observation, that it had a ‘cohesive’ character quite sufficient to meet any legal test required to satisfy the term ‘neighbourhood’.
- 14.10. Given the lack of guidance to non-lawyer applicants in the ‘standard’ Application Form (Form 44) as to the rather particular views which the courts have formed concerning the meaning of the term *“locality”* in the ***Commons Act*** (and its predecessor legislations), it is unsurprising that both the applications in this case were rather less clear as to what was being put forward as a ‘locality’. Nevertheless both applications did in fact mention the fact that the Brabazon Estate is in ‘Heston’, which is itself within the area of Hounslow.
- 14.11. None of the parties at the Inquiry showed any real concern over the question of identifying the ‘locality’. I noticed, from my observation of the surrounding area on my way to/from my site visits, that in spite of its present character as part of suburban west London (formerly Middlesex), Heston is clearly a place of long standing, with a still partly medieval parish church. It would be unsurprising to learn that that history is still reflected in a Church of England Parish of Heston, which would be well capable of being a *“locality”* as the law in this field understands it. However no party at the Inquiry made any reference to this point.
- 14.12. In any event, however, the whole of Heston, including the Brabazon Estate, is within the London Borough of Hounslow, which is (in spite of its substantial size) also capable of being seen as a ‘locality’ in this context, in the sense which the law apparently requires.
- 14.13. Accordingly, in my view (and this is undisputed as between the parties), the relevant ‘neighbourhood’ for consideration (in both cases) is the Brabazon Estate. And that

neighbourhood lies within the ‘locality’ either of the Parish of Heston (if it exists), or failing that the London Borough of Hounslow.

“Lawful sports and pastimes on the land”

- 14.14. In both cases it is clear that the areas of (mainly) grass concerned were deliberately laid out in the 1950s precisely for the purpose of them being used by local people for informal recreational purposes, in the nature of what are to be regarded as ‘lawful sports and pastimes’. Both sites have been maintained, unfenced, for that purpose ever since.
- 14.15. The Council as Objector was critical of the relatively sparse extent of the evidence produced by both Applicants (particularly in terms of oral evidence) as to these matters. However, bearing in mind that the test here is on the balance of probabilities, I have formed the view that it is completely clear, having regard both to the written representations and to the oral evidence, that in both cases ‘lawful sports and pastimes’ have taken place on the land concerned (to an extent which is far beyond ‘de minimis’) for very well in excess of the relevant 20 year period.
- 14.16. This is an especially easy conclusion to reach since the Council (as Objector) did not really dispute it. Indeed, given the nature of the two sites, and their position in relation to adjacent areas of housing, it would have been extremely surprising (and improbable) if people had ***not*** made a ‘lawful sports and pastimes’ use of them.

“for a period of at least 20 years”

- 14.17. Here again, on the balance of probability on the evidence, I have no difficulty in concluding that each of the two application sites had been used, at least for the relevant periods of 20 years, for ‘lawful sports and pastimes’.

“A significant number of the inhabitants ... of (any) neighbourhood...”

- 14.18. It seems to me that it is in this respect in particular that the Objector’s criticisms of the evidential aspects of the two Applicants’ cases do carry more weight. The Objector rightly points out that it is not a trivial matter for a landowner to have his or its land registered as a Town or Village Green, and that Applicants should be required therefore to establish clearly, on the evidence, that all the relevant statutory criteria were in fact met, before registration should be made. However, as was agreed on behalf of the Objector at the Inquiry, the relevant standard of proof is still the ‘balance of probabilities’, i.e. that the evidence overall must show that it was more likely than not that each of the relevant statutory criteria was met. In this instance it is I think necessary for me to address the circumstances of each of the cases (and sites) individually.

The Small Green (Site No.1)

- 14.19. This site is entirely embedded within, and surrounded by, the development of the Brabazon Estate. Although it is clear that this is not a legally relevant test, it does as a matter of fact look exactly like a 20th century interpretation of a ‘town or village green’. Although a bus route (with bus stop) apparently passes along one side of it, it is also not on anything which (in a London suburban context) gives the impression of being a ‘through route’.
- 14.20. The Objector’s criticism that the evidence produced by the Applicant was rather on the thin side does have some force. Neither the oral nor the written evidence was particularly extensive, compared with what is sometimes encountered in disputes of this kind. However the Applicants’ spokesperson, Mrs Garcha, explained this in terms of the Applicant having concentrated on obtaining statements from well-regarded local people who had lived in the neighbourhood for a long time.
- 14.21. Overall the evidence produced for the Applicant does convey the impression that this piece of open land has been well used by local people, both children and adults, over many years, well in excess of the 20 year requirement. I am quite sure that some of the use of the land will have been simply to cross it to walk (for example) to or from the bus stop, but on the balance of probabilities I also conclude that a significant amount of ‘lawful sports and pastimes’ use has taken place regularly over that time as well.
- 14.22. The Council as Objector also criticized the Applicants’ case on the basis that the evidence essentially came from people in the part of the Brabazon Estate very close to the application site, rather than the ‘neighbourhood’ as a whole. Again there is some validity in that criticism, but the evidence from the Applicant’s side was clear that some people from further afield within the Estate did regularly use the Small Green, even that some parents would bring their children there by car.
- 14.23. Indeed this last point was picked up on by the Objector as suggesting that such people came from outside the neighbourhood entirely. That must be a possibility, but given the nature and location of the Small Green it does not seem to me particularly likely. On a ‘balance of probabilities’ basis I would conclude that such use is more likely to have been by people from some of the less close parts of the Estate (or neighbourhood) itself.
- 14.24. I am sure that the Applicant’s case could have been put more fully and extensively than it was. However, bearing in mind the totality of the evidence, I conclude that a ‘significant’ number of inhabitants of the neighbourhood have used the Small Green for lawful sports and pastimes over the relevant years. It is clear from the case law that ‘significant’ does not require specific proof of a large number, merely that the

numbers have to be sufficient than an observant landowner would realize that local people in general were behaving as if they had a right to be there, rather than (for example) there just having been sporadic incidents of trespass.

- 14.25. I also bear very much in mind that, although the onus of proof is on the Applicant, it is only on a balance of probability (more likely than not) basis. In any event the Objector's case was not that there had **not** been use by local people which would have met this aspect of the statutory test. The criticism was more that the Applicant's 'package' of evidence was rather poor, and therefore should not be taken to have met the test. I do not agree. On the balance of probabilities I conclude that this aspect of the Applicant's case on the Small Green was sufficiently established on the evidence.

Site No.2 (Brabazon Road/Cranford Lane)

- 14.26. Although the two application sites have a great deal in common, in terms of their 'municipal' history, including their original provision and subsequent maintenance, there were also important points of distinction and difference.
- 14.27. Site No.2 is, and always has been, at the extreme northern edge of the Brabazon Estate. It is effectively beyond the northern edge of any of the housing on the Estate. It (the site) is also bounded on its northern side by Cranford Lane, which is a fairly busy road, and something of a 'through route', albeit only in a relatively local (as opposed to regional or national) sense. Cranford Lane is also bounded on its northern side by other development which is not within the claimed 'neighbourhood'. That other development includes both 'industrial estate' and residential areas.
- 14.28. It is clear, even from the evidence produced for the Applicant, that substantial elements of the use that has been claimed for Site No.2 have been by people who were not residents of the 'neighbourhood'. Some of this was use by workers from the factories opposite, either for Union meetings, or during their lunch breaks, for example. Even the Applicant herself said she had used the claimed green during a period when she lived in another residential street to the north, outside the claimed neighbourhood.
- 14.29. And a substantial amount of evidence was given about the use over the years of Site No.2 as a sort of training or practice location for aspiring athletes, most of whom had no direct connection with the Brabazon Estate, other than being inspired or attracted by the prowess of the Applicant's own father (who is, and has been, resident on the Estate) as an athletics trainer.
- 14.30. The point is rightly taken for the Objector that such uses are rather more like those of a 'public open space' (i.e. a place for the public in general) than those of a town or village green in use by residents of an adjacent or surrounding locality or

- neighbourhood. On the other hand, as I understand the state of the law in this field, it does not matter if some of the use of a piece of land was by people from outside the claimed neighbourhood, if in fact there was *also* a sufficient level of use by a significant number of the inhabitants of that neighbourhood, for lawful sports and pastimes.
- 14.31. However, with that point in mind, the Objector also criticised the evidence produced for the Applicant in this instance in being very ‘thin’, in terms of demonstrating a sufficiency of use, by the relevant local people, to meet the statutory criteria.
- 14.32. In my judgment, the issues on this aspect of this application are more finely balanced than they were on Site No.1. The site is somewhat less obviously ‘associated’ with the Brabazon Estate, and is certainly not ‘embedded’ within it, in the way the Small Green is. Again, most of the direct evidence of use comes from people in the part of the Estate most immediately close to the claimed green; but that is not unusual, as it is the close neighbours who often take most interest in matters of this kind.
- 14.33. The view I have formed, on balance, is as follows. The material originally lodged by the Applicant was, I conclude, insufficient by itself to satisfy me of regular use by significant numbers of residents of the Estate for the relevant purpose. However, in a number of additional statements lodged by her in the run-up to the Inquiry, albeit these did not lead to the appearance of additional oral witnesses at the Inquiry itself, there were several pieces of evidence from local people, clearly from ‘the Estate’, supporting the claim of ‘village green’ type use by those people, and their families and neighbours.
- 14.34. It is, as I have said, finely balanced, and it is in any event al subject to what I go on to say in the remaining parts of this section of my Report. However I am once again conscious of the point that the Council as Objector does not actually argue that local people from the estate have *not* been using this land for lawful sports and pastimes (which after all is – in part at least – what the land was originally provided for, and has subsequently been maintained for). The Council’s argument has been the more limited one of questioning the adequacy of the case produced by the Applicant in evidential terms, when seen against the statutory test(s).
- 14.35. Against this background I conclude that, on the totality of the evidence, the Applicant probably *has* established (i.e. she succeeds on a fine balance of probability) that a significant number of neighbourhood inhabitants have used the land for lawful sports and pastimes over the relevant years.

“As of right”

- 14.36. As I have observed earlier, at least implicitly, it is not in the least surprising that local people should have been using these two areas of land for lawful (informal) recreation over the years, since it is plain that that is what the land was actually provided for, by the Council and its predecessor.
- 14.37. There is however a clear strand of judicial authority to the effect that where a local council, under statutory powers, provides recreational land for people to use, as “*public open space*” (e.g. under the ***Open Spaces Act 1906***) or as a public park or pleasure ground (e.g. under ***Section 164*** of the ***Public Health Act 1875***), then the public have an actual *right* to use and enjoy such an area, and do so “*by right*”, as distinct from “*as of right*” [which is what the test in ***Section 15*** of the ***Commons Act 2006*** requires]. “*As of right*” thus means “*as if of right*”, i.e. the claim can only be established where people behaved as if they had the right to use the land concerned, when in fact they did not have any such right.
- 14.38. It is perhaps somewhat unfortunate that, not having any legal representation, neither Applicant on these two applications was able fully to grapple with and address this point in terms of argument or submissions. I have done my best to be fair to them, and to interpret their cases as positively as can be done, consistent with the need for justice to be done for all parties.
- 14.39. The position is compounded by the very clear, recent decision of the Court of Appeal in another case which involved open space land which had been originally provided in the content of a scheme of housing development. This was the case of ***Barkas v North Yorkshire County Council*** [2012] EWCA Civ 1373, on which the Council as Objector placed reliance, and copies of which had been made available by the Objector to the Applicants well in advance of the Inquiry.
- 14.40. Having regard to that decision, it seems to me that the Objector in these present cases is correct in arguing that the landowning local authority in these present instances is if anything in an even stronger position than was the case in ***Barkas***. The well researched historical evidence produced for the Council as Objector in these two cases was entirely convincing that those parcels of land were provided from the start as, and have been maintained as, public open space for all to use (“*by right*”).
- 14.41. As I have indicated, no effective argument to the contrary was even really attempted by the Applicants on these two applications. Accordingly I have to conclude, in both cases, that the statutory requirement for “*as of right*” use to be demonstrated, cannot be met, and has not been met. The (local) public use which was made of these pieces of land was “*by right*”. Accordingly both applications must fail, in spite of such evidence as the Applicants have been able to muster on other aspects of the statutory criteria.

FORMAL CONCLUSIONS AND RECOMMENDATIONS

- 14.42. In the light of all that I have explained and set out under the previous sub-headings in this section of my Report, my conclusions are that on the evidence I have received, together with the submissions and arguments of the parties, registration as a town of village green is not justified on either of the two applications which are under consideration, because the criteria in *Section 15(2)* of the *Commons Act 2006* are not met in either case. In particular, the criteria not met are those relating to ‘as of right’ use.
- 14.43. Accordingly my conclusions and recommendations to the Borough Council as Registration Authority are that *no part* of either of the two application sites here should be added to the Register of Town or Village Greens, under *Section 15* of the *Commons Act 2006*.

ALUN ALESBURY
23rd May 2013

● ● ● Cornerstone Barristers
● ● ● 2-3 Gray's Inn Square
● ● ● London
● ● ● WC1R 5JH

APPENDIX I – APPEARANCES AT THE INQUIRY

SITE NO.1 – THE SMALL GREEN

FOR THE APPLICANT – Mr Mahendra Kumar

Mrs Sukhvinder Garcha (lay advocate)

She called:

Miss Eshia Garcha, of 47, Johnson Road, Heston

Mr Mahendra Kumar (Applicant) of 17 Johnson Road, Heston

Mr Cyril Lindsey, of 33 Johnson Road, Heston

SITE NO.2 – BRABAZON ROAD/CRANFORD LANE

Ms Debbie Noad (APPLICANT)

She gave evidence herself, and called:

Mr Terence David Noad, of 212 Brabazon Road, Heston

FOR THE HESTON RESIDENTS ASSOCIATION

(in support of both Applications)

Mr David Blackett (Chairman), of 16 The Glen, Norwood Green, Southall

FOR THE OBJECTOR (London Borough of Hounslow)

Mr Stephen Morgan (Counsel)

– instructed by the Assistant Director Corporate Governance, London Borough of Hounslow

He called:

Mrs Suzannah Taylor,

Housing Development and Regeneration Coordinator

Mr Andrew Smith,

Client Manager – Leisure Services

Housing Leisure & Public Health Department

APPENDIX II

LIST OF NEW DOCUMENTS PRODUCED TO THE INQUIRY

N.B. This (intentionally brief) list does not include the original application and supporting documentation, the original objections, or any material submitted by the parties prior to the issue of Directions for the Inquiry. It also excludes the material produced in the prepared Bundles of Documents produced for the purposes of the Inquiry on behalf of the Applicants and Objector, and provided to the Registration Authority (and me) as complete bundles. It further excludes any correspondence in relation to procedural matters which took place after the Directions, but before the Inquiry itself.

By the APPLICANT: (Site No.1 – the Small Green – Mr Kumar)

Note of Mrs Garcha's opening submissions
Note of Mrs Garcha's closing submissions

By the APPLICANT: (Site No.2 – Ms Debbie Noad)

Note of Ms Noad's opening submissions
Note of Ms Noad's closing submissions
Letter (15th March 2013) from Mr Richard Ashe
Letter (30th March 2013) from Mr Coombes
Handwritten note of Mr T. Noad's oral evidence

By HESTON RESIDENTS' ASSOCIATION

Letter dated 29th March 2013
Note of Mr Blackett's evidence/submissions

By the OBJECTOR (London Borough of Hounslow):

Note of the Objector's closing submissions



London Borough of Hounslow

**Report for:
INFORMATION**

Contains Confidential or Exempt Information	No
Title	Treasury Management Annual Report 2012-13
Member Reporting	Councillor Jagdish Sharma, Leader of the Council
Contact Details	Name: Lorelei Watson, Head of Treasury, Pensions & Capital Michael Rust, Treasury Management Officer Telephone: 020 8583 2310 Email: lorelei.watson@hounslow.gov.uk
For Consideration By	Borough Council
Date to be Considered	16 July 2013
Implementation Date if Not Called In	Not Applicable
Affected Wards	All
Keywords/Index	Treasury Management Annual Report 2012-13

1 Details of Recommendations

Members are asked to approve the Treasury Management Annual Report for 2012-13.

If the recommendations are adopted, how will residents benefit?

<i>Benefits to residents and reasons why they will benefit, link to Values</i>	<i>Dates by which they can expect to notice a difference</i>
N/A	-

2 Report Summary

This report presents to the Council the Treasury Management Annual Report for 2012-13. This is required under the CIPFA Code of Practice. The key points are:

- * The Council's net debt has decreased from £97.5 million at 31 March 2012 to £61.3 million at 31 March 2013. This is due in part to maturing debt not being refinanced but predominantly to higher levels of temporary investments.
- * The average debt portfolio rate has increased from 5.44% to 5.64%, due to the impact of a £25m variable rate loan converting to fixed rate in February 2012.
- * The Council's budgeted investment return for 2012/13 was £1,200,000, and investment income received was £2,277,000. This was due partly to having negotiated very advantageous rates with the part nationalised bank Lloyds TSB.
- * During the financial year the Council operated within the treasury limits set out in the Council's Treasury Policy Statement and Treasury Strategy Statement. These included only investing surplus cash with approved counterparties.

3 Reason for Decision and Options Considered

- 3.1 The reasons for the decisions stated in this report are outlined within the report. No other options need to be considered.

4 Key Implications

- 4.1 The key implications for the decisions in this report are outlined within the report.

5 Financial Details Financial Impact On The Budget

- 5.1 An update on the Council's treasury management performance during 2012/13 is provided below.

Background

- 5.2 The Chartered Institute of Public Finance and Accountancy's Code of Practice on Treasury Management 2009 was adopted by the Council on 2 March 2010 and the Council fully complies with its requirements. The Code requires the Council to approve an annual strategy report for the year ahead, which was done at Borough Council on 26 February 2013. The Code also requires the Council to approve an annual review of the previous year. This report comprises the annual review for 2012/13. In addition, during 2012/13 the Cabinet has received quarterly treasury management monitoring reports.

Treasury management in this context is defined as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. "

- 5.3 The Local Government Act 2003 and supporting regulations also require the Council to 'have regard to' the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. This report also reviews the outturn for the Prudential Indicators set for 2012/13.
- 5.4 In summary, this Annual Report covers:
- * the Council's outturn treasury position;
 - * the borrowing strategy and outturn for 2012/13;
 - * investments strategy for 2012/13;
 - * compliance with Prudential and Treasury Indicators;
 - * debt rescheduling.

5.5 The Council's Outturn Treasury Position

The Council's debt position at the beginning and end of year was as follows:

	31 March 2012		31 March 2013	
	Principal Outstanding £m	Average Rate %	Principal Outstanding £m	Average Rate %
Fixed Rate Funding:				
PWLB	183.6		180.3	
Market	<u>72.0</u>		<u>72.0</u>	
	255.6		252.3	
Variable Rate Funding:				
Market	<u>nil</u>		<u>nil</u>	
Long Term total	255.6	5.44	252.3	5.64
Temporary Debt	nil	-	nil	-
Total Debt	255.6	5.44	252.3	5.64
Temporary Investments	158.1	0.90	191.0	1.18
Net Debt	97.5		61.3	

PWLB : Public Works Loan Board

The Borrowing Strategy and Outturn for 2012/13

5.6 The Adopted Treasury Strategy

Due to the availability of internal cash the Council had no net external borrowing requirement in 2012/13.

5.7 Short-term variable interest rates and temporary borrowing

At 1 April 2012 Bank Rate stood at 0.50%. Our treasury strategy for 2012/13 was based on the "average" City view that it was likely that Bank Rate would be kept low until there was clear evidence that the economy was moving significantly out of recession. It was expected to remain at 0.50% throughout the year, with no increase expected until the latter half of 2013 and reaching 1.00% by the end of 2013. There was a downside risk to this forecast if recovery from the recession proved to be weaker and slower than expected.

The Bank Rate remained at 0.50% throughout the year.

Our temporary borrowing turnover totalled £19 million. This mainly covered shortfalls on monthly payroll dates. Borrowing ranged from overnight to 15 days at an average rate of 0.28% for the year. This compared with the average 7-day LIBOR (London Inter Bank Offered Rate) of 0.52%. It was cheaper to borrow at low rates than to pull back on our temporary investments, which are invested at higher rates.

5.8 Long-term fixed interest rates

The view on longer-term fixed interest rates was that the Public Works Loan Board (PWLB) 50-year rate would rise gradually from 4.30% to eventually reach 4.50% by March 2013 and 4.80% by the end of 2013.

During 2012/13 the 50-year PWLB rate ranged between 3.96 – 4.59%. The rate at 31 March 2013 was 4.22% compared with 4.35% at 1 April 2012. All of our long-term debt is fixed, so this had no impact on existing borrowing.

5.9 Debt Performance

As highlighted in section 4 above the average debt portfolio rate has increased from 5.44% to 5.64%, due to the impact of a £25m variable rate loan converting to fixed rate in February 2012.

Temporary Investments Strategy for 2012/13

- 5.10 This area has become significantly more important since the banking crisis, and the impact of the credit crunch on domestic banks. The monies the Authority has available for investing are primarily cash flow derived, and are only available temporarily pending expenditure. Hence our investment priorities are security and liquidity. This Authority will only invest in institutions with the highest security and/or backing from the Government. The Council's approved lending list is in the Treasury Management Strategy, agreed at Borough Council on 28 February 2012 and 26 February 2013.
- 5.11 During 2012/13 funds were invested in institutions listed in the Council's approved lending list, for investment periods ranging from overnight to two years, achieving an average rate of 1.18% for the year. This compared with the average 7 day LIBID (London Interbank Bid or Deposit rate) of 0.39%.
- 5.12 The Council's budgeted investment return for 2012/13 was £1,200,000, and investment income received was £2,277,000. We achieved enhanced investment returns by investing available monies for periods of up to 2 years with the part nationalised bank Lloyds TSB. We achieved interest rates of between 1.75% and 3.00% on these investments. The maximum we had invested was £213m in January 2013 and the average we had invested over the year was £190m.

Compliance with Treasury Limits

- 5.13 During the financial year the Council operated within the Prudential and Treasury Indicators set out in the Council's Treasury Strategy Statement, as agreed at Borough Council. The Prudential Indicators are either indicators of affordability or prudence. The outturn for the Prudential Indicators is detailed below.

Affordability Indicators

- 5.14 Ratio of financing costs to net revenue stream

	2011/12 Actual	2012/13 Estimate	2012/13 Actual
General Fund	2.5%	1.4%	1.4%
HRA	16.7%	22.1%	22.1%

Financing costs primarily cover net interest and principal repayment costs. On 1st April 2012 the financing of the HRA through annual subsidy determinations finished, and was replaced with a move to self- financing. General Fund costs have declined and Housing Revenue Account (HRA) costs have increased since 2011/12 reflecting the split of the debt post HRA self financing.

5.15 Comparison of Net Debt to Capital Financing Requirement (CFR)

	2011/12 Actual £m	2012/13 Estimate £m	2012/13 Actual £m
General Fund CFR	115.9	114.8	112.7
HRA CFR	234.2	234.2	232.0
HM PFI*			1.3
TOTAL CFR	350.1	354.2	344.7
Net Debt	97.5	-----	61.3

* Highways Maintenance Private Finance Initiative

The Capital Financing Requirement (CFR) measures the authority's underlying need to borrow for capital (not revenue) purposes. The General Fund CFR was less than estimated due to prudential borrowing not being as high as anticipated, due to slippage on the capital programme. The HRA CFR fell due to small reduction in the valuation of non dwelling HRA properties.

The Highways transfer of services to Vinci Ringway using a 25 years Private Finance Initiative contract started on 1st January 2013. Vinci are undertaking £100m of capital investment on Hounslow's infrastructure in the first five years of the contract. Under IFRS (International Financial reporting Standards) we have to report the capital expenditure as showing as an increase in the capital financing requirement financed by borrowing on Hounslow's balance sheet, although Hounslow will not undertake the physical borrowing itself. The financing will be done by Vinci and recharged to Hounslow via the annual revenue service charge.

CIPFA's Prudential Code states 'In order to ensure that over the medium term net borrowing will only be for a capital purpose, the local authority should ensure that net external borrowing does not, except in the short term, exceed the total of the capital financing requirement'.

The Director of Corporate Resources notes that the Authority has had no difficulty in meeting this requirement for 2012/13. Net debt decreased from £97.5 million at 31 March 2012 to £61.3 million at 31 March 2013, well below the CFR. Borrowing is below CFR due to temporarily using funding from internal surplus cash resources. This reduces external borrowing costs and mitigates credit risks.

5.16 Comparison of External Debt to Authorised Limit and Operational Boundary

	2011/12 Indicator £m	2011/12 Actual £m	2012/13 Indicator £m	2012/13 Actual £m
Authorised Limit				
Borrowing	308.5		301.5	
Other long term liabilities	2.2		2.2	
TOTAL	310.7		303.7	
Operational Boundary				
Borrowing	284.9		277.2	
Other long term liabilities	2.2		2.2	
TOTAL	287.1		279.4	
Actual External Debt				
Borrowing - gross		255.6		252.3
Other long term liabilities		2.2		2.2
TOTAL		257.8		254.5

The 'Authorised Limit' and 'Operational Boundary' are estimates of limits for external debt, which ideally should not be exceeded.

The Authorised Limit is the maximum possible limit on borrowing for both capital and revenue purposes, and includes an allowance for unusual or uncertain events. The "other long-term liabilities" allowance enables the Council to use leasing finance if this is financially advantageous. The Authorised Limit should not be set so high that it would never in any possible circumstances be breached. It should be set to establish the outer boundary of the Authority's borrowing based on a realistic assessment of risks. If it is breached a review should be undertaken to assess and understand why. For example a breach could be an early warning sign of revenue overspending.

The Operational Boundary is the most likely maximum level of borrowing for most of the year, without the additional headroom included within the Authorised Limit for unusual cash movements. It may occasionally be exceeded due to cashflow reasons. However, a sustained or regular trend above the operational boundary would be significant and should lead to further investigation and action as appropriate.

Other long term liabilities are finance leases.

The Director of Corporate Resources reports that actual gross borrowing was maintained below both the Authorised Limit and the Operational Boundary in 2012/13.

5.17 Incremental impact of capital investment decisions on Council Tax

	2010/11 Actual	2011/12 Actual	2012/13 Actual
Impact on Council Tax per annum	nil	nil	nil

This indicator measures the cost to the Council Tax from capital investment decisions of the Council. It primarily measures the costs of any capital investment for which central government is not providing finance and for which the Authority has no capital receipts or other resources available. Such investment would have to be financed by borrowing with the cost of repayment falling on the Council Tax or housing rents. The Council did not undertake any borrowing whose revenue costs were not covered by existing budgets.

5.18 Incremental impact of capital investment decisions on Housing Rents

	2010/11 Actual	2011/12 Actual	2012/13 Actual
Impact on Housing Rents per week	nil	nil	nil

This indicator measures the additional cost to average housing rents from the capital plans in the HRA Budget. In 2012/13 no new borrowing was undertaken.

Indicators of Prudence

These treasury management indicators recognise the existing structure of the Authority's borrowing and investment portfolios. They are set to avoid exposing public funds to unnecessary or unquantified risk, and to reflect safety and liquidity.

5.19 Interest Rate exposures – upper limits

	2011/12 Actual £m	2012/13 Limit £m	2012/13 Actual £m
Fixed interest rates	256	285	252
Variable interest rates	-	60	-

Indicators have been set which limit the extent to which the Council is exposed to interest rate changes. Separate limits are set for the principal sums for fixed interest rate and for variable rate borrowings. During 2012/13 actual borrowings were maintained well within the limits set.

5.20 Maturity structure of borrowing

	2012/13 Upper limit %	2012/13 Lower limit %	2012/13 Actual Outturn %
Under 12 months	25	0	17
1 year to 2 years	25	0	20
2 years to 5 years	33	0	15
5 years to 10 years	50	5	19
10 years and over	75	25	29

The Council sets upper and lower limits for the maturity structure of its borrowings. These limit the extent to which we will be exposed to significantly higher interest rates in any period in which we have to refinance maturing debt. During 2012/13 actual borrowings were maintained within the limits set.

5.21 Total principal sums invested for periods longer than 364 days

The authority set a limit of £50m to be invested for periods longer than 364 days. The total amount of investments that were made for longer than 364 days in 2012/13 was £39.25m.

5.22 **Debt Rescheduling**

2012/13 started with the expectation that longer-term PWLB rates would be on a rising trend during the year and that shorter term rates would be considerably cheaper. However, moving from long term to short term debt would mean taking on a greater risk exposure to having to reborrow longer term in later years at considerably higher rates, and consequently no debt rescheduling was undertaken during the year. Early repayment clauses also currently make debt rescheduling prohibitive.

Comments of the Assistant Director Strategic Finance

5.23 The Assistant's Director's comments are included within the body of this report.

6 Legal

6.1 There are no legal implications associated with this report.

Comments of the Assistant Director Corporate Governance

6.2 The Assistant Director Corporate Governance has noted the report.

7 Value for Money

7.1 There are no value for money implications.

8 Sustainability Impact Appraisal

8.1 A sustainability impact appraisal is not necessary.

9 Risk Management

9.1 Treasury management is defined as "The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. "

Therefore the whole report is about how the Council manages its treasury management activity within agreed risk parameters. Key financial risks are reported in the Council's Strategic Finance Risk Register and Corporate Resources Risk Register.

10 Links to Council Priorities

10.1 Regular reporting of the treasury management activity of the Council is an important part of running the Council in a transparent and efficient way.

11 Equalities, Human Rights and Community Cohesion

- 11.1 Members are not being asked to make any decisions with implications in relation to equalities, human rights and community cohesion.

12 Staffing/Workforce and Accommodation implications:

- 12.1 Members are not being asked to make any decisions with implications in relation to staffing/workforce and accommodation.

13 Property and Assets

- 13.1 There are no implications for property and assets other than cash.

14 Any Other Implications

- 14.1 There are no further implications.

15 Consultation

- 15.1 No consultation is required for this report.

16 Timetable for Implementation

- 16.1 There are no recommendations made in this report.

17 Background Information

- 17.1 Treasury Management Outturn Files March 2013.

End of Report



London Borough of Hounslow

Report for:
ACTION

Contains Confidential or Exempt Information	No
Title	Formal Establishment of Health and Wellbeing Board, Confirmation of Appointments and Changes to the Constitution
Member Reporting	Councillor Ajmer Grewal, Lead Member for Leisure and Public Health
Contact Details	Peter Matthew, AD Housing Leisure and Public Health, peter.matthew@hounslow.gov.uk
For Consideration By	Borough Council
Date of Decision	16 th July 2013
Affected Wards	All
Keywords/Index	Constitution, delegated powers, health and wellbeing board, governance, terms of reference

1. Details of Recommendations

- 1 To formally note the established Hounslow Health and Wellbeing Board (HHWB) as a committee of the Council, resulting in the constitution being amended accordingly.
- 2 To formally note the approval and addition to the constitution the terms of reference set out in Appendix 1 and to delegate authority to the HWB to amend these to include more detailed provisions as may be considered appropriate so as to carry out its functions.
- 3 To agree/ confirm the membership of the HHWB as set out in Appendix 2 and to delegate any future appointments or substitutions to the HHWB.
- 4 To note the statutory functions of the Health and Wellbeing Board as set out in Appendix 3.
- 5 To note the statutory delegations to the post of Director of Public Health as set out in Appendix 4.
- 6 To note the statutory duty for the HHWB to prepare Joint Strategic Needs Assessments (JSNA), Joint Health and Wellbeing Strategies (JHWS) and Pharmaceutical Needs Assessments.
- 7 To note the legal requirement for all members of the HHWB to notify the Council's Monitoring Officer via the Head of Democratic Services of any disclosable pecuniary interests within 28 days of appointment.

If the recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit, link to Values	Dates by which they can expect to notice a difference
A fully established HWB with clear terms of reference, including membership and with the ability to start implementing decisions that will benefit residents. Residents will have information available to them to inform them about the work of the HWB and will be able to attend meetings.	With immediate effect.

2. Report Summary

1. This report deals with the governance and constitutional aspects of the transfer of the public health function to the Council from 1 April 2013 and the establishment of the Hounslow Health and Wellbeing Board (HHWB), the appointment to it of its members, its terms of reference, its functions and the statutory delegations to the post of Director of Public Health.
2. It notes that the HHWB was formally established as a committee of the Council in advance of its meeting on 1 May 2013, by means of a report signed by the Mayor and Chief Executive of the Council. The urgency procedure needed to be used so that the Council could comply with the statutory requirement for the HHWB to be established from 1 April 2013 and so that the HHWB could move from shadow to full status with immediate effect. The local community would have been significantly prejudiced by failure to take an immediate decision as it would have meant that the HHWB would not be operative and consequently unable to meet its statutory duties towards them.
3. This was done so that it could operate as a fully constituted Council committee in place of the shadow status it had prior to that date.
4. It notes the formal approval of the agreed terms of reference for the HHWB and their addition to the Council's constitution at Annual Borough Council in May.
5. It recommends the formal agreement and confirmation of the membership of the HHWB as set out in Appendix 2 and to note the statutory functions in Appendix 3, and the statutory delegations to the post of Director of Public Health in Appendix 4.
6. These recommendations are being made to comply with the statutory requirements relating to Health and Wellbeing Boards (HWBs) so that the HHWB can operate as a fully constituted Council committee and begin the process of decision making including the approval and adoption of the Joint Health and Wellbeing Strategy.
7. There are no new key financial implications for the Council.

3. Reason for Decision and Options Considered

- 3.1 One of the aims of the Health and Social Care Act 2012 (HSCA 2012) is to strengthen local accountability for decisions on health and social care by transferring public health responsibility to councils and to provide political leadership and strategic direction.
- 3.2 Councils are required to set up Health and Wellbeing Boards (HWB) with the intention that they become the focal point for decision making about health and wellbeing, operating as a forum for rethinking services and core pathways and brokering agreement on how resources can best be redirected throughout the health and care system. The government has recognised the value that councillors can bring to this, being resident in the locality and being used to dealing with need and demand frequently changing and the challenge this can bring in effectively and efficiently managing resources, often in the face of opposition from sections of the public.
- 3.3 HWBs are intended to operate in the form of shared leadership that benefits from a combination of sound clinical evidence and the local knowledge of GPs and councillors. Ideally decisions should be reached by consensus although all those who are appointed as members of a HWB are entitled to vote. The intention is for there to be parity amongst members so as to improve local health and wellbeing outcomes.
- 3.4 The HSCA 2012 requires HWBs to be set up as a committee of the Council and they became operational from 1 April 2013. Up until now the HHWB has been operating in shadow form. Its first meeting as a non shadow Board was held on 1 May 2013 where members agreed the proposed governance arrangements, terms of reference and membership.
- 3.5 The agreed terms of reference for the HHWB are at Appendix 1. Having terms of reference is helpful both to the HHWB members, partners as well as the wider public so that there is clarity over what it is, how it operates and how it relates to the community. Many formal bodies operate with a terms of reference document, which sets out both the statutory and constitutional environment in which they operate. The agreed terms of reference is presented to Borough Council for formal adoption and as part of the constitutional changes.
- 3.6 There are statutory membership requirements for HWBs. A HWB must include:
 - (a) At least one councillor (nominated by the Leader who can instead of or in addition to making such a nomination, be a member of the HWB.);
 - (b) The Director of Adult Social Services;
 - (c) The Director of Children's Services;
 - (d) The Director of Public Health;
 - (e) A representative of the Local Healthwatch organisation;
 - (f) A representative of the clinical commissioning group;
 - (g) A representative of the NHS Commissioning Board (for the purposes of participating in the preparation of a Joint Strategic Needs Analysis and/or a Joint Health and Wellbeing Strategy, or where the HWB is considering a matter that relates to the exercise of the commissioning

functions of the NHS Commissioning Board and the HWB so requests a representative to be appointed.

- (h) Such other persons or representatives of such other persons as the Council thinks appropriate.

- 3.7 The Council has combined the statutory posts of Director of Adult Social Services and Director of Children's Services and therefore (b) and (c) above will be fulfilled by the appointment of the Director of Children's and Adults Services to the HHWB.
- 3.8 Unlike other committees, there is no requirement for political proportionality as far as HWBs are concerned. The current membership of the HHWB as agreed by members at their meeting on 1st May 2013 is as set out in Appendix 2 and the recommendation is that these are agreed/confirmed. It is also recommended that the HHWB is delegated responsibility to make any future appointments or substitutions as it thinks appropriate. The Council must consult the HHWB before appointing another person to be a member of the Board.
- 3.9 All Health and Wellbeing Boards have a number of prescribed functions and the Council may delegate other functions to it with the exception of health scrutiny functions. The statutory functions of the HWB are as set out in Appendix 3 and the statutory delegations to the post of Director of Public Health in Appendix 4. Part of the statutory functions is for the HHWB to prepare Joint Strategic Needs Assessments (JSNA), Joint Health and Wellbeing Strategies (JHWS) and Pharmaceutical Needs Assessments. The shadow Board has prepared a JHWS which will be formally agreed at its meeting on 1 May 2013.
- 3.10 As a result of the establishment of the HHWB a number of amendments to the Council's constitution are needed. The terms of reference document agreed by members of the HHWB at its meeting on 1st May 2013 was subsequently approved by Annual Borough Council in May and the HHWB has now been included as a Council committee.
- 3.11 The HHWB members are subject to local authority transparency requirements and as such are required to comply with the Code of Conduct and disclose pecuniary interests. The HHWB is in the process of reviewing its Code of Conduct to consider whether any parts that are wider than statute requires ought still to attach to the non councillor members. This is to enable a debate as to whether it is disproportionate to apply to Council officers and health employees or officials (who are already subject to their own employer's Code of Conduct) standards procedures that have been designed by and for Hounslow's councillors. In the event it is agreed by the HHWB that changes are necessary, this will be the subject of a separate report to Borough Council.
- 3.12 The statutory requirements in relation to disclosure of pecuniary interests do however apply to all members of the HHWB, whether they are councillors or not. This entails all HHWB members filling out and returning to the Head of Democratic Services on behalf of the Monitoring Officer, a declaration of interest form. All members of the HHWB were required to do this within 28 days of becoming a member of the HHWB, and any interests declared will be published on the Council's website, unless an application is made that any of the interests declared are "sensitive" i.e. of a nature such that both the

member and the Monitoring Officer consider that disclosure could lead to the member or a person connected with him/her being subject to violence or intimidation.

- 3.13 The HSCA has amended the National Health Service Act 2006 to extend the scope of health scrutiny to include 'relevant health service' providers. This includes providers of NHS and public health services commissioned by the NHS Commissioning Board, Clinical Commissioning Groups and local authorities, including providers in the independent and third sector. As a committee of the Council exercising particular functions, the HHWB will be subject to overview and scrutiny.

4. Financial Details

a) Financial Impact On The Budget (Mandatory)

The costs of implementing the constitutional changes proposed in this report are expected to be met from existing budgets. There are no new financial implications beyond what has already been agreed by Cabinet.

b) Comments of the Assistant Director Strategic Finance

No additional costs are anticipated in transitioning the status of the Board from 'shadow' to 'full' status. To the extent that unexpected costs do arise as a result of this change, these will be met from headroom within the Public Health grant allocation from the Department of Health.

5. Legal

a) Legal Details

The HHWB is subject to public sector transparency, the Code of Conduct under the Localism Act 2011, access to information under the Local Government Act 1972, public access to information under the Freedom of Information Act 2000, public access to meetings and documents relating to executive functions under the Local Government Act 2000, protection of personal information under the Data protection Act 1998 and giving due regard to eliminating conduct prohibited by the Equality Act 2010, advancing equality of opportunity and fostering good relations between persons who share protected characteristics and those who do not.

The HSCA 2012 requires the HHWB to discharge a number of core statutory functions and in addition may discharge such of the Council's non executive functions as may be delegated by the Council and such of the Council's executive functions as may be delegated by the Leader. Although the HHWB as a committee of the Council is not required to give advance notification of its decisions by way of the Council's Forward Plan, any executive functions delegated by the Leader would need to be included.

b) Comments of the Assistant Director Corporate Governance

The Assistant Director Corporate Governance has been consulted in the drafting of this report and any comments have been included within it.

6. Value for Money

Any implications are set out within the body of the report.

7. Equalities, Human Rights and Community Cohesion

The HHWB will be subject to the public sector equality duty under the Equality Act 2010 as outlined in section 5a above.

8. Staffing/Workforce and Accommodation implications:

The new requirements will entail a considerable amount of additional work for council officers and for members of the HWB. Officers will keep under review whether or not additional resources are required to meet this demand.

9. Any Other Implications

Other implications, if any, are included in the section 3.

10. Appendices

Appendix 1 – Terms of Reference (agreed at the HHWB meeting on 01.05.13)

Appendix 2 – HHWB Members (agreed at the HHWB meeting on 01.05.13)

Appendix 3 – List of statutory functions

Appendix 4 – Statutory delegations to the Director of Public Health

11. Background Information

None

REPORT ENDS

Hounslow Health and Wellbeing Board

Terms of Reference:

The Hounslow Health and Wellbeing Board aims to improve the health and wellbeing of Hounslow's communities by bringing together the leadership of key organisations to plan and work in partnership, identify local needs and inequalities, monitor performance and develop effective plans and services.

The Board will:

1. Operate within the overall framework provided, and be influenced, by Hounslow Together (the Local Strategic Partnership).
2. Commission and endorse the Hounslow Joint Strategic Needs Assessment (JSNA), the Hounslow Joint Health and Wellbeing Strategy (JHWS) to meet the needs identified in the JSNA, and the Hounslow Pharmaceutical Needs Assessment.
3. Review the commissioning plans for healthcare, social care, and public health to ensure that they have due regard to the JSNA and JHWS, and to take appropriate action if it considers that they do not.
4. Ensure that the annual commissioning intentions of the Borough the NHS Commissioning Board and the Hounslow Clinical Commissioning Group are coordinated and delivered to meet national and local priorities.
5. Discharge its duty to encourage integrated working with relevant partners within Hounslow, which includes:
 - endorsing and securing joint arrangements, including integrated commissioning where agreed and appropriate;
 - development of appropriate partnership agreements for service integration, including the associated financial protocols and monitoring arrangements; and
 - making full use of the powers identified in all relevant NHS and local government legislation.
6. Develop and implement a communication and engagement strategy for the work of the Board, outlining such work will:
 - reflect stakeholders' views;
 - discharge its specific consultation and engagement duties; and
 - work closely with local HealthWatch.
7. Appoint such sub-groups or sub-committees (formal and informal) as the Board considers appropriate to carry out specified functions on its behalf for a specified period of time. It shall hold accountable such sub-groups and committees and agree their workplans.
8. Work alongside the Health and Adult Social Care Scrutiny Panel to ensure that substantial variations in service provision by health care providers are appropriately scrutinised. The Board itself will be subject to scrutiny by the Panel.
9. Report to the Borough Council on an annual basis on its activity and progress against the milestones set out in the Board's Action Plan. This should include advice on the opinion of the Board on whether the Council is discharging its duty to have regard to the joint strategic needs assessment and joint health and wellbeing strategy in discharging the Council's functions.

Health and Wellbeing Board Membership

The Current membership of the Board comprises:

1. Leader of the Council (LBH) – Chair*
2. Cabinet Lead for Public Health and Leisure – Vice Chair (LBH) *
3. Cabinet Lead for Adult Social Care and Health and Services (LBH)*
4. Cabinet Lead for Children’s Services (LBH)*
5. Cabinet Lead for Environment (LBH)*
6. Representative of Healthwatch*
7. Director Children’s and Adults’ Services*
8. Director of Public Health*
9. Chair Hounslow Clinical Commissioning Group*/**
10. Chief Executive – LBH
11. Education representative
12. Community Representative ***
13. Assistant Director Housing, Leisure and Public Health Services (LBH)
14. Representative of Hounslow voluntary and community sector (disability) ***
15. JobCentre Plus
16. Carers’ representative
17. Managing Director Hounslow Clinical Commissioning Group **

It is proposed that the following members are non-voting:

1. Chief Executive – West Middlesex University Hospital Trust
2. Chief Executive – West London Mental Health Trust
3. Representative of Hounslow voluntary and community sector (health and social care)
4. Heathland Wellbeing Partnership ***
5. Chair Hounslow Independent Provider Forum
6. Chief Executive Hounslow & Richmond Community Healthcare
7. Fire Commander, London Fire Brigade
8. Borough Commander, Hounslow MPS

Officers in attendance

- Committee Clerk, LBH

[*] Denotes a statutory member/ representative in accordance with the Health and Social Care Act 2012. The statute provides for the appointment of ‘such other persons or representatives of such other persons as the Council thinks appropriate, although the Council must first consult the Board before making any appointments.

[**] It is proposed that the Chair and Managing Director of the Hounslow Clinical Commissioning Group will share a single vote on the HHWB.

[***] The Board is permitted to co-opt up to three additional members.

Membership will change over time and will be reviewed yearly as the Board evolves.

Please note: the NHS Commissioning Board is not currently represented in the membership but, in accordance with the Act, must appoint a representative for the purpose of participating in the preparation of JSNAs and the development of JHWSs and to join the health and wellbeing board when it is considering a matter relating to the exercise, or proposed exercise, of the NHS Commissioning Board's commissioning functions in relation to the area and it is requested to do so by the board.

Health and Wellbeing Board Statutory Functions

The HWB has a number prescribed functions and the Council may delegate other functions to it with the exception of health scrutiny functions. The statutory functions of the HWB are as follows:

Integrated working

A duty to encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in the area and to provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of partnership arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.

A discretion to encourage persons who arrange for the provision of any health-related services in its area to work closely with the Health and Wellbeing Board and/or with persons who arrange for the provision of any health or social care services (“health-related services” means services that may have an effect on the health of individuals but are not health services or social care services).

Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies

The HWB must exercise the functions of the Council and the Clinical Commissioning Group in relation to the preparation of a Joint Strategic Needs Assessments (JSNA) and Joint Health and Wellbeing Strategies (JHWBS)¹

The Council is required to publish the JSNA and the JHWBS

The HWB may give an opinion on whether the authority is discharging its duty to have regard to the JSNA and JHWBS

The CCG must consult the HWB when it prepares or revises its commissioning plan. The HWB must give an opinion to the CCG on whether the plan takes proper account of the JHWBS². The HWB may give the NHS Commissioning Board a copy of the opinion

The HWB must be consulted in the preparation of the CCG’s annual report

¹ In preparing a JHWBS the HWB must (a) consider the extent to which the needs could be met more effectively by the making of arrangements under section 75 of the National Health Service Act 2006 (rather than in any other way), (b) have regard the mandate published by the Secretary of State under section 13A of the National Health Service Act 2006 and guidance issued by the Secretary of State (c) involve the Local Healthwatch organisation for the area of the responsible local authority and (d) involve the people who live and work in the area. The HWB may include in the strategy a statement of its views on how arrangements for the provision of health-related services in the area of the local authority could be more closely integrated with arrangements for the provision of health services and social care services in that area.

² The CCG must include a statement of the opinion of the HWB in its published commissioning plan.

The HWB must give the NHS Commissioning Board its views on the CCG's contribution to the delivery of the JHWBS when the NHS Commissioning Board conducts a performance assessment of the CCG

Pharmaceutical Needs Assessments

A duty to:

- (a) assess needs for pharmaceutical services in its area, and
- (b) publish a statement of its first assessment and of any revised assessment.

Statutory functions delegated to Director of Public Health

A number of the Director of Public Health's specific responsibilities and duties arise directly from legislation. In particular the National Health Service Act 2006, the Health and Social Care Act 2012 and related regulations. Some of these duties are closely defined but most allow for local discretion in how they are delivered.

In general the statutory responsibilities of the Director of Public Health outlined in the Health and Social Care Act 2012 are designed to match exactly the corporate public health duties of their local authority. The exception is the Director of Public Health's annual report on the health of the local population where he/she has a duty to write one, whereas the Council's duty is to publish it.

Otherwise section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act, gives the Director of Public Health responsibility for:

- all of the Council's duties to take steps to improve public health;
- any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations (these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act);
- the Council's role in planning for and responding to emergencies that present a risk to public health;
- the Council's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders; and
- such other public health functions that the Secretary of State specifies in regulations.

As well as these core functions, the Acts and regulations give the Director of Public Health more specific responsibilities from April 2013:

Director of Public Health is a mandated member of the local Health and Wellbeing Board (section 194(2)(d) Of the 2012 Act); and through regulations made under section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act, the Department intends to confirm that the Director will be responsible for their local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act).

Contains Confidential or Exempt Information	No
Title	Confirmation of revised Terms of Reference for the Corporate Parenting Panel
Member Reporting	Councillor Lily Bath, Cabinet Member for Children's Services
Contact Details	Carol Stiles, Democratic Services Tel: 0208 583 2066 Email: carol.stiles@hounslow.gov.uk
For Consideration By	Borough Council
Date to be Considered	16 July 2013
Implementation Date if Not Called In	29 July 2013
Affected Wards	All
Keywords/Index	Corporate Parenting Panel – Terms of Reference

1. Details of Recommendations

The Borough Council is asked to agree the following:

1. The revised Terms of Reference for the Corporate Parenting Panel, updated in line with recent legislation and to ensure current relevance, attached as Appendix 1 to this report.

If the recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit, link to Values	Dates by which they can expect to notice a difference
Updating of the Terms of Reference will enable the Corporate Parenting Panel to continue to operate effectively in the best interests of the authority's Corporate Parenting responsibility.	The Terms of Reference will be immediately operative once approved.

Benefits to residents and reasons why they will benefit, link to Values	Dates by which they can expect to notice a difference
Updating of the Terms of Reference will enable the Corporate Parenting Panel to continue to operate effectively in the best interests of the authority's Corporate Parenting responsibility.	The Terms of Reference will be immediately operative once approved.

2. Report Summary

1. This report deals with updating the Terms of Reference of the Corporate Parenting Panel.
2. It recommends that Borough Council adopts the Terms of Reference set out in Appendix 1 to this report.
3. These recommendations are being made to bring the Terms of Reference of the Corporate Parenting Panel up to date in line with changes in legislation

4. and ensure that they remain relevant to the Panel's work. They were last updated in 2009.
5. If adopted, there are no key financial implications for the Council.
6. The draft Terms of Reference have been approved by the Cabinet Members for Children's Services and Education and have been ratified by the Corporate Parenting Panel at its meeting on 24 June 2013.
7. They are presented to Borough Council for formal approval.

3. Reason for Decision and Options Considered

- 3.1 It is considered expedient to update the Terms of Reference. These have not been reviewed since 2009 and there have been changes over that period.
- 3.2 The revised Terms of Reference reflect the current legislative framework for the Panel's work.
- 3.3 As the Panel is appointed by the Borough Council, authority to confirm the Terms of Reference rests with the Borough Council.
- 3.4 The updated Terms of Reference will replace those approved at Annual Borough Council on 14 May 2013.

Option

Members have the option to approve the Terms of Reference or to make amendments.

4. Key Implications

- 4.1 This report is administrative and logistical in nature rather than policy driven or political and so the implications of agreeing the recommendation relate purely to supporting the Council in carrying out its business.

How is success to be measured?

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be deliver by
The administrative and logistical nature of the recommendation do not allow for meaningful measurement of success in this case.					

5. Financial Details

a) Financial Impact On The Budget (Mandatory)

- 5.1 There are no impacts on the council's budget.

b) Comments of the Assistant Director Strategic Finance

- 5.2 The cost of operating the Corporate parenting panel needs to be met from within approved budgets.

6. Legal (to be completed in conjunction with the Legal Department)

a) Legal Details

- 6.1 Each council committee has agreed Terms of Reference formally approved by the Borough Council.

b) Comments of the Assistant Director Corporate Governance

- 6.2 The Assistant Director, Corporate Governance has been consulted on this report and has no comments.

7. Value For Money

- 7.1 There are no value for money implications to this report.

8. Sustainability Impact Appraisal

- 8.1 There are no such implications in this report.

9. Risk Management

- 9.1 There are no risks related to this report.

10. Links to Council Priorities

- 10.1 The agreement of these Terms of Reference relate to the Council's priority to create an ambitious council which improves the lives of residents and works in a transparent way. The Terms of Reference also allow progression of the Council's priority in respect of its responsibilities and ambitions for Looked After Children in the borough.

11. Equalities, Human Rights and Community Cohesion

- 11.1 There are no additional implications in relation to equalities, human rights and community cohesion, although the Terms of Reference will assist the borough in fulfilling its responsibilities for Looked After Children.

12. Staffing/Workforce and Accommodation implications:

- 12.1 There are no implication in relation to staffing or accommodation.

13. Property and Assets

- 13.1 There are no implications for property or assets.

14. Any Other Implications

- 14.1 There are no further implications.

15. Consultation

15.1 The relevant Cabinet Lead Members and the Corporate Parenting Panel have been consulted on the revised Terms of Reference.

16. Timetable for Implementation

16.1 The Terms of Reference once approved will be adopted immediately by the Corporate Parenting Panel.

17. Appendices

17.1 There is one appendix to this report – Appendix 1 – Terms of Reference for the Corporate Parenting Panel.

18. Background Information

18.1 There is no background information in relation to this report.

REPORT ENDS

EXECUTIVE SUMMARY

Hounslow's Corporate Parenting Panel was established in 2001 to enable elected members, officers and partners in fulfilling their responsibilities, as corporate parents and to improve the outcomes of looked after children and young people. In line with best practice the council continues to review the services it offers to children in care to ensure that they make good progress. Central to this is the role of the Corporate Parenting Panel in renewing its responsibility and accountability for the well being and future prospects for children in care and its commitment to children to ensure that children have an opportunity to shape and influence the parenting that they receive. The Corporate Parenting Panel has therefore revised and updated its original terms of reference to reflect these strengthened challenges and commitments.

Background

1. When a Local Authority looks after a child or young person, the Council has a legal responsibility to share the duties and responsibilities of the child's parent. Corporate parenting depends upon ownership and leadership at a senior level, including elected members. Elected members have a specific role to play in ensuring that the outcomes and life chances of looked after children and young people are maximised.
2. Being a good corporate parent means:
 - Accepting responsibility for all children in the Council's care
 - Making their needs a priority
 - Seeking the same outcomes any good parent would want for their own child
3. The 2009 White Paper *Care Matters: Time for Change* placed renewed focus on the role of the corporate parent. Strengthening the role of the corporate parent is seen as key to improving outcomes for looked after children and young people. Hounslow continues to scrutinise and develop this function
4. Hounslow adopted a number of key proposals to support local authorities and their partners in their corporate parenting role. These included
 - Setting out its pledge to looked after children, covering the services and support they can expect to receive.
 - Development of children in care council to ensure that children's views can be put directly to those responsible for corporate parenting.
 - Making clear that the Director of Children's Services and Lead Member for Children's Services should be responsible for leading improvements in corporate parenting.
 - Disseminating corporate parenting training materials to help authorities ensure that effective arrangements are in place locally.

5. In Hounslow, corporate parenting responsibilities are overseen by the Corporate Parenting Panel. The panel meets with looked after children and young people on a quarterly basis. Young people contribute to the agenda setting and participate fully in discussions.
6. Hounslow has signed up to the London Pledge and has set out its own Pledge to children in care which is accompanied by an age appropriate booklet and DVD. The local pledge sets out a clear commitment to the care of our looked after children and a minimum set of expectations that will be delivered by corporate parents. These will require a whole-authority commitment to corporate parenting and places looked after children and young people at the top of our corporate agenda
7. The Children in Care Council (CiC) has been established to ensure children in care have a chance to influence the design, development and delivery of services and support they receive. The Council meets bi-monthly. There is a Chair who rotates on a six monthly basis. As part of its remit the Children in Care Council reviews the pledge and reports on progress to the Corporate Parenting Panel. The Chair of the CiC is co-opted to sit on the Corporate Parenting Panel and provides a conduit and to support young people from the CiC to attend and feedback the Corporate Parenting Panel.
8. In addition as many as possible children and young people are encouraged to attend the Panel to report back on their involvement in a range of consultations, surveys and enrichment activities. Young people are supported to attend by the presence of their key worker and the LAC Participation Officers
9. One of the challenges of the Corporate Parenting Panel is to find ways in which to engage those services who may not consider the care of looked after children as part of their core business and to strengthen their understanding of corporate parenting and their commitment to improving the life chances of looked after children.
10. Hounslow continues to implement the very successful Total Respect training run by trained looked after young people in partnership with trained professionals. At young people's request this training became mandatory for all social workers in 2012. The training has also been delivered to foster carers, school governors, elected members and senior managers and Chief Officers.
11. Hounslow believes the following guiding principles are paramount and central in carrying out its responsibilities as a good parent.
 - 1) All looked after children have an entitlement to stable placements within safe and caring homes. Wherever possible within a family unit.
 - 2) All looked after children have the right to high quality health care including dental care to support their physical and mental and emotional well-being.
 - 3) All looked after children have an entitlement to full time education and

access to national accreditation programmes.

- 4) Education should be valued and seen as a passport to better life chances.
- 5) All corporate parents should have high expectations and promote and reward achievement by looked after children.
- 6) All looked after children have the right to continuity and stability of care and education.
- 7) All looked after children will have their views taken into account in any decisions affecting their care and education.
- 8) Prompt and positive action should be taken to address any difficulties experienced by looked after children.
- 9) Every action should trigger the ultimate question 'would this be good enough for my child?'

12. The guiding questions for Hounslow's Corporate Parents are therefore :

- If this were my child, would it be good enough for them?
- If I were that child, would it have been good enough for me?
- How could I make it even better?

Hounslow's Corporate Parenting Panel Terms of Reference

Aim

To ensure a structured and effective approach to corporate parenting in Hounslow that supports positive outcomes for looked after children and young people by:

- being well-informed about looked after children and young people in Hounslow
- giving consideration to the effect of Council decisions on children and young people
- listening to what children and young people have to say about their care experiences and needs
- being a champion for children based on the standard "would it be good enough for my child?"

Objectives

To ensure that councillors monitor the quality of services to children and young people for whom they have corporate parenting responsibilities.

To equip councillors as corporate parents to provide effective leadership and contribute to strategic planning processes.

To ensure councillors have knowledge and understanding of how the needs of children and their families are met by the council.

To ensure that systems are in place to meet legislative requirements and national guidance in relation to corporate parenting responsibilities.

To promote corporate parenting responsibilities at the strategic level among all elected members in Hounslow.

To ensure that Hounslow Council as a whole embraces corporate parenting as a corporate responsibility and considers the effect of its decisions on children and young people.

Focus

The corporate parenting function includes the following:

- Children and young people in foster care
- Children and young people in residential care
- Children placed for adoption
- Young people who are care leavers
- Disabled children and young people who receive short break services
- Education, employment and training of children and young people in care
- Health and well being of children and young people in care
- Looked after young people in custody

Process

Effective corporate parenting requires knowledge and awareness of the needs of children and young people looked after and the services which they receive. The role of the Corporate Parenting Panel is therefore:

To receive and consider accurate and timely management information reports on the numbers, characteristics and needs of looked after children and young people.

To receive and consider reports demonstrating how effectively Hounslow is serving its looked after children through the provision of services and targeted initiatives.

To receive briefings on new national and local initiatives designed to improve children's life chances.

To gain knowledge of services based on direct involvement and opportunities to meet with and gain the views of stakeholders especially looked after children and young people.

To develop the skills and knowledge of elected members and professional staff and officers working with looked after children and young people to provide effective learning and continuous improvements.

To sponsor and support projects, conference and events designed to improve and celebrate corporate parenting including the LAC Achievement Events, foster carers' annual dinner, Healthy Living events, Lac Participation themed parties and events.

To meet with representatives from the Children in Care Council and to attend the council as required.

To ensure that children in care are welcomed and facilitated to attend and participate fully in the Corporate Parenting Panel.

To monitor and review progress on the delivery of the Pledge to children in care.

To receive ideas and proposals from children and young people and consider how these may be developed and out into practice.

To propose ideas for development within any council department, building on ideas generated from within Hounslow and successful initiative from elsewhere.

To evaluate service quality based on the above.

Programme of regular reports to Corporate Parenting Panel

1. Regular Reporting (monthly to the Chair)

- Action plans arising from Regulation 33 visits to children's homes

2. Exception Reporting in relation to:

- Information about young people missing from care
- Numbers of young people looked after who have been cautioned, convicted or received a final warning
- Numbers of young people in custody
- Numbers of unallocated cases of looked after children

3. Annual Reporting

- The education of looked after children
- Health care provision to looked after children
- Report of Independent Reviewing Service
- Performance information based on activity against relevant national and local performance indicators
- Annual report of Fostering Service
- Annual Adoption Agency Report
- Residential Service Developments
- Report of Looked After Children's Participation Service
- Annual complaints report
- Independent Advocacy report
- Reports of regulated services
- Care leavers report and updates from Pathways
- Workforce reporting

4. The above programme is planned to meet annual requirements and timescales. Detail of reporting would be based on the provision of reports / presentations that meet a standard and concise format to include:

- Brief description of service and its aims
- Level of activity
- Performance evaluation
- Feedback /views of service users
- Information about service outcomes
- Cost effectiveness

5. Young people will be informed in advance of the agenda and have an opportunity to discuss and comment in advance of the Corporate Parenting Panel. Young people may request additional reports to be commissioned.

6. The Children in Care Council feeds back to every Corporate Parenting Panel. Young people also report back on activities, training, and findings from local and national consultations and external events.

7. The Corporate Parenting Panel will commission further reports as required in response to issues raised by elected members and young people.

Corporate Parenting Panel Membership Agreement 2013

Overview of the Corporate Parenting Panel (CPP) – The Corporate Parenting Panel meets every three months and is comprised of Elected Members including the Lead Member for Children and Young People. The Assistant Director for Children's Services and selected service managers attend the meetings, along with a Foster Carer and the Children's Advocacy Worker and the Looked After Children's Participation Officer. Young people who have been in care are now also standing members of the Corporate Parenting Panel.

Managers and key children's services professionals and officers from across the council are invited to the Corporate Parenting Panel to deliver reports and presentations and to discuss service provision for children and young people in care. Young people in care, supported by the Participation Worker, regularly attend meetings to feedback on their experiences of service provision.

Role of Corporate Parenting Panel - The Council has a statutory responsibility as "Corporate Parents" in relation to the children they look after. The Corporate Parenting Panel enables children and young people to meet Councillors and senior managers to ensure their views and choices are taken into account when the Council, as "Corporate Parents" makes decisions and carries out its duties and responsibilities.

Panel Members' duties and responsibilities towards one another - We are delighted to welcome young people as standing members of the Panel and value their experiences, views and insights. Their contributions to the Corporate Parenting Panel is a vital component in ensuring that the Panel is open and accessible to all looked after children and young people. The young people have an important role in supporting the work of the Corporate Parenting Panel by providing an ex care leavers input and perspective and equally in helping facilitate other young people's issues to be raised and to help provide a voice for all children in care and care leavers. We do not expect young members to be an expert or to speak on behalf of all other young people and we recognise the individuality of each person's care experience. All members of the Corporate Panel are expected to support the full participation of all standing members. All members of the Panel are expected to welcome every child in care and/or care leavers who attends Panel and to create a responsive and supportive environment which enables their voice to be heard.

The following points are very important and must be fully understood and adhered to at all times.

- A personal interest in any matters raised must be declared for example if you are related to or are a friend of any young person attending Panel or whose care is being discussed.
- Confidentiality is very important and must be respected and members must not discuss individual cases/young people within or out of the meeting. It is important that we all abide by Council procedures to respect the privacy of other young people in care and care leavers.

- It is important to provide continuity and consistency and we ask for a minimum commitment of one's year on the Panel with a maximum commitment of two years.
- Sometimes issues may be discussed about which you have personal concerns or which raise personal issues for you. We understand that you may need support and ask you to raise these with the Listening to Children Participation Worker or the Chair of the Panel.
- In order to protect your privacy we advise that you do not disclose your own personal care issues unless they are relevant to a discussion and you feel safe doing so. However the Panel is not the forum for you to raise and resolve personal issues which should be discussed with your social worker.
- It is important that all panel members to take the views of young people seriously. This will require you to provide your views and opinion in a considered and informed way.
- All panel members are expected to behave courteously and to listen to one another and encourage full and informed discussions.
- All panel members are expected to welcome and facilitate the participation of other looked after children and care leavers and to encourage their voice to be heard
- All panel members are expected to be reliable, punctual and to attend regularly. 75% attendance in any one year is a requirement of membership. Please send apologies via the Participation Officer or the Chair if you cannot attend.

New Member's Signature –

By signing below I hereby agree to abide by the roles and duties of Corporate Parenting membership.

..... Date

Lead Member's Signature –

The roles and duties of Corporate Parenting Panel membership have been discussed and agreed upon by the new Corporate Parenting Panel member.

..... Date

Chair of Children in Care Council Signature-



London Borough of Hounslow

Report for:
ACTION

Contains Confidential or Exempt Information	No
Title	Amendment to the Scheme of Members' Allowances
Member Reporting	Councillor Jagdish Sharma, Leader of the Council
Contact Details	Thomas Ribbits, Head of Democratic Services. Telephone: 020 8583 2251 Email: thomas.ribbits@hounslow.gov.uk
For Consideration By	Borough Council
Date to be Considered	16 th July 2013
Implementation Date if Not Called In	Not applicable
Affected Wards	None
Keywords/Index	Members Allowances, mileage, car, motor-cycles, subsistence

1. Details of Recommendations

The Council is asked to agree the following:

That Appendix B of the Scheme of Members' Allowances be amended in relation to amounts payable for travel allowances for private motor vehicles and private solo motorcycles, and also in relation to subsistence in accordance with the figures detailed in the report.

If the recommendations are adopted, how will residents benefit?

<i>Benefits to residents and reasons why they will benefit, link to Values</i>	<i>Dates by which they can expect to notice a difference</i>
Not applicable	

2. Report Summary

This report asks members to maintain the link on travel allowance claims for private motor vehicles and private solo motorcycles between that paid to officers of the council and that payable to members under the Scheme of Members Allowances, so that the amounts payable under the Members Scheme duplicate those paid to staff. It also seeks to do the same for subsistence levels.

3. Reason for Decision and Options Considered

3.1 The Scheme of Members' Allowances in Hounslow was last considered by the Council at its meeting in June 2012.

3.2 Appendix B of the Scheme relates to travel and subsistence allowances and, in relation to travel allowances in particular, the scheme states that such levels as are payable are linked to the rate paid to council staff.

3.3 There have been changes made to the levels of travel allowances for officers of the council which have been introduced since the Scheme of Members Allowances was last fully reviewed. These changes have occurred as a result of a periodic review of such allowances following on from the publication of cross London recommendations for councils.

3.4 This report therefore asks members to maintain the historic link between staff and members' travel allowances and to agree changes to the levels in the Scheme of Members' Allowances.

3.5 The scheme currently records a rate for private motor vehicles of 39.9 pence per mile and a rate for private solo motorcycles of 20.7 pence per mile for the first 10000 miles per annum.

3.6 It is proposed that these rates be amended as follows:

- Car mileage: First 10,000 miles - 45p per mile
- Motorcycle allowance: 24p per mile – all miles claimed

These figures replicate the allowances payable to officers of the council.

3.7 Similarly, the subsistence allowances for staff have also been amended and so members are asked to agree changes to these, again to ensure that the figures are the same.

3.8 The current Scheme of Members Allowances gives the subsistence rates for members as follows:

- Breakfast: £5.44 - more than 4 hours away from home before 11.00 am
- Lunch: £7.52 - more than 4 hours away from home including the lunchtime period between 12 noon and 2.00 pm.
- Tea: £2.95 - more than 4 hours away from home including 3.00 pm – 6.00 pm.
- Evening Meal: £9.29 - More than 4 hours away from home ending after 7.00 pm.

3.9 It is proposed that these rates be amended as follows:

- Breakfast: £6.24 - more than 4 hours away from home before 11.00 am
- Lunch: £8.62 - more than 4 hours away from home including the lunchtime period between 12 noon and 2.00 pm.
- Tea: £3.39 - more than 4 hours away from home including 3.00 pm – 6.00 pm.
- Evening meal: £10.66 - £9.29 - More than 4 hours away from home ending after 7.00 pm.

Option	Comments
Agreeing the proposed changes	This would retain the link between staff and members allowances in the areas of travel allowances and subsistence.
Not Agreeing the proposed changes	This would break the link between staff and members allowances in the areas of travel allowances and subsistence. There is no requirement for the link to be maintained but the practice of the council has historically to do so.

4. Key Implications

4.1 There are no implications to the proposals except to ensure that members and officers of the council remain entitled to identical travel allowances and subsistence rates and that neither are disadvantaged compared to the other when undertaking duties which could require such payments to be claimed.

5. Financial Details

a) Financial Impact On The Budget

There is an implication for the Members Allowances budget as a result of the changes proposed in the report. However, the take up of claims by members for travel allowances and subsistence has historically been small, and so the changes are not expected to result in a strain being placed on the current financial allocation for Members Allowances.

c) Comments of the Assistant Director Strategic Finance

The Assistant Director, Strategic Finance has been consulted on this report and has no comments.

6. Legal (to be completed in conjunction with the Legal Department)

Legal Details

6.1 There are no legal implications identified in the noting of this report.

Comments of the Assistant Director Corporate Governance

6.2 The Assistant Director, Corporate Governance has been consulted on this report and has no comments.

7. Value For Money

7.1 The report is for noting and so there are no value for money implications.

8. Sustainability Impact Appraisal

8.1 No such appraisal is necessary in this case.

9. Risk Management

9.1 There are no risks related to this report.

10. Links to Council Priorities

10.1 This report relates to the Council's priority to create an ambitious council which improves the lives of residents and works in a transparent way, by ensuring that members are fully supported in their work.

11. Equalities, Human Rights and Community Cohesion

11.1 There are no such implications in this reports.

12. Staffing/Workforce and Accommodation implications

12.1 There are no such implications in this report.

13. Property and Assets

13.1 There are no implications for property or assets.

14. Any Other Implications

14.1 There are no further implications.

15. Consultation

15.1 No consultation is required for this report.

16. Timetable for Implementation

16.1 The scheme will be revised and implemented from the moment the recommendations are agreed.

17. Appendices

17.1 There are no appendices.

18. Background Information

18.1 There is no background information and no background papers in relation to this report.

REPORT ENDS