

Service Delivery EAB Report

Ward(s) affected: Shalford

Report of Director of Service Delivery

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Shalford Common Land Management

Executive Summary

Guildford Borough Council is the freehold owner of Shalford Common (“the Common”) which is registered common land. The statutory regulation of common land is set out in the Commons Act 2006.

There have been ongoing problems with parking on the Common for many years, which are increasing. The Council receives on a regular basis complaints about cars being parked on the Common, (including on access tracks) which is in breach of commons legislation. Meetings with the Parish Council and residents identified the need for a project to resolve the issues in consultation with the public.

On 7 January 2020, the Executive agreed that the Council should consult on a set of proposed actions to achieve the following outcomes:

- (1) Compliance with the Council’s landowner obligations to protect Shalford Common from encroachments in line with the Commons Act 2006
- (2) Reduction of conflicts and complaints regarding unauthorised car parking on the Common
- (3) Provision of car parking areas compliant with the Commons Act 2006

A total of 42 residents participated online or by a hard copy paper version of the survey.

This report outlines

- (a) The results of the consultation carried out in 2020
- (b) Proposed next steps for action for consideration

Recommendation to Executive

That the Executive:

- (1) Considers the consultation results
- (2) Agrees the options for seven priority areas to carry out the next steps
- (3) Agrees to introduce new byelaws for Shalford Common to support the proposed actions

Reasons for Recommendation:

- Compliance with the Council's statutory obligations as land owner to protect Shalford Common from encroachments in line with the Commons Act 2006 including the prevention of unauthorised parking
- Reduction of conflicts and complaints regarding unauthorised car parking
- Provision of car parking areas compliant with the Commons Act 2006
- Protection of biodiversity on Shalford Common which is a designated Site of Nature Conservation Interest (SNCI)

Is the report (or part of it) exempt from publication? No

1. Purpose of Report

1.1. This report outlines the consultation results on the management of seven priority areas on Shalford Common.

1.2. The Executive is asked to

- Consider the consultation results
- decide and agree on the options for seven priority areas to carry out the next steps

- I. Area 1a: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track
Area 1b: Formalise parking agreement with Cricket Club. Apply for Commons consent to install access gate.
- II. Area 2: Detailed development of each option through the Council Projects Governance procedure by producing a mandate to consider costs and feasibility of the three proposals to
 - a. do nothing
 - b. provide a new parking area by deregistration of a small area of common land and provide replacement land
 - c. provide a new parking area by deregistration of a small area of common land and provide replacement land and seek adoption as public highway to enable parking restrictions.

Provide interim solution to allow removal of existing concrete blocks whilst preventing unsafe site access.

- III. Area 3: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track
- IV. Area 4: De-register Common Land for pub car park area and provide exchange land
- V. Area 5a: Introduce byelaws and designate car parking area. Implement proposal to replace existing bollards with a gate.
Area 5b: Tolerate current situation
- VI. Area 6: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track

VII. Area 7: Narrow the track to prevent parking and obstruction to care home and introduce new byelaws to enforce against parking on the track. Develop proposal with Engineering team and in liaison with Surrey CCs improvements in that area.

- agree to introduce new byelaws for Shalford Common to support the proposed actions

2. Strategic Priorities

2.1. The proposals support the following strategic priorities:

- Protecting our environment
- Enhancing sporting, cultural, community and recreational facilities

2.2. The key outcome from the project will be compliance with commons legislation by Guildford Borough Council.

2.3. It will improve Shalford Common as a community facility by managing the increased demand of car parking and restricting encroachments from traffic onto the Common.

2.4. It will improve safety for site users and residents, improve access for recreation and protect the site's biodiversity.

3. Background

3.1. Guildford Borough Council is the freehold owner of Shalford Common ("the Common") which is registered common land. The statutory regulation of common land is set out in the Commons Act 2006.

3.2. There have been ongoing problems with parking on the Common for many years, which are increasing. The Council receives on a regular basis complaints about cars being parked on the Common, (including on access tracks) which is in breach of commons legislation.

3.3. The Council's Countryside Team holds regular meetings with Shalford Parish Council regarding works and issues at Shalford Common. Public meetings at Shalford Village Hall and a number of on-site meetings with residents and Ward Councillors identified the need for the project and informed the proposals for the priority areas.

3.4. On 7 January 2020, the Executive agreed to carry out improvements at Shalford Common, including a public consultation to achieve:

- (a) Compliance with the Council's statutory obligations as land owner to protect Shalford Common from encroachments in line with the Commons Act 2006 including the prevention of unauthorised parking
- (b) Reduction of conflicts and complaints regarding un-authorised car parking
- (c) Provision of car parking areas compliant with the Commons Act 2006
- (d) Protection of biodiversity on Shalford Common which is a designated SNCI

3.5. The full background, legal considerations and proposed actions were outlined in the Executive Report Shalford Common Land Management 07/01/2020.

3.6. Public meetings in conjunction with the Parish Council indicated strong local interest in the subject and a public desire to be consulted on any Council actions.

4. Consultation

4.1. The consultation was carried out by SMSR, an independent agency. All responses were collected anonymously.

4.2. The consultation covered the management of Shalford Common in seven priority area to regulate access and encroachments.

4.3. It was agreed with the Lead Councillor and Ward Councillor to delay the consultation timetable as outlined in the original timetable until the autumn to avoid the initial COVID 19 lock down period and the following school holiday. The consultation was opened on 10 September 2020 and closed on 31 December 2020 to enable as many residents as possible to provide a response.

4.4. We decided against a public information event as part of the consultation because of continuously changing COVID 19 restrictions and the high risk of financial investment in an event that is unlikely to go ahead.

4.5. Marketing:

(a) The consultation was accessible via two website entries, in addition to the Parish Council website:

<https://www.guildford.gov.uk/shalfordcommonconsultation>
<https://www.guildford.gov.uk/consultations>

(b) 10 posters were placed across the Common on 23 September and again on 6 October by the Countryside Team, in addition to posters placed in the Shalford bus shelters by the Parish Council.

(c) 1,000 leaflets were distributed to residents at Shalford and Peasmarsh Common.

(d) 2 Press releases

- Press Release issued on 11 September 2020 (sent to all Parish Clerks, 11 Resident Associations, 48 Councillors and Local News (10 outlets).
- Reminder Press Release issued on 19 November 2020 (sent to all Parish Clerks, 11 Resident Associations, 48 Councillors and Local News (10 outlets).

(e) Social Media Posts

- 13 Social Media posts from our Facebook, Twitter and Instagram accounts including 1 post in NextDoor post between 11 September – Deadline of Survey.
- A total of 37 social media posts over 8 weeks.

4.6. The following communication was carried out during the consultation:

- The Countryside Team set up the consultation with contact details that allow developing a Frequently Asked Question section on the website.

- A meeting with the Parish Council took place on 19 October 2020 to clarify queries and enable the Parish Council to support the Borough Council with public correspondence.
- Following feedback during this meeting we have updated the FAQs, re-arranged the website to improve information to request paper copies of the consultation and enabled additional comments.

4.7 **Consultation outcome**

- 4.8 A total of 42 residents participated online or by a hard copy paper version of the survey.
- 4.9 The low response rate to date does not reflect levels of previous consultation feedback received in Shalford, for example the works on defences against unauthorised incursions when we received over 60 responses, nor the attendance of over 100 people at public meetings.
- 4.10 The low response rate to the consultation may reduce the success for applications to the Planning Inspectorate to remove land from the Common Land. In turn, it also shows only a low number of oppositions to the proposals.
- 4.11 The consultation report from SMSR attached as **Appendix 1** to this report provides detailed responses.
- 4.12 Maps and photos of the priority areas listed below are provided in **Appendix 2**.
- 4.13 Results in priority areas and proposed next steps are listed in **Appendix 3**.
- 4.14 The consultation carried out in 2020 fulfils the pre consultation requirements to enable the formal processes to introduce new byelaws, potential removal of Common Land and Common Land consents.
- 4.15 The proposed next steps will require further statutory consultations to allow stakeholder representations to the Planning Inspectorate. Stakeholders include amongst others Commoners, the Parish Council, Natural England, Historic England and the Open Spaces Society.

5 Recommendations/ actions required

- 5.1 Officers recommend carrying out the actions listed in Appendix 3.
- 5.2 Officers recommend proceeding with the introduction of new byelaws for Shalford Common.
- 5.3 The Executive is asked to:
- (a) consider the issues and options in managing the increased demand for car parking at Shalford Common
 - (b) decide and agree on the implementation of officer's recommendations in Appendix 3 for the seven priority areas on the Common
 - VIII. Area 1a: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track

- IX. Area 1b: Formalise parking agreement with Cricket Club. Apply for Commons consent to install access gate.
- IX. Area 2: Detailed development of each option through the Council Projects Governance procedure by producing a mandate to consider costs and feasibility of the three proposals.
Provide interim solution to allow removal of existing concrete blocks whilst preventing unsafe site access.
- X. Area 3: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track
- XI. Area 4: De-register Common Land for pub car park area and provide exchange land
- XII. Area 5a: Introduce byelaws and designate car parking area.
Implement proposal to replace existing bollards with a gate.
Area 5b: Tolerate current situation
- XIII. Area 6: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track
- XIV. Area 7: Narrow the track to prevent parking and obstruction to care home and introduce new byelaws to enforce against parking on the track. Develop proposal with Engineering team and in liaison with Surrey CCs improvements in that area.

- (c) agree to introduce new byelaws for Shalford Common to support the proposed actions

6 Executive Advisory Board Comment

- 6.1 The comments and recommendations of the Service Delivery EAB will be reported to the Executive at its meeting on 20 April 2021.

7 Equality and Diversity Implications

- 7.1 The proposals aim to provide a consistent approach to regulate car parking on Shalford Common across all areas of the Common.
- 7.2 An Equalities Impact Assessment has been carried out to accompany the Executive report dated 7 January 2020.

8 Financial Implications

- 8.1 Officers have submitted a Capital Bid to provide sufficient resources for fees, consultation, and implementation of works, which is on the approved capital programme (scheme reference PL58)
- 8.2 The total estimated cost is £120,960, broken down as follows:
 - Surface repairs: £30,000
 - Access restrictions (Bunds, bollards, planting etc.): £10,000
 - Signage: £5,000
 - Clearance and preparation of Commons exchange land: £3,000
 - Highway Edge repairs at Snooty Fox: £30,000
 - Legal Fees: £15,000
 - Costs for externally lead consultation: £8,000
 - Production of consultation documents and visual displays: £6,000
 - Publishing costs for statutory notices: £1,200

- Common Land application to PINS: £7,000
- Contingency 5%: £5,760

8.3 Current spent on the budget is £22,000, leaving £99,000 remaining.

8.4 There is a budget shortfall should the Executive agree to implement the car parking spaces to Highway Standards opposite the shops in Kings Road (area 2).

9 Legal Implications

9.1 The aim of the proposals is provision of car parking areas compliant with the Commons Act 2006.

9.2 In order to provide legal clarification to residents and ability to enforce against offenders, officers propose to introduce new byelaws that regulate activities on Shalford Common in accordance with the Scheme of Regulation dated 14 April 1939.

9.3 Should new byelaws be created, the Council will have another means of enforcement by prosecuting those who contravene them. Byelaws generally should cover gaps in existing legislation, not to re-create an already-existing offence.

9.4 The revocation and making of any new byelaws are subject to the approval of the Secretary of State (DEFRA). The government have produced a set of model byelaws that can be downloaded and adapted as appropriate.

9.5 The revocation of the existing byelaws and creation of new, more modern byelaws would be a more effective deterrent.

9.6 A number of statutory notices and applications will be required to implement the proposals, such as de-registration of common land.

9.7 Although there is no legislation specifically prohibiting parking on common land, driving over it is an offence. The police have powers to prosecute under section 34 of the Road Traffic Act 1988 for an offence similar to the Council's powers under section 193(4) of the Law of Property Act 1925. Any prosecution would have to be in the public interest.

9.8 Prosecution under either the existing byelaws or the Law of Property Act, or by the police under the Road Traffic Act, would require a significant amount of evidence gathering in order to make out the offence.

9.9 Section 41 of the Commons Act 2006 provides a power of enforcement for works carried out on common land after 1 October 2007. There is no power to enforce for works carried out prior to that date (the power to enforce works before this date was repealed by the Commons Act 2006), and therefore such works (such as the car parks at the Parrot Pub or the Recycling Centre) are immune from enforcement.

9.10 Despite the fact that the pre-existing works are immune from enforcement, further works, including maintenance works, would require consent from the Planning Inspectorate.

9.11 Building car parks on the common without deregistering those sections first, would require those car parks to be reasonably necessary to enable the public to enjoy the

Common. To enable the parking spaces to be used by the public at large, they must be deregistered.

- 9.12 For those developments which are immune from enforcement and/or cause few complaints from residents, Counsel has suggested leaving historic issues to lie. Going forward, the Council should look to create sensible car parking areas, and ensuring the proper maintenance and repair of the access tracks.

10 Human Resource Implications

- 10.1 There are no Human Resource implications as result of the proposals.

11 Summary of Options

- 11.1 Officers have proposed a number of options for seven priority areas in order to deal car parking issues, encroachments, and complaints on Shalford Common which were subject to consultation.

- 11.2 Appendix 3 outlines the proposed options resulting from the consultation carried out between September and December 2020.

- 11.3 The principal options considered in dealing with the issues are:

- (a) Identifying areas for car parking.
- (b) Updating byelaws to allow enforcement to prevent obstructions and encroachments onto Common Land.
- (c) Measures to achieve legal compliance

Options summary:

Priority Area	Officers' Recommendation	Issues:
1a) Huber's Garage/ Mitchell's Row	Implement supported option: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track	Recommendation is supported in consultation
1b) Cricket Club Parking	Implement supported option: Formalise parking agreement with Cricket Club. Apply for Commons consent to install access gate.	Recommendation is supported in consultation
2) Kings Road Shop front	Detailed development of each option through the Council Projects Governance procedure by producing a mandate to consider costs and feasibility of the three proposals. Provide interim solution to	A decision is required whether to develop option preferred by consultees <ul style="list-style-type: none"> • Major cost implication (£70 – 90k)/ Funding shortfall. • Removal of Land from Registered Common.

Priority Area	Officers' Recommendation	Issues:
	allow removal of existing concrete blocks whilst preventing unsafe site access.	<ul style="list-style-type: none"> Further alterations for this junction may be required to enable development sites in Waverley Borough.
3) Pound Place	Implement second supported option: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track	This will enable to introduce bylaws across the common and protect the green space amenity.
4) Parrot Pub Car Park	Implement supported option: De-register Common Land for pub car park area and provide exchange land	Removal of Land from registered Common. Risk: Application may be unsuccessful. Cost implication.
5a) Access track to Dagley Lane Caravan Park	Implement second supported option: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track	This will enable to introduce bylaws across the common and protect the green space amenity.
5b) Recycling Car Park	Tolerate current situation.	A decision is required whether to proceed with any measures Options <ul style="list-style-type: none"> a) Do nothing b) Develop further proposals to implement parking restrictions which may resolve issues in area 2.
6) Dagley Lane/ Juniper Terraces	Implement second supported option: Create designated parking areas adjacent to access track and introduce new byelaws to enforce against parking on the track	This will enable to introduce bylaws across the common and protect the green space amenity.
7) Ashley House access track	Narrow the track to prevent parking and obstruction to care home and introduce new byelaws to enforce against parking on the track. Develop proposal with Engineering team and in liaison with Surrey CCs improvements in that area.	A decision is required whether to proceed <ul style="list-style-type: none"> a) with physical measures thorough S106 or b) rely on enforcement through byelaws

12 Conclusion

12.1 The intended outcomes of the project are

- (a) Compliance with the Council's landowner obligations to protect Shalford Common from encroachments in line with the Commons Act 2006
- (b) Reduction of conflicts and complaints regarding un-authorised car parking on the Common
- (c) Provision of car parking areas compliant with the Commons Act 2006

12.2 A consultation was carried out in 2020 on a set of options for seven priority areas that are subject to complaints, user conflict, and encroachments.

12.3 42 consultation responses were received.

12.4 Appendix 3 outlines the consultation results on each option and officers' recommendations to carry out next steps to achieve the project outcomes.

13 Background Papers

[Executive Report: Shalford Common Land Management – 7 January 2020.](#)

14 Appendices

Appendix 1: Consultation report

Appendix 2: Priority Areas maps and Photos

Appendix 3: Consultation results on each option and officers' recommendations to carry out next steps to achieve the project outcomes