

**Report to:** Lead Member for Transport and Environment

**Date of meeting:** 21 February 2022

**By:** Director of Communities, Economy and Transport

**Title:** Application to de-register and replace a Town & Village Green on land known as The Triangle, Hailsham - VG 35

**Purpose:** To seek approval to join the Wealden District Council application under Section 16 of the Commons Act 2006

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***Recommendations:***

**The Lead Member is recommended to:**

**(1) agree to East Sussex County Council becoming a joint applicant in the Wealden District Council application already submitted to the Secretary of State under Section 16 of the Commons Registration Act 2006 for the de-registration and replacement of Town & Village Green VG35 to allow highway improvement works for further housing; and**

**(2) delegate authority to the Director of Communities, Economy and Transport to take all necessary steps in connection with the application, including but not limited, to signing the application form, providing evidence in support of the application and any further requirements of the Secretary of State.**

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**1 Background Information**

1.1 Section 16 of the Commons Act 2006 allows an applicant to de-register land that is registered as Town & Village Green (TVG) in the Register of Towns and Village Greens. That Section also allows for land to be provided to 'replace' the land that has been de-registered.

1.2 To enable highway improvements and residential development, Wealden District Council (WDC) wishes to de-register a section of existing TVG land in Hailsham parish. The de-registered land is needed for an improved road junction and will be replaced with a new, larger area of TVG, also in Hailsham parish.

1.3 WDC have therefore applied to the Secretary of State for the Environment, Farming and Rural Affairs (DEFRA) under Section 16 of the Commons Act 2006. This application has been made via the Planning Inspectorate.

1.4 The Planning Inspectorate have advised that East Sussex County Council (ESCC), as Highway Authority, should be a joint-applicant in this case. This is due to a Public Footpath (maintained by ESCC) running through the proposed 'replacement' TVG land.

1.5 During consultation by WDC, one objection was received. However, this is resolved and withdrawn on the condition that ESCC joins the WDC application.

### ***The Release Land***

1.6 The land to be de-registered (“the Release Land”) is known as ‘The Triangle’ located at the junction of A295 South Road and B2104, Ersham Road lying to the south-east of South Road and west of Ersham Road. It is owned by Hailsham Town Council. See Plans 1 & 2 at Appendix 1. The land is 0.2 hectares (2,000 square metres) and is currently used for recreation – for example, dog walking and occasional ball games. There are no registered common rights on this land.

1.7 ESCC is not aware of any access rights under Section 193 of the Law of Property Act 1925 affecting the existing village green. There is a pedestrian access to the land from the footway of Ersham Road via a gate. There are no known archaeological finds or sites within or in the vicinity of the Release Land.

1.8 The northern end of the Release Land has an electricity sub-station constructed on a small part of the village green. According to the East Sussex County Council Register of Town and Village Greens, the former South Eastern Electricity Board and its successors claim to have acquired, on 27 February 1970, rights to route underground cables into their substation for the purposes of carrying on their undertaking. There is also a bus shelter constructed on the rear of the footway of South Road which may slightly impinge onto the Release Land.

1.9 There are existing hedges forming the eastern and north-western boundaries of the area (that is on the two sides abutting public roads). The southern boundary abutting private housing is a mixture of hedges and wood panel and chain link fencing. There is access through the Ersham Road boundary via vehicle and pedestrian gates.

### ***The Replacement Land***

1.10 The ‘Replacement Land’, to be given as TVG in exchange for the Release Land, is land to the west of the Cuckoo Trail approximately 220 metres north of the junction with Ersham Road, forming plot number 8900 on the 1971 Ordnance Survey 1:2,500 map. It is not already registered as common land nor town/village green. See Plans 2 & 3 at Appendix 2.

1.11 The Replacement Land is owned as freehold by Wealden District Council. There are no leaseholders, other occupiers or known easements which would interfere with the public's rights to use the Replacement Land. Public Footpath Hailsham 50 runs east to west through the Replacement Land, just inside the northern boundary. The existence of the footpath facilitates access to the proposed TVG. The proposed TVG does not interfere with the public's rights to use the footpath.

1.12 There are no access rights under Section 193 of the Law of Property Act 1925 affecting the Replacement Land. Wealden District Council, as owner, has constructed an access ramp from the adjacent Cuckoo Trail (used by cyclists, equestrians, and pedestrians) to facilitate safe and convenient access to the Replacement Land.

1.13 There are no known archaeological finds or sites within or in the vicinity of the Replacement Land.

1.14 In agricultural terms, the Replacement Land was used until recently as occasional low-grade summer grazing for sheep and cattle. This use only ceased with its transfer to Wealden District Council.

1.15 The Replacement Land is already open to the public and anecdotally appears to be mainly used by Cuckoo Trail users – for example resting or having picnics. However, as the land has been opened to the public for less than a year and is not advertised as such, there has not been time for a clear pattern of use to emerge.

1.16 There are no structures on the Replacement Land.

1.17 The Replacement Land is fenced on the east adjoining the Cuckoo Trail with wire stock fencing on wooden posts. The southern and western boundaries comprise a hawthorn and blackthorn hedge. The northern boundary is defined by a row of mature trees and an ordinary watercourse. There is access along the public footpath from the east (Cuckoo Trail) via a gap in the boundary fence/hedge and from the west (Ersham Road) via a stile. There is also access from the Cuckoo Trail via a gap in the boundary fence/hedge and the recently constructed ramp.

1.18 A disability-compliant access ramp into the replacement land from the adjacent Cuckoo Trail has already been constructed. The access steps on the statutory public footpath have been rebuilt and the stile between the Trail and the Replacement Land replaced with a more accessible gap. Stock use outside the Replacement Land prevents the western public footpath stile being made into a gap, but a self-closing gate will be provided here. Following a tree survey by the District Council's arboriculturist, all urgent tree works have been carried out at this location.

1.19 These works have enabled the Replacement Land to be opened to the public for recreational use in advance of any possible village green exchange. Further works may comprise more native tree planting, provision of picnic benches etc., but these will be held in abeyance until it is seen if any particular use patterns or user suggestions emerge over time.

## **2. Supporting Information**

2.1 The existing Release Land is sited at the junction of the A295 South Road and the B2104 Ersham Road, with the actual junction being controlled by a mini roundabout. There is a staggered junction into the Town's main industrial Estate, Diplocks Way, 40-metres south-west of the mini roundabout. Between these two points is the entrance and exit from a petrol station and there are further turnings into a narrow domestic road (Gordon Road) and a builder's merchants within 30-metres to the north-east of the mini roundabout. Statistics provided by the highway authority (East Sussex County Council) show that between 2009 and 2019 (last available figures) average vehicle use per day rose from 10,470 to 11,140 on South Road, 5153 to 5872 on Ersham Road and 9,680 to 10,460 on Diplocks Way.

2.2 The town of Hailsham is taking a proportion of the housing required to meet the central government housing targets for the Wealden District with 450 new houses accessed from Ersham Road either granted planning permission or under construction. A further 800 new houses have either been granted planning permission or are under construction within the overall town of Hailsham.

2.3 Existing traffic flows are projected to increase, therefore, the existing road junction at this location needs to be redesigned to provide further capacity and to reduce the environmental and pollution problems caused by slow or static vehicles on the approach to the junction. To achieve this, the only undeveloped land available for highway improvement works at the junction is that forming the Release Land. The requirement for highway intervention at this junction was recognised by the Secretary of State in a recovered appeal decision relating to land at Oaklands, Ersham Road. This was further endorsed by an Appeal Inspector in relation to the same site. (This decision is contained within the consultation documents in Appendix 2 from Page 37 onwards.)

2.4 The present Release Land sees little use due to its small size and unattractive location adjacent to such busy roads. The Replacement Land is in a quiet, rural location and does not abut any roads. It is over twice the size of the existing Release Land. Whilst further from the town centre, it can be accessed by foot, horse and cycle from the immediately adjacent Cuckoo Trail (and by an existing public footpath from Ersham Road). The new replacement space has a stand of mature trees on the northern and western boundaries and an adjacent pond, accessed by the public footpath. It is thus considered to be more attractive to both locals and visitors to the town. It should also prove to be a useful area for the 250,000+ annual users of the Cuckoo Trail.

### **Consultations and representations:**

2.5 Consultation was carried out by Wealden District Council, which included advertising the proposal in a local paper, on site and informing the statutory consultees. (See Appendix 2 for consultation documents.)

2.6 One objection from the Open Spaces Society (OSS) was received. The OSS has confirmed, however, that their objection will be withdrawn on the condition that ESCC joins the WDC application. (See Appendix 3.)

## **3. Conclusion and reasons for Recommendation**

3.1 Improvements to the road junction next to the Release Land have been endorsed by the Secretary of State's decision in relation to land at Oaklands, Ersham Road.

3.2 These junction improvements can only be carried out by de-registering the existing TVG at that location.

3.3 The de-registered TVG would be replaced with a larger area of TVG with greater amenity value. Due to the existence of a Public Footpath ESCC is required to join WDC's application as a 'joint-applicant.'

3.4 Following consultation, the only public objection has been resolved on the condition that ESCC joins WDC's application.

3.5 Lead Member is therefore recommended to:

- a. agree to East Sussex County Council becoming a joint applicant in the Wealden District Council application already submitted to the Secretary of State under Section 16 of the Commons Registration Act 2006 for the de-registration and

replacement of Town & Village Green VG35 to allow highway improvement works for further housing; and

- b. delegate authority to the Director of Communities, Economy and Transport to take all necessary steps in connection with the application, including but not limited to, signing the application form, providing evidence in support of the application and any further requirements of the Secretary of State.

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LOCAL MEMBER:

Councillor Gerard Fox

BACKGROUND DOCUMENTS:

None