

<b>Committee(s)</b>	<b>Dated:</b>
Epping Forest and Commons	16112020
<b>Subject:</b> Land Exchange in relation to closure of part of Highway at Bell Common, Epping by Essex Highways (SEF 30/20)	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	<b>12.</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>No</b>
<b>If so, how much?</b>	<b>N/A</b>
<b>What is the source of Funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N</b>
<b>Report of:</b> Colin Buttery, Director of Open Spaces	<b>For Decision</b>
<b>Report author:</b> Tristan Vetta – Land Agent and Planning Officer – Epping Forest	

### Summary

This report is necessary to consider an approach by Essex Highways, as the responsible authority for highways within the County of Essex, to assess whether the City of London Corporation would be willing to enter into a Section 72 agreement of the Highways Act 1980 to dedicate 14m<sup>2</sup> of Forest land for highway purposes, in exchange for an adjacent 197m<sup>2</sup> of land currently utilised for highway and not registered as part of the Forest.

Essex Highways is seeking the additional highway dedication to provide a 'turning circle' for refuse trucks and wishes to return land to stop an anti-social 'rat-run' on a very small road, as motorists attempt to avoid queues and the traffic lights at the Bell Common junction of High Road (B1393) and Theydon Road. As accepted in the May 2019 report to your Committee on the Honey Lane crossing any future transactions with the County Council should be subject to completion of the Manor Road, High Beach land exchange before further projects are considered.

### Recommendation(s)

#### Members are asked to:

- i. Accept the return and restoration of 197m<sup>2</sup> of highway land at Bell Common, effectively re-uniting two parcels of Forest Land.
- ii. Approve the dedication of the returned Land as Epping Forest Land.
- iii. Approve the entry into a Section 72 agreement with Essex Highways for the use of 14m<sup>2</sup> of Forest land, for the purpose of allowing the

- manoeuvring of refuse vehicles subject to the return of 197m<sup>2</sup> highway land.
- iv. Use the 'surplus' to the exchange of 183m<sup>2</sup> as the basis to reopen negotiations with the Highway Authority to enable the closure of the Lindsey Street annexe at Epping (North) Green.
  - v. Remind Essex County Council that these transactions are consequent upon the completion of the previously agreed land exchange, outstanding since September 2011, for the traffic safety scheme at Manor Road, High Beach.
  - vi. Instruct the Comptroller & City Solicitor to undertake such documentation as necessary.

## **Main Report**

### **Background**

1. The subject of this report is the section of highway that links from the High Road (B1393) and the road known as Bell Common. The 'Bell Common Annex' section of highway intended for return has been *in situ* from at least 1880 and prior to the construction of the housing in the late 19<sup>th</sup> / early 20<sup>th</sup> century. This link is being used by motorists to avoid the traffic lights at the junction of the High Road and Theydon Road. Essex Highways have described the use of the 'rat-run' as anti-social. The road known as Bell Common is not capable of supporting two-way traffic due to the narrow width of the highway accompanied by kerbside parking by residents.
2. Your Committee of the 20 November 2017 decided within the Epping Forest Land Retention Policy that any exchange of Forest land should be undertaken on a 10:1 ratio basis in favour of Forest Land. This was approach subsequently, amended by your Committee of the 14 January 2019 that due to wider strategic value of the schemes and the consequent risk of compulsory purchase that they should be assessed on a case-by-case basis. If the returned land was wholly dedicated to this scheme the exchange ratio would be in excess of 14(highway):1(Forest).

### **Current Position**

3. Essex Highways have already been informed that the City Corporation could only consider an exchange if the 197m<sup>2</sup> of highway if the entirety of the tarmac surface is removed and reinstated as 'natural ground'. Essex Highways have confirmed that they will organise the stopping up order and extinguishing of highway rights upon the current highway prior to its transfer by freehold interest or by common law vesting to the City of London. Essex Highways will need to confirm this as part of the S.72 Agreement prior to any dedication of Forest Land.
4. Committee members has previously expressed a desire that future dedication schemes should form part of a wider strategic Highways programme for

Epping Town. This proposed exchange does not form part of any wider highway plans by Essex Highways, and is based on a recommendation by the local Epping Forest Highways Panel.

5. Previous proposals to consolidate Epping Forest land at Epping, particularly the Lindsey Street Annex at Epping (North) Green, have been frustrated by the lack of Highway Authority land available for exchange under the requirements of the land Retention Policy. The surplus land released by the Bell Common scheme could be exchanged for the land required for pedestrian public safety requirements.

### Proposals

6. For 14m<sup>2</sup> of Forest Land to be dedicated to highway in exchange of 197m<sup>2</sup> of adjacent highway to be returned to Forest. This will probably require the removal of some small oak and birch trees and will also probably require the stopping up of the highway to be returned and its freehold transfer to the City.

### Options

7. **Option 1:** Enter into a Section 72 agreement for the use of 14m<sup>2</sup> of Forest land in exchange for 197m<sup>2</sup> of highway to be returned to Forest land, within the immediate vicinity. This should be subject to an agreement that prior to the dedication of the Forest Land the 197m<sup>2</sup> of highway must cease to be highway (by means of a stopping up order being obtained), the highway surface of the 197m<sup>2</sup> is removed and reinstatement to a specified standard, and the 197m<sup>2</sup> is vested in the City as conservators of Epping Forest. **This option is recommended.**
8. **Option 2:** Enter into a Section 72 agreement for the use of 14m<sup>2</sup> of Forest land in exchange for 197m<sup>2</sup> of highway to be returned to Forest land, within the immediate vicinity. Do not insist on the stopping up or removal of the highway surface. The land would remain subject to all existing access rights and retain its highway status. **This option is not recommended.**
9. **Option 3:** Do not enter into an agreement with Essex Highways for the dedication of 14m<sup>2</sup> and do not accept the 197m<sup>2</sup> of existing highway in exchange. **This option is not recommended.**

### Key Data

10. Exchange of 14m<sup>2</sup> of Forest Land for 197 m<sup>2</sup> of highway land. The surplus 183m<sup>2</sup> could be utilised to reopen negotiations with the Highway Authority to release a long-standing Committee and Town Council ambition to close the Lindsey Street Annex fronting the war memorial on Epping (North) Green.

## **Corporate & Strategic Implications**

### **Strategic implications**

11. The proposed action supports the Open Spaces Department's Vision by preserving and protecting our world class green spaces for the benefit of our local communities and future generations and improving our use of resources through increase income generation.

### **City of London Corporate Plan 2018-2023**

12. 12(b): Our spaces are secure, resilient and well-maintained (Build resilience to natural and man-made threats by strengthening, protecting and adapting our infrastructure, directly and by influencing others.

### **Open Spaces Department Business Plan 2020-21**

13. Part C. Business practices are responsible and sustainable: j) Maximise the value and opportunities of our built and natural assets, k) Deliver opportunities arising from improved management capability from the City of London Corporation (Open Spaces) Act 2018.
14. The scheme at Bell Common meets the ambition and requirements of the Epping Forest Transport Strategy and the Epping Forest Land Retention Policy.

### **Financial implications**

15. Negotiations would look to place all costs with the requesting authority.

### **Resource implications**

16. Local officer time will be required to negotiate terms.
17. City of London legal team will have to draw up agreement.

### **Legal implications**

18. Section 33(1)(iv.) of the Epping Forest Act 1878 provides the Conservators with the necessary powers '*to maintain and make roads, footpaths, and ways, and to dedicate roads to the public...*'. All other implications are contained in the report.
19. Section 33(xxvi) of the Epping Forest Act 1878 provides powers '*To acquire by voluntary grant or by agreement any land adjoining the Forest, or reputed to have been formerly part of the waste lands thereof, and the minerals thereunder, and the timber thereon, or any or either of the same lands, minerals, and timber separately*'. Section 10(1) of the City of London (Various Powers) Act 1956 further confirms that land acquired under Section 33(xxvi) '*shall be deemed to be and always to have been as from the date of acquisition or appropriation part of the open waste*

*lands of Epping Forest and subject accordingly to the regulation and management of the conservators’.*

20. Under section 72 (Widening Highway) of the Highways Act 1980 part 1: *A highway authority may widen any highway for which they are the highway authority and may for that purpose agree with a person having power in that behalf for the dedication of adjoining land as part of a highway.*

### **Risk implications**

21. The increase in Forest Land and stopping of the ‘rat-run’ should be a positive approach to enhance Forest user access and enjoyment. However, the action will inevitably not be favourable to some members of the public. The stopping up process will involve public notice and opportunity for objection, and the evaluation of all relevant considerations will need to be carried out prior to any stopping up order being made.

### **Equalities implications**

22. N/A

### **Climate implications**

23. The action will lead to more queuing at the Bell Common/Theydon Road junction, which will result in more idling traffic in the District’s only Air Quality Management Area (AQMA).

### **Security implications**

24. Reduction in highway verge of Forest, which is most susceptible to fly-tipping.

### **Charity implications**

25. Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.

### **Conclusion**

26. Essex Highways do not have an excess of available land to exchange for any highway dedications requested to the City of London, this scenario allows for the removal of a ‘rat run’, improved accessibility to Forest users and at net gain of 183m<sup>2</sup> of land to the Forest, that will not require additional funding.

### **Appendices**

**Appendix 1:** Maps of Bell Common, provided by Essex Highways

**Appendix 2:** Pictures of location.

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