

Committee(s): Epping Forest and Commons Committee – For decision	Dated: 18/05/2023
Subject: The Commons: Farthing Downs Land Registry mapping anomaly adjustment	Public
Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?	10/12
Does this proposal require extra revenue and/or capital spending?	Y
If so, how much?	£500 est
What is the source of Funding?	
Has this Funding Source been agreed with the Chamberlain’s Department?	Y (Local risk)
Report of: Juliemma McLoughlin, Executive Director, Environment Department	For Decision/
Report author: Geoff Sinclair, Assistant Director The Commons	

Summary

The City Corporation’s landholding at Farthing Downs, part of the Coulsdon Commons Charity (number 232989), was registered with the Land Registry in 2011. The London Borough of Croydon have approached the City Corporation to say that they consider the City’s registered landholding includes land they acquired in 1925. Local staff also share this opinion and have worked with staff from the LBC over many years in joint arrangements involving the land concerned. It is proposed that a Land Registry application or transfer be undertaken to restore the boundary situation to reflect the locally understood situation.

Recommendation(s)

Members are asked to:

- Agree that a Land Registry application is made to restore the boundary of the City Corporation’s registered title to Farthing Downs to reflect the locally understood boundaries, or alternatively that a Transfer of the relevant strip of land is made by the City Corporation back to the London Borough of Croydon for nil consideration to achieve the same effect.

Main Report

Background

1. In 2011 the City Corporation completed a project to register the landholdings of the Open Spaces Charities with the Land Registry Office. Farthing Downs is one of four land areas that comprise the Coulsdon Commons Charity (number 232989) and whose boundary was registered at this time.
2. The general boundary shown on the Land Registry map SGL722967 (Appendix One), and edged in red, shows the eastern side to have a clearly defined boundary with neighbouring residential properties.

Current Position

3. On 13th Jan 2023 the London Borough of Croydon (LBC) approached the City Corporation and advised they considered the Land Registry map for a 1-mile section along the eastern site boundary to be inaccurate. The LBC claim there is a section of land between the residential boundary and a public right of way (Footpath number 73) internal to the site which they acquired on the 22nd Sept 1925 and for which they hold copies of the deeds and maps relating to the purchase. This land had not been registered by them.
4. City Corporation staff managing the site have always understood the land was the responsibility of the LBC and have worked closely with their Countryside staff on its management.
5. The mapping of the land concerned in 2011 showing it to be owned by the City Corporation appears to misrepresent the actual boundary as locally understood by City Corporation and LBC staff. The land concerned is shown on the map in Appendix Two and represents an area of around 0.15ha.
6. Footpath 73 is an attractive green lane through mature to ancient yews. It is however on a steep slope with many mature Ash trees in the process of decline from ash dieback and which will pose a significant tree safety liability. The boundaries with the residential properties are also complex and in varying condition.

Options

7. Option 1: To maintain the Land Registry as it is mapped and unchanged. This has potential to risk a legal challenge from the LBC, however, LBC officers have said that 'we could look at options for it to remain registered with the City under the current title, and transfer ownership to yourselves'. There does not appear to be any level of threat to the land that would impact our landholding through the City Corporation not owning it and the nature of the land brings with it significant liabilities that will be costly to respond to. **This is not recommended.**

8. Option 2: To reregister the boundary so that it reflects the boundary as understood by the LBC and local City Corporation staff. This will recognise the locally understood situation and would also mean that any assumed liability for the significant tree safety and boundary concerns would be avoided. As a Land Registration error rather than transferring any legal title there are believed to be no charity implications to be considered. Staff time and some finance will be required to resolve the mapping anomaly which LBC have indicated they could progress. **This option is recommended.**

Proposals

9. Since its acquisition of Farthing Downs local staff have always understood there was a narrow strip of land with an unmarked boundary along the eastern edge of the site. The land concerned was registered by the City Corporation in 2011 however this situation was not recognised by local staff who continued operating as if it was not owned by the City Corporation.
10. The proposal would allow for the boundary to be remapped and a Land Registry application made (or, if required, a Land Registry transfer effected) to correct the boundary to the title of the City's land to reflect the boundary as understood by both the LBC and local City Corporation staff.

Key Data

11. A land area of 0.15ha would be transferred to the ownership of LBC

Corporate & Strategic Implications

Strategic implications

12. None

Financial implications

13. None

Resource implications

14. An estimated two staff days are likely to be required to undertake the Land Registry transfer. This would involve officers from the City Surveyors and Natural Environment Divisions. Some legal costs and Land Registry Fees will also be incurred by the Comptroller and City Solicitor in making the necessary Land Registry application and/or (if needed) effecting a Land Registry transfer. This is estimated to cost £500 and LBC have indicated they will meet these costs

Legal implications

16. The correction of the title boundary of the City's land (or alternatively, registration of a transfer of the strip of registered land in question to achieve the same effect) is a legal process managed by the Land Registry and will require both the LBC and the City Corporation to provide evidence in support of the change. It will be the responsibility of LBC to secure registration of title to its own land.

Risk implications

17. None if the land is transferred back to the LBC

Charity Implications

18. Coulsdon Commons is a registered charity (232989). 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.

19. It is considered that the Land Registry application (or alternatively, corrective land transfer) being in response to correcting a Land Registration error rather than transferring any legal title there are no charity implications to be considered.

Equalities implications

20. None

Climate implications

21. None

Security implications

22. None

Conclusion

15. Farthing Downs Common was registered with Land Registry in 2011. An anomaly in the Land Registry boundary was identified in 2023 where a narrow strip of land was included in the City Corporation's landholding and which following representation by the LBC should be shown to belong to them.

16. It is proposed that the boundary be re mapped and a Land Registry application be made (or alternatively a transfer be effected to achieve the same effect) to restore the boundary situation to the agreed limits.

Appendix

Appendix 1 – Farthing Downs Common Land Registry map

Appendix 2 – Farthing Downs Common: Land Registry Mapping anomaly.

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