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# Application Decision

Site visit held on 12 June 2018

**By Martin Elliott BSc FIPROW**

**An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 5 July 2018**

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**Application Ref: COM/3193122**

**Land west of Central Parade, New Addington**

Register Unit: VG 0901

Registration Authority: London Borough of Croydon

- The application, dated 20 December 2017, is made under Section 16 of the Commons Act 2006 ("the 2006 Act") to deregister and exchange land forming a town or village green.
  - The application is made by the London Borough of Croydon (the Council).
  - **The release land** comprises 53.2 m<sup>2</sup> of land west of Central Parade at New Addington, Croydon.
  - **The replacement land** comprises 60 m<sup>2</sup> of land west of Central Parade at New Addington, Croydon.
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## Decision

1. Consent is granted in accordance with the application dated 20 December 2017, to deregister and exchange land forming a town or village green at New Addington, Croydon (Register Unit VG 0901). For the purpose of identification only a copy of the application plan is attached to this decision.

## Preliminary Matters

2. I carried out an accompanied site visit on 12 June 2018 when I was joined by representatives of the Council and the objector. I carried out an unaccompanied inspection of Chertsey Crescent prior to the accompanied visit and none of the parties wished to walk this route accompanied.
3. The objector makes representations in relation to the notices of the application placed in the Croydon Guardian and on site.
4. In respect of notices published in the Croydon Guardian these were first published on 17 January 2018. However, the notice contained an error in respect of the closing date for representations. Consequently a further notice was published on 30 January 2018 giving a further 28 days for representations to the application to be made. Whilst there was a typographical error in the notice of 17 January 2018 this was rectified in the subsequent notice. There is nothing to indicate that anyone will have been prejudiced by the initial error. It is noted that a notice was also published in error on 20 December 2017 and, as accepted by the Council, this did not meet the advertising requirements.
5. I note the concerns as to the circulation of the Croydon Guardian and whilst the distribution of the newspaper may be sporadic the objector recognises that the

newspaper provides a good service in publishing official notices. Notices are also published on the newspaper's web site although I recognise that not everyone will have access to the website. The Regulations<sup>1</sup> require that a notice of an application must be published in a newspaper circulating in the area. Whilst there may be issues with the circulation, the Croydon Guardian is a newspaper circulating in the area and it is used to publish public notices. The use of the Croydon Guardian is in accordance with the Regulations. Again there is no evidence of any prejudice.

6. As regards the location of the site notices the Regulations require that notices of an application should be posted at the main points of entry to the release and replacement land. If there are no such places, the notices must be posted at conspicuous places on the boundaries of the lands. There are no clear entry and exit points to the release and replacement land and consequently the notices should be posted on the boundaries of the land. Whilst the notices could have been posted aside the main pedestrian walkways close to the replacement and release land the notices were posted on the boundaries of the land at conspicuous locations which are accessible to the public. As such the locations comply with the Regulations. There is again no evidence that anyone will have been prejudiced by the positioning of the notices.

### **Main Issues**

7. I am required by section 16(6) of the 2006 Act to have regard to the following in determining the application.
  - (a) the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
  - (b) the interests of the neighbourhood;
  - (c) the public interest;<sup>2</sup>
  - (d) any other matter considered to be relevant.
8. I have had regard to Defra's Common Land Consents Policy Guidance<sup>3</sup> (the 2015 Guidance) in determining this application which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.

### **The Application**

9. The application is to facilitate works for the redevelopment of the former library building which is adjacent to the town or village green (for convenience I shall refer to the town or village green as the Green). More specifically to create a safe and secured route for construction vehicles to access the development site in order to protect the public and users of the Green whilst the works proceed. The vehicular access will be required throughout the construction period estimated to be 16 months. Access from Chertsey Crescent to the development site is deemed unacceptable. It is considered a very narrow

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<sup>1</sup> The Deregistration and Exchange of Common Land and Greens (Procedure) (England) Regulation 2007

<sup>2</sup> Sections 16(8) and 39(2) of the 2006 Act provides that the public interest includes the public interest in: nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

<sup>3</sup> Common Land consents policy (Defra November 2015)

residential road with limited access for larger vehicles which would create greater safety issues and disruption to local residents.

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

10. The release land comprises a strip of land, measuring 13.3 m x 4 m (an area of 53.2 m<sup>2</sup>). The land is grassed. Following the completion of the construction works the release land will be turfed and incorporated into the Green.

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

11. The replacement land comprises a strip of land 31.6 m x 1.9 m (an area of 60 m<sup>2</sup>) and is located to the south east and in close proximity to the release land. The land currently forms part of a public car park although parking is currently suspended as the car park, other than the replacement land, is occupied by site offices associated with the construction works in the area. Under the proposal the boundary of the car park will be adjusted and the replacement land will be turfed and incorporated into the Green.

### **Representations**

12. Following the notice of the application one objection was raised by a local resident. The Open Spaces Society also responded to the notice of the application but do not object to the proposal.

### **Assessment**

#### ***Interests of those occupying or having rights over the land***

13. There are no rights of common recorded in the register of town and village greens. There is nothing to indicate that anyone occupying or having rights over the release land will be adversely affected by the application.

#### ***Interests of the neighbourhood***

14. The 2015 guidance indicates that the issues to be considered in this context includes whether the exchange would prevent local people from using the town or village green in the way they are used to, and whether or not there would be an interference with the future use and enjoyment of the town or village green.
15. The objector makes the point that functions held in the Addington Community Centre spill out of the side doors onto the grassed area of the release land. With the construction of roadway hoardings it is contended that such use cannot be considered enjoyable and that the hoardings cannot be considered to allow the enjoyment of the remainder of the Green. I would accept that any hoardings may have an impact on the enjoyment of the area. The hoardings will be of a temporary nature, albeit for a significant period<sup>4</sup>, and their impact on the enjoyment of the Green will therefore be time limited. In respect of the enjoyment of the remainder of the Green, whilst the hoardings may restrict, but not prevent, access any impact will be temporary. The Council have stated that on the completion of the construction works the release land will be turfed and will be made available for public use. Whilst there is no legal binding agreement before me to assure continued access to the land some weight should be given to the assertion of the Council that access will be permitted. I do nevertheless note the concerns of the objector in respect of previous

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<sup>4</sup> The application indicates that, at the time of the application, it was estimated that the access will be required throughout the construction period estimated to be around 16 months.

restrictions on access to the Green. However, and in any event, the release of this land will not prevent access to, or enjoyment of, other parts of the Green and there will be no net loss in the area of the Green.

16. Although there may be some temporary loss of enjoyment of part of the Green I do not consider that the exchange will interfere with the future use and enjoyment of the Green. There is nothing before me to indicate that there will be any significant adverse effect on the interests of the neighbourhood.

### ***The public interest***

#### *The protection of public rights of access*

17. In respect of the effect on public rights of access I refer to my observations at paragraphs 15 and 16 above which are equally applicable to public access. Bearing in mind my previous observations I do not consider that the exchange will have any significant adverse effect on public rights of access.

#### *Nature conservation*

18. Natural England have been consulted on the application and have made no representations in response. The release land is amenity grass and will be turfed on the completion of the construction works. The replacement land currently has a tarmac surface but the land will be turfed and be incorporated into the green. There is no evidence before me to indicate that the exchange will have any adverse effect on nature conservation.

#### *Conservation of landscape*

19. As noted at paragraph 18 above the release land will be turfed on the completion of the construction works and the replacement land will also be turfed and incorporated into the green. I do not consider that the exchange will have any adverse effect on the landscape.

#### *Archaeological remains and features of historic interest*

20. Historic England have been consulted on the application and have made no representations in response. There is no evidence that the exchange will have any adverse effect on archaeological remains or features of historic interest.

### **Other relevant matters**

21. The objector makes the point that the reasons for the application provided in the informal consultation and the site notice are in complete contradiction to the main contractor's 'Construction Management Plan'. Whilst I note this assertion I am required to consider the application on its merits and on the basis of the evidence before me. The application has been made to create a safe and secured path for construction vehicles and in order to protect the public and users of the Green. The Council say that the use of Chertsey Crescent is deemed not to be acceptable. The evidence from the Construction Management Plan provides background information as to the need for an alternative access.
22. The Council advise that the original Construction Management Plan was reviewed in the light of further design details, site investigations and the construction programme which enabled a more detailed analysis of the construction logistics. The review identified a number of issues.

23. Chertsey Crescent forms the only access to the development site and due to the nature of the current works the access along Chertsey Crescent is not restricted. As works progress three elements of the planned works will restrict access through Chertsey Crescent. Firstly the haul road within the site leading from Chertsey Crescent will be closed during the excavation of the plant room and additionally the installation of sheet piling is to be supported by anchors which will extend into the haul road. As a consequence access for heavy construction vehicles and delivery of materials through Chertsey Crescent will not be available throughout the construction period. Secondly the planned erection of a blockwork party wall will require the installation of an independent scaffold alongside the haul road thereby preventing its use by vehicles. Thirdly the construction of the housing development which will be located on the haul road, planned for March 2019, will eliminate the use of the haul road and prevent site deliveries from Chertsey Crescent.
24. The Council also advise that the completion date for the community and leisure centre has been revised and is currently scheduled for October 2019. Consequently with the commencement of the housing development in March 2019 the construction of the leisure centre will be ongoing. The access through Central Parade and the release land will be required for both the leisure centre and housing development. Further, a soakaway, which is structurally unsafe to take loadings from construction vehicles, will eliminate access which may have been used for deliveries to one of the elevations of the building. A new access is therefore required from an alternative location via Central Parade.
25. The objector disputes that the construction of the plant room will be influenced by vehicles using the haul road and that the installation of the sheet piling will have little detrimental effect on the haul road. It is also claimed that there is sufficient width to accommodate the haul road and the scaffolding for the party wall. However it is acknowledged that on the construction of the housing development from March 2019 the haul road can no longer remain.
26. In my view, given the progression of the development, access to the construction site from Chertsey Crescent will become more restricted. With the commencement of the housing development and the ongoing construction of the leisure centre access will be required from Central Parade and therefore over the Green. The release land will provide such access. The exchange will enable the access route to be protected by hoardings to ensure the safety of the public and users of the Green and facilitate the redevelopment of the former library building. Additionally, as noted in the application, Chertsey Crescent is a narrow residential road with limited access for larger vehicles. The use of this road by larger vehicles would present safety issues and continued disruption for local residents. I noted on my site visit that temporary parking restrictions are in operation on Chertsey Crescent which will have some impact on residents. The exchange will address such issues.
27. The objector questions the motive of the Council in making the application given that in the past there have been temporary restrictions without any applications under section 16 of the 2006 Act and, in this context, questions why the release land could not be re-registered. I have no information as to the length of previous temporary restrictions. However, the application indicates that the vehicular access over the Green will be required throughout the construction period estimated at around 16 months. In my view this is a significant period such as to warrant an application under section 16 of the 2006 Act. There is nothing before me to indicate that the Council has other

motives. In respect of the re-registration of the land I can appreciate the concerns but the application and public notices make it clear that the release land will be re-turfed on the completion of the construction works and will be available for the use by the public. As noted above, whilst there is no legal agreement to secure access to the release land, some weight should be given to the assertions of the Council that access will be permitted. In any event, replacement land is being provided and there will be no loss of town or village green land.

28. It is contended by the objector that the unnecessary exchange land results in the loss of four car parking spaces. In response the Council make the point that the contractor's welfare facility is located on the car park, with the exception of the replacement land, and that car parking is currently suspended. It is stated that the existing leisure centre is operating normally with sufficient parking spaces in a second adjacent car park to accommodate all leisure centre users without causing any inconvenience. On the completion of the construction works and the opening of the new leisure centre two car parks will be open again.
29. The exchange will result in a reduction in the size of the car park which the Council say amounts to an area equal to four parking spaces; they do not say that four car parking spaces will be lost. However, there is nothing before me to suggest that the current restrictions on car parking arising from the positioning of the welfare facility is causing any significant inconvenience for leisure centre users or that others are significantly inconvenienced. Following the completion of the construction works the car parking area on which the welfare facility stands will be restored and there will then be two car parks available. Overall I do not consider that the reduction in the size of the car park will give rise to any significant adverse impact.
30. Returning to the point in respect of the unnecessary exchange land (paragraph 28), section 16(2) requires the provision of replacement land where the area of release land is more than 200 m<sup>2</sup>. There is no requirement to provide replacement land where the area is less than 200 m<sup>2</sup>. Nevertheless the 2006 Act provides that where the area is less than 200 m<sup>2</sup> then replacement land may be provided. Further, the 2015 guidance makes it clear that even where the release land is less than 200 m<sup>2</sup> there is an expectation that replacement land is provided so that the stock of common land and greens is not diminished. The replacement land provided in this case means that the area of the Green is not diminished.
31. The objector makes the point that guidance indicates that land to which the public already have access should not be used as replacement land and therefore, the replacement land, if forming part of the adopted highway should not be accepted. The Council has provided a plan showing the adopted highways in the area. The replacement land does not form part of any adopted highway. I would acknowledge that the public have some access to the replacement land for the parking of vehicles. However, the release land is for the use for lawful sports and pastimes the replacement land does not currently afford such opportunities. As such the use of the replacement land in exchange is appropriate.
32. Objections are raised to the suggestion of the Council that as soon as works start on the access route through the release land then the replacement land will have been re-turfed. The objection is on the basis that hoardings around

the contractor's welfare facility will severely restrict that work. However, the welfare facility is not on the replacement land and there is nothing before me to indicate that the Council will not be able to improve this land. I would accept that to carry out the works then it may be necessary to use the adjacent Green. However, there is nothing to indicate that any works will adversely affect the Green to any significant extent.

### **Other Matters**

33. The objector raises concerns that more applications under section 16 will further fragment the Green. In this respect the objector provides some background information in respect of the original registration of the Green. Whilst I note these concerns any future applications will need to be considered on their merits. I am required to determine the application having regard to the criteria set out at paragraph 7 above and the relevant guidance.
34. Representations are made by the objector in respect of the development of the area including the Croydon Local Plan, encroachments onto the Green, operational activities in relation to the development and safety issues in respect of the provision of a crane within the construction site. These are not matters relevant to my consideration of the application.

### **Conclusion**

35. Having regard to these and all other matters raised in the application and in the written representations I conclude that the exchange will not have any significant adverse effects on those with rights of common over the land. There will be no significant adverse effect on the interest of the neighbourhood or the public. The exchange will enable the provision of a secured route for construction vehicles whilst protecting the public and users of the Green. The exchange will facilitate the redevelopment of the former library building. No other issues are raised which lead me to conclude that the exchange should not take place. The application is allowed.

*Martin Elliott*

INSPECTOR

## Order

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to section 17(1) and (2) of the Commons Act 2006, **I HEREBY ORDER** the London Borough of Croydon, as commons registration authority for the area in which the release land and the replacement land are situated:

- (a) to remove the release land from its register of town or village greens, by amending register unit VG 0901 to exclude the release land;
- (b) to register the replacement land as a town or village green, by amending register unit VG 0901 to include the replacement land; and
- (c) to register as exercisable over the replacement land (in addition to remaining exercisable over the remainder of the land comprised in register unit VG 0901) any rights of common which, immediately before the date on which the release land is removed from the register, are registered as exercisable over the release land and the remainder of the land comprised in register unit VG 0901.

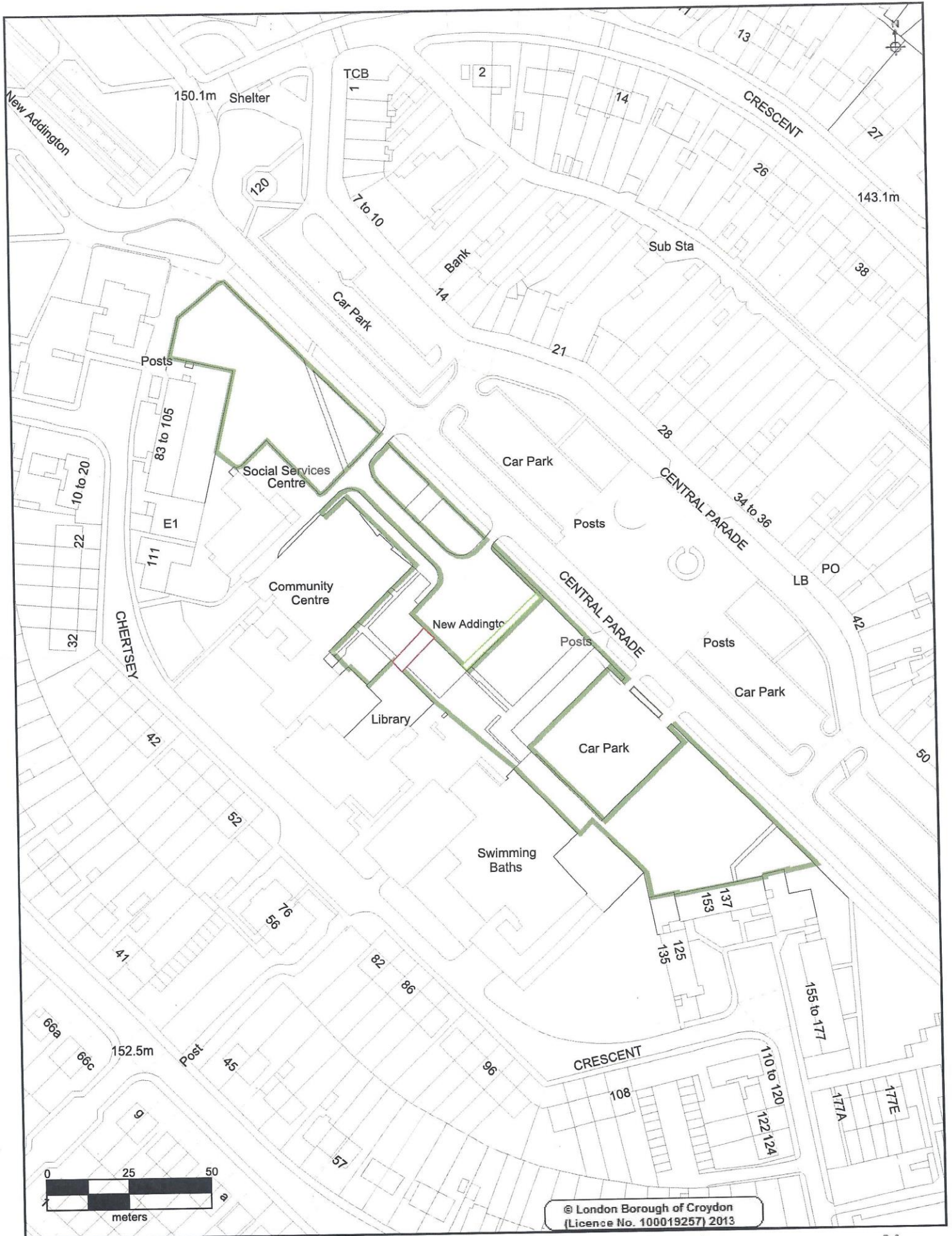
### First Schedule – the release land

Colour On Plan	Description	Extent
Edged red	Land forming part of register unit VG 0901, comprising an area of land of 13.3m x 4m.	53.2m <sup>2</sup>

### Second Schedule – the replacement land

Colour On Plan	Description	Extent
Edged light green	Land abutting VG 0901 currently forming part of a car park over which car parking is currently suspended and comprising an area 31.6m x 1.9m.	60m <sup>2</sup>





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**Legend**

Existing TVG (6452m2)

Release Land

