

4. Discussion

Un-authorised works

- 4.1 On receiving information about the unauthorised works an officer attended the site and spoke to the perpetrator to explain the nature of the common land and to state that the Council would take measures to enforce the removal of the items.
- 4.2 After a period on time (3 weeks) in which no action was taken by the perpetrator, the Council formally requested in writing that the offending items be removed within 28 days. To date no physical action has been taken by the perpetrator, however he has submitted details and reasoning for his actions, attached at Appendix A.
- 4.3 He has also submitted a petition in support of the works, signed by some 400 people, and the following which he has received from the Old Town Residents' Association - "The BOTRA committee have considered the situation and, contrary to our normal stance, we are very sympathetic to the work done. It certainly cleans up the corner and contributes to the appearance of the Old Town. Whilst it does reduce the number of (unofficial) parking spots available, it is a significant improvement which more than mitigates for the loss of parking. You may be asked to seek retrospective planning permission for which BOTRA, amongst many local residents, would be supportive of your application."
- 4.2 There are four options:
- 1) Do nothing,
 - 2) Note the information that has been submitted, together with the local support, and allow the items to be retained subject to certain conditions.
 - 3) Pursue the removal of the items by the Council's action and reclaiming expenses
 - 4) Option 3 and also prosecute the perpetrator in the Magistrates Court for a breach of the Byelaws.
- 4.3 Conditions for the retention of the items would be -
- To enter into a formal agreement with the Council for the use of the land.
 - The re-surfacing of the area in a suitable tarmac to match adjacent areas at his own cost.
 - Removal of the bollards and planter for the duration of the May Fair at his own cost.
 - To ensure adequate pedestrian access through the area.
- Other items placed on common land i.e. chairs and tables.
- 4.4 The adjacent café has placed tables and chairs on the land, which are removed at night. Members are asked to consider whether these can be allowed to stay, under a licence with the Council to cover issues such as time of daily removal, unimpeded pedestrian access and public liability.
- 4.6 Members are asked to consider the above and advise what further action should be taken if any or whether subject to the relevant parties agreeing standard licence conditions and covering our legal costs, these sort of items and for example A boards should be allowed on the common land.

4.7 If action is recommended, further work would be required to prepare and implement measures to keep the whole of the Beaconsfield Common land free of obstructions and to prepare and consult upon a comprehensive policy to govern and enforce the placement of outdoor tables and chairs throughout the old town, and other features such as advertising boards and skips. Legal support would be requested to draft appropriate policies.

4.8 This will require officer resources to enforce such measures.

5. Resource and Wider Policy Implications.

5.1 The work required to progress the matters above will require officer time during a period of increasingly limited officer resource.

5.2 There is a risk that should the Council pursue the removal of the items the local residents would see it as the removal of a popular community asset (outdoor coffee location.)

5.3 There is a risk that should the Council allow the items to stay without proper authorisation, other premises may undertake similar works on the assumption that it is allowable. A wider policy would need to be adopted to ensure no other works take place without the Council’s authority.

5.4 There is a risk that should the Council pursue the removal of the items at its own expense and that it may not be successful in recovering its costs.

6. Recommendations.

6.1 The PAG is asked to advise on whether the Portfolio Holder should recommend to Cabinet the following:

1 - allow the retention of the items with or without conditions, or:

2 - pursue action for the removal of the items

3 -authorise the Head of Environment in consultation with the Environment Portfolio Holder and Head of Legal and Democratic Services to agree any necessary documentation.

Officer Contact:	Chris Marchant 01895 837360 chris.marchant@southbucks.gov.uk
Background Papers:	Bylaws for the Common Land, Scheme of Management for the Common Land, as set out under the Commons Act 1899