

Ownership of Pheasant Hill Common

At our March meeting, I said that I would circulate what I have found out about Adverse Possession and other relevant details. Apologies that it is rather long, but I wanted to lay out all our findings and the advice that we have been given to date.

Pheasants Hill Common has no known owner – this was determined by the Commons Commissioner at a hearing at Aylesbury in 1980. The protection of the common was therefore vested in the local authority (then Wycombe, now Bucks¹) – this is about protection against unlawful interference, not about management.

There are rights to graze horses/cattle/goats on the common and of estover (the right to collect wood) although I do not know who, if anyone, holds, or exercises, these rights.

The Common is not currently registered with HM Land Registry (but Danger Grove, which is in private ownership, is).

The Parish Council have been managing the common for decades – in as much as we have commissioned tree surveys and works periodically to identify trees that present a hazard to pedestrians and road users and remedy the problem (Bucks Highways are also called upon to deal with fallen trees blocking footpaths). We have also erected barriers to prevent vehicular access to the common. What has become clear, not only from observation but also from the report by John Morris when he was Woodlands Officer for the Chilterns Woodland Project in 2018, and from the management recommendations when the common was made a Local Wildlife Site in 2019, is that there is great potential to improve conditions on the common. The main issue is the lack of regeneration due to deer and squirrel damage. If deer numbers cannot be effectively controlled, it may be helpful to fence off areas within the common for a number of years to allow natural regeneration (as an alternative to planting new trees with effective tree guards). Maintaining open glades in parts of the common would encourage biodiversity.

It would be helpful if we were able to outsource conservation management to a body such as the local wildlife trust², the Chiltern Society or the Woodland Trust and also to be in a position where we could apply for grants. However, we would need some legal basis for this to happen – either through acquiring ownership of the common or through some statutory power³.

So, what routes are open to us?

- 1) There is a page on the Government website providing guidance on managing common land (<https://www.gov.uk/guidance/managing-common-land>) with a section on how Local Authorities can manage commons. This states that under Section 4 of Part I of the Commons Act 1899, local authorities can choose to manage common land that has no registered owner by making schemes - and that they can delegate management to a parish council (this possibility was also suggested to us by the Open Spaces Society) and we approached Buckinghamshire

¹ Apparently, we too can take any steps to protect the land against unlawful interference that could be taken by an owner in possession of the land; and institute proceedings against any person for any offence committed in respect of the land.

² It may be noted that the common land owned by Surrey County Council is managed jointly by the County Council and Surrey Wildlife Trust (<https://www.surreycc.gov.uk/culture-and-leisure/countryside/management/common-land>)

³ Either open to us as a Parish Council (e.g. Open Spaces Act 1906) or devolved to us by the Unitary Authority.

Council to explore this option. However, Section 4 of the 1899 Commons Act got repealed in Schedule 30 of the Local Authority Act 1972, so this is no longer an option⁴.

- 2) The Open Spaces Society (OSS) pointed out that Parish Councils have powers under Sections 9a & 9b of the Open Spaces Act of 1906 to acquire and undertake the "... care, management and control" of any open space (<https://www.legislation.gov.uk/ukpga/Edw7/6/25/section/9>). However, the OSS caution against taking this route in our case: "if the council does purport to rely on it, it could be said that the council will never acquire title through adverse possession, because it always will have been acting under statutory powers. This is one potential objection to pursuing a title if the council has been managing the land" and "the parish council has been and proposes to continue managing the land without any authority from the owner whatsoever. It could be said that this goes beyond what is contemplated by s.9(b)".
- 3) Section 45 of the Commons Act 2006 gives local authorities (which includes Unitary Authorities and Parish Councils) powers over unclaimed common land to (a) take any steps to protect the land against unlawful interference that could be taken by an owner in possession of the land; and (b) institute proceedings against any person for any offence committed in respect of the land. However, the OSS has pointed out that this does not include the power to maintain the land.

Cllr Mark Turner helpfully suggested two other options: setting up a Commons Council and registering ownership through adverse possession.

- 4) Commons Councils are statutory groups which manage and protect common land. They require an establishment order from the Secretary of State, and we would need to demonstrate substantial local support from a large majority of voters. I don't think that this route is appropriate in our case. You can read about Commons Councils here: <https://www.gov.uk/guidance/set-up-a-commons-council>
- 5) Adverse Possession. The Open Spaces Society has a good guide for Councils wishing to claim ownership of unregistered common land, which I encourage you to read: <https://www.oss.org.uk/need-to-know-more/information-hub/commons-unclaimed-land-and-adverse-possession>. There is also very detailed information on the government website: <https://www.gov.uk/government/publications/adverse-possession-of-1-unregistered-land-and-2-registered-land>. Have a look at Practice Guide 5 and also at <https://www.gov.uk/guidance/common-land-and-town-or-village-greens-how-a-claim-of-ownership-can-affect-the-land>. We would need to apply to HM Land Registry using form FR1, accompanied by a 'statement of truth' on form ST1 providing evidence that we had been in possession of the common for twelve years or more, together with plan showing the extent of the common. We would need the services of a conveyancing solicitor to draw up the documents and apply on our behalf. Possibly the OSS could recommend a suitable solicitor, or we can get legal advice from the National Association of Local Councils on the merits of our claim.

Cllr Ashcroft asked about what liabilities we might occur if the Parish Council took ownership of the common and also asked about what works were permitted on common land. In answer to the first question, I would have thought that our existing public liability insurance should be adequate except that if we were to use volunteers to carry out works, I would suggest asking the Chiltern Rangers

⁴ Curiously, I came across a proposal for a Parish Council to have devolved power to manage a common, citing the 1899 Commons Act, which is dated 2021 (<https://northumberland.moderngov.co.uk/documents/s2581/09%20Newton%20common%20final%20report.pdf>)!

how they manage such matters. In terms of expenditure, we could just maintain our current level of management (i.e. the bare minimum) until, or unless, we receive grant funding. If a management agreement was made with a third party (BBOWT, Chiltern Society or Woodland Trust), they might be prepared to take on some of the financial as well as practical burden. Incidentally, if we became registered owners, we should be able to claim a wayleave payment from the Scottish and Southern Electricity for the poles on our land (and there are legal firms that will negotiate this for landowners)!

With regard to what works can be carried out, see: <https://www.gov.uk/guidance/carrying-out-works-on-common-land>. You are allowed to plant trees, manage vegetation using mechanical means and erect fencing for up to five years if this you are restricting access to conserve nature (but the area enclosed must not exceed 1% of the area of the common. Felling of trees may require a felling licence from the Forestry Commission (see: <https://www.gov.uk/guidance/tree-felling-licence-when-you-need-to-apply>).

Links to Acts of Parliament:

Commons Act 1899 <https://www.legislation.gov.uk/ukpga/Vict/62-63/30/contents>

Open Spaces Act 1906 <https://www.legislation.gov.uk/ukpga/Edw7/6/25/contents>

Parish Councils Act 1957 <https://www.legislation.gov.uk/ukpga/Eliz2/5-6/42/contents>
<https://www.legislation.gov.uk/ukpga/Eliz2/5-6/42/section/8>

Local Government Act 1972 <https://www.legislation.gov.uk/ukpga/1972/70/contents>
<https://www.legislation.gov.uk/ukpga/1972/70/schedule/30>

Commons Act 2006 <https://www.legislation.gov.uk/ukpga/2006/26/contents>
<https://www.legislation.gov.uk/ukpga/2006/26/section/45>

Charles Hussey March 2025

Hambleden Noticeboard



Skirmett Noticeboard



Frieth Noticeboard



A photograph showing a close-up of a stone wall made of irregular, dark grey and brown stones. A vertical wooden post, possibly a fence post, is in the foreground, partially obscuring the wall. The post is weathered and has some metal brackets attached to it. In the background, a paved road and some greenery are visible under an overcast sky.



Ellery Rise field Gate



Hambleden Parish Council

Financial year ending 31 March 2025

Bank reconciliation

Prepared by : Lorna Coldwell RFO

Date: 01/04/25

Bank balances as at 31/03/24

	Yr end 31.03.24 £	Yr end 31.03.25 £
Opening bank bal.	60,839.25	62,234.99
Lloyds current a/c		
sub total	<hr/> 60,839.25	<hr/> 62,234.99
Add income	43,620.72	53,210.19
less Exp.	- 42,224.98	- 56,643.76
Closing balance	62,234.99	58,801.42
Represented by:		
Lloyds curr. a/c	62,420.99	59,979.42
Unpresented Cheque 741	- 150.00	
Unpresented Cheque 743	- 36.00	
Unpresented Cheque 828		- 938.00
Unpresented Cheque 846		- 240.00
Closing balances	62,234.99	58,801.42

The above represents the financial position of Hambleden Parish Council
as of 31/03/2025

Hambleden Parish Council Actual Expenditure against budget 2024 2025

[illegible]

[illegible]

Summary Receipts & Payments Account for the year ended 31/03/25