

Corporate Policy & Strategy

11 June 2013

The Future Management & Ownership of Easter Craiglockhart Hill Local Nature Reserve (LNR) & Adjacent Green Spaces

Item number	7.3
Report number	
Wards	Fountainbridge/Craiglockhart Meadows/Morningside

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Executive summary

The Future Management & Ownership of Easter Craiglockhart Hill Local Nature Reserve (LNR) & Adjacent Green Spaces

Summary

This Report discharges an outstanding remit from the Corporate Policy and Strategy Committee of 6 November 2012 to investigate opportunities for, and seek public opinion on, the future ownership and management of the Easter Craiglockhart Hill Local Nature Reserve and those green spaces on the Hill presently in private ownership. It summarises the outcome of an extensive public consultation on possible land management options and details the legal and other implications of the options available to the Council. Councillor Burns and the other Ward Councillors have been consulted on the contents of this report.

Recommendations

It is recommended that Committee:

1. Seeks Council approval to secure title to those open spaces on Easter Craiglockhart Hill that would enhance landscape connectivity and retain public access.
2. Supports the Council working with local residents and site users to ensure community involvement in the future management of the Hill's open spaces. This to include further consideration of community ownership or leasing of some or all of the secured public land to a community representative group, along the lines of Option 4a.
3. Refer any further financial matters pertaining to the transfer of open space land at Easter Craiglockhart Hill to either the Finance & Budget Committee or Full Council.

Measures of success

That the open spaces that make up Easter Craiglockhart Hill remain accessible to the public and are managed in a manner that benefits nature conservation and informal recreation.

Financial impact

Although it is anticipated that the land would be transferred at a negotiable and nominal purchase price, any transfer of land will incur legal costs. However, at this time it is difficult to accurately estimate these. In terms of the transfer of the Craighouse Partnership land, the Council would expect legal costs to be met by the Craighouse Partnership as part of the terms agreed. If the land was then to be leased or transferred to a community group then the costs involved would vary depending on the matters raised. In such cases, the Council would usually ask that each party bear their own costs.

As the existing Council-owned land is also held in trust by Fields in Trust additional legal costs are likely to apply. If part of the ground involved is considered to be common good, the transfer or lease of the land would not be possible without first obtaining the consent of the court. This will significantly add to the cost of transfer.

If the Council takes title to land currently owned by the Craighouse Partnership, the Council will incur costs to make the site safe and good along with ongoing maintenance costs of the order of tens of thousands of pounds per year (initial estimates of £20,000-£30,000 p.a.) for the management of open space. Grounds maintenance budgets are just about sufficient to maintain the Council's current green estate and would be unable to absorb these additional costs without making reductions in service elsewhere. As a condition of taking title, the Council would normally be expected to negotiate a payment by the developer to cover initial site improvements and possibly also a commuted sum to contribute to future ground maintenance costs. Community ownership or some form of community stewardship of Local Nature Reserves and the adjacent greenspaces on Easter Craiglockhart Hill may mitigate the additional grounds maintenance costs that would be incurred if the Craighouse Partnership land was transferred to the Council.

Equalities impact

There is no equality impact at this stage. However, an ongoing Equalities & Rights Impact Assessment will be carried out to influence and inform the final decision making process.

Sustainability impact

So long as the open spaces on Easter Craiglockhart Hill are managed for the benefit of nature conservation and informal public recreation any impact on sustainability should be positive. Sustainability issues would be considered in greater detail should the Council decide to take title to or transfer any of the associated land.

Consultation and engagement

A stakeholder analysis was undertaken to identify and involve the stakeholders who would have an interest in the future ownership and management of Easter Craiglockhart Hill. This led to an extensive consultation with a wide range of representative organisations, and the creation of means by which they and local residents could be made aware of the proposals and have the opportunity to express an opinion and preference.

Information leaflets and response forms were delivered to 750 households in the immediate vicinity of Easter Craiglockhart Hill and a further 6,700 to households in the wider locality. A number of different ways of responding were provided, including paper based questionnaires, an on-line survey, written response and telephone contact. Facebook and twitter feeds were alerted, and the Council's website uploaded with relevant content, including a description of the options and information about the various consultative exercises. Answers to "frequently asked questions" were provided to help clarify the various options under consideration. Posters and leaflets were placed on public notice boards and other public locations. Two public meetings were held at Meggetland and Morningside. An opportunity to submit consultation responses was available at both meetings. The consultation generated a total of 394 recorded responses.

Following this public consultation an additional discussion was organised with Ward Councillors from the Fountainbridge/Craiglockhart and Meadows/Morningside Wards.

Background reading / external references

Corporate Policy and Strategy Committee minutes of 6 November 2012

Easter Craiglockhart Hill Local Nature Reserve Management Plan 2011-2016

Transport, Infrastructure and Environment Committee minutes of 13 September 2012

Local Nature Reserves – report to Transport, Infrastructure and Environment Committee 13 September 2013

A 'Framework to Advance a Co-operative Council 2012/17' – report to the City of Edinburgh Council 25 October 2012

The Future Management & Ownership of Easter Craiglockhart Hill Local Nature Reserve (LNR) & Adjacent Green Spaces

1. Background

- 1.1 At its meeting of 6 November 2012 the Corporate Policy and Strategy Committee sought an investigation into the opportunities for, and public opinion on, the future ownership and management of the Easter Craiglockhart Hill Local Nature Reserve and those other green spaces on the Hill that are presently in private ownership.
- 1.2 A range of future ownership and management options were identified. These were used as the basis for an extensive community consultation along with an initial assessment of the factors that the Council would need to be aware of and consider should it be minded to take on new land holdings and/or transfer land management responsibility to the community.
- 1.3 The Council's Capital Coalition has aspirations for Edinburgh to become a Cooperative Capital where public services work better together and communities have more influence over the services which affect their lives. A 'Framework to Advance a Cooperative Capital 2012/17' was approved by Council 25 October 2012.
- 1.4 The Transport, Infrastructure and Environment Committee at its meeting on 13th September in 2012 considered a report on Local Nature Reserves and the potential for transfer of ownership to community groups or charitable trusts. The Committee agreed that greater community ownership and involvement in Local Nature Reserves could lead to enhanced community capacity, access to new forms of funding, more pride in community landmark sites and was exactly the kind of direction signalled by the Council's ambition to become a co-operative council. It also agreed to support and facilitate greater community ownership and stewardship of Local Nature Reserves where there was local appetite to explore this, where capacity to take on that role had been demonstrated and where it was judged to be in the long term interest of the Local Nature Reserve and the wider community.

2. Main report

- 2.1 Easter Craiglockhart Hill is made up of a number of landscape features that collectively provide valuable recreational green space for nearby residents, and important habitat for wildlife. Most of the green space is currently within the Craighouse Campus grounds which is owned and managed by the Craighouse Partnership, and the remainder is owned by the Council. For ease of reference, the entire area can be sub-divided into five open space parcels, namely Meadowspot Wood, South Craighouse Woods, The Orchard, and the eastern part of the Easter Craiglockhart Hill Local Nature Reserve, all owned by Craighouse Partnership and the western part of the Easter Craiglockhart Hill Local Nature Reserve, encompassing Craiglockhart Wood and Craiglockhart Pond owned by the Council.
- 2.2 At the meeting of the Corporate Policy and Strategy Committee on 6th November 2012 the following motion by Councillor Burns was (with adjustments) approved:
- Committee:
- 1) Notes that, an opportunity has arisen to transfer ownership and management of the woodland and open space within the 'Craighouse site' to the Council (or appropriate body in the community) to create a single woodland and open space.
 - 2) Agrees that, in principle, it would be desirable, for the first time in the city, to consider community ownership and management of the woodland and open space in the area for the longer term.
 - 3) Calls for a report, within four cycles, that describes how this might be achieved, with ownership transferring to the Council as an interim measure, with a view to the eventual transfer of ownership and management, to a community organisation.
 - 4) That report to explore, as a secondary option, joint ownership between Council and community, with community and Council working together.
 - 5) That report to include the results of a wider community consultation, on the various options, to be undertaken via the Edinburgh South West Neighbourhood Partnership Office and with the 'Parks and Greenspace' Team and the Edinburgh South Central Neighbourhood Partnership. That consultation to be conducted in a transparent manner with all relevant stakeholders consulted, and with strong local community involvement including Common Ground Association and The Friends of Craighouse, and all documentation made available to the public.

6) That any agreement about the geographical areas to be so vested shall be agreed upon by open and transparent discussion between all relevant stakeholders and with strong community involvement.

7) That report to address funding and liabilities issues that a community organisation in the future would have to address, as well as an analysis of potential community capacity, and what benchmarks and quality controls would need to be in place to ensure confidence that the land could be managed to the appropriate standard for the wider benefit of the people of Edinburgh.

8) Notes that this motion and any transfer of land shall not affect in any way the existing planning designations and protections on the site, whether under community or private ownership or infer that access can be prohibited or boundaries erected across the rest of the site and notes that any decision on or progress towards potential community ownership of Easter Craiglockhart Hill is completely separate from any application for planning consent to develop the buildings and adjacent land on the former Craighouse campus; and that agreement, in principle, by the Craighouse Partnership to transfer land into alternative ownership shall have no bearing on how any such planning application is viewed or dealt with”.

Community Consultation

2.3 Given the complexity of land parcels across the hill a total of five land management options were identified as the basis for a consultation with local residents and user groups:

- **Option 1** - Take no action. The consequence would be that if the proposed housing development is completed, it is likely that a new residents association would become joint owners of the land currently managed by the Craighouse Partnership and they would appoint a managing agent to maintain the open green spaces.
- **Option 2** - Craighouse Partnership transfers ownership of its entire open green space to the Council, which then manages it on behalf of the city, community and the residents.
- **Option 3** - Joint ownership, with Craighouse Partnership transferring its land to the community which then owns and takes management responsibility for it, with the Council retaining the part of Local Nature Reserve it already owns and manages.
- **Option 4** - Community ownership and management of all areas
- **Option 4a** - Transition period of Council ownership (option 2) and joint management between the community and the Council, with the community

moving towards full community ownership and management (option 4) over a period of time (e.g. 5 years) during which time the community is able to raise funds and show its ability to manage the land.

2.4 These options were presented to the communities around Easter Craiglockhart Hill through a number of ways. Postal, poster, web, twitter and facebook invitations were sent to encourage people to attend one of two Community Consultation events held at Meggetland Sports Complex (21 February 2013) and Morningside United Church Hall (21 March 2013). Those unable to attend the events were invited to give their views and comments electronically via an on-line feedback form, citing their preferred option.

2.5 In total, 394 preferences were recorded:

- 6 preferences for Option 1 (1%)
- 247 preferences for Option 2 (63%)
- 28 preferences for Option 3 (7%)
- 23 preferences for Option 4 (6%)
- 90 preferences for Option 4a (23%)

In effect, this means that of those who responded to the consultation and cited a preference, there is an overwhelming desire (86%) that the Council take initial ownership of available, publicly accessible land on Easter Craiglockhart Hill. A third of respondents would like to see community ownership at some point, but the majority would want any transfer to happen in a measured manner over an appropriate period of time, and to not necessarily include that land already owned and managed by the Council.

Option 1 - Current Management of the Hill

2.6 The Easter Craiglockhart Hill Local Nature Reserve (LNR) was declared by the Council under the provisions of the National Parks & Access to the Countryside Act, 1949 in 2005. Partly owned by the Council and partly by the Craighouse Partnership, the non-Council area falls under the auspice of a legally binding management agreement to ensure that it is managed for nature conservation and informal recreation. The whole LNR is maintained by the Parks & Greenspace service and managed under an approved management plan by the Easter Craiglockhart Hill Local Nature Reserve Management Group. The group includes membership from the City of Edinburgh Council, the Craighouse Partnership and the Friends of Craiglockhart Woods and Nature Trail.

- 2.7 The Friends of Craiglockhart Woods and Nature Trail is a very active Park Friends Group, which as part of their commitment to preserve and improve the woodland and hill access, carries out regular conservation projects, community events, and educational activities. Thanks to its ongoing work in partnership with the Council, the site has consistently scored extremely highly in the Council's annual Parks Quality Assessments, and was successful in attaining a Green Flag Award in 2008, which has been retained every year since.
- 2.8 As part of the commemoration of the Queen's Diamond Jubilee, the Council-owned part of the LNR was dedicated a Diamond Jubilee Field. This means that the area is now held in trust by Fields in Trust. Any transfer of title or lease of the land to a third party will therefore first require the approval of Fields in Trust.
- 2.9 The remainder of the land outside of the LNR is owned by the Craighouse Partnership and is managed through its own grounds maintenance arrangements. In the event that the proposed residential development proceeds, Craighouse Partnership is likely to transfer its open space to the joint ownership of the house owners, who would then be jointly responsible for the grounds maintenance previously carried out by Craighouse Partnership.

Option 2 - Extended Council Ownership Option

- 2.10 The Craighouse Partnership has indicated that it would be willing to transfer approximately 30 acres of the Craighouse grounds into public ownership should it be granted consent to develop the former campus estate. If the Council was to agree to take title to any of the land it would need to consider whether this would also require a financial contribution from the Craighouse Partnership in order to bring the open spaces up to the Council's Landscape Quality Standard and make good/safe any site features (e.g. boundary walls, trees and woodland, footpaths & steps etc).
- 2.11 There would be an expectation that the existing management plan for the Local Nature Reserve be extended to include some or all of these additional lands so that they could be managed as part of a site improvement programme. The existing LNR Management Group could also be invited to widen its responsibilities and membership to ensure greater community involvement in the management of these additional lands.
- 2.12 Should future site management focus on nature conservation and informal recreation the Council could consider extending the boundaries of its Local Nature Reserve. Furthermore, Fields in Trust could be invited to extend their dedication to include the additional lands. Both measures would enhance protection of the area as publicly accessible open space.

Option 3 - Joint Ownership Option

- 2.13 The Council could retain title to its existing land and assist the community to take ownership of the lands currently held by the Craighouse Partnership. If the Craighouse Partnership agrees to transfer its open green space to the community, the community will have to set up a legal entity to take title to the land. It is most likely that it would be a company limited by guarantee which would seek to secure charitable status in order to define its charitable/community purpose and objectives. As landholding neighbours, it would be advisable to seek a mechanism for an holistic approach to management of the Hill's open spaces. This would most likely take the form of a joint management group and the production of a joint management plan. If all the land was to be managed for nature conservation and informal recreation then the current LNR could be extended under the provisions of a legal management agreement.

Option 4 - Community Ownership Option

- 2.14 The Council has aspirations to develop the concept of a 'Co-operative Council' and the potential for the transfer of management or ownership of community assets such as LNRs to community based organisations may be one way of realising this aspiration. Should the Council be minded to support full community ownership and management of all the land parcels it will need to relinquish title to its own land holdings and clarify how it can support the community through the process of securing title to the lands currently owned by the Craighouse Partnership. It will also need to seek the opinion/permission of Fields in Trust to any transfer of FIT dedicated land, as well as the Courts for relinquishment of any Common Good status that may apply.
- 2.15 As part of the process of transferring Council land by lease or sale, the value of the land would need to be assessed and conditions applied to the title to ensure that it is retained as publicly accessible open space. If leasing rather than sale/transfer was favoured, the lease terms would have to include the basis and quality of future management of the land.
- 2.16 A form of restricted marketing would be appropriate in terms of establishing who was a representative and appropriate community group. This could also involve a consultation exercise.
- 2.17 Under community ownership the Council would be able to negotiate the retention/extension of the LNR designation through a legally binding management agreement with the new landowner. Although it would no longer be able to retain the site's Green Flag Award, the new landowner could apply for a Community Green Flag Award.

Option 4A - Council Ownership in advance of Community Ownership

- 2.18 If the Council was to take title to the lands offered by the Craighouse Partnership all the considerations in section 2.7 would apply. If it were subsequently to transfer the lands to a community group all the considerations in section 2.9 would also apply at the time of transfer to the community.
- 2.19 If the Craighouse Partnership transferred its land first to the Council, the Council would have to ensure that there were conditions attached to the title to ensure that the land could be transferred to an appropriate community group.
- 2.20 The period of time between the Council transferring the land to the community would enable the community to develop its entity, membership, capacity and means all without the immediate responsibilities of a landowner. It would also allow the Council a period of time in which to determine the ability of the community to undertake the responsibilities of land management, including the funding and liabilities issues that a community organisation would have to address.
- 2.21 Essentially, over this period the community group could take on an increasing number of tasks and requirements of land management as its capacity and skills developed, such as access improvements and maintenance, woodland and habitat management, site interpretation and information, infrastructure works, fundraising, and site presence. Performance could be assessed against a range of benchmarks, such as the Council's annual Park Quality Assessment, monthly Landscape Quality Standard grounds maintenance performance system, budget management and user satisfaction surveys.

Issues relating to the Council's title

- 2.22 The Council owned area consists of two titles. The first, which includes the large Craiglockhart Skating Pond, was acquired from the East of Scotland Lawn Tennis and Sports Club Limited by the Corporation of The City of Edinburgh for £6,000 on 28 June 1958. There are no title conditions in the disposition transferring ownership which relate to using the land for common good purposes but the following facts all contribute to it being likely to comprise inalienable common good land:

- the disposition does not refer to the area having been acquired for statutory purposes;
- the area was purchased by a former burgh pre-1973;
- the subjects may have been dedicated for common good purposes;
- the subjects may have been used by the public for time immemorial for such common good purposes.

If the land is common good a lease/sale/transfer would require the prior consent of the court.

2.23 The second Council title pertains to Craiglockhart Wood, which was gifted to the Council in 1985 by the Craiglockhart Estate Company Limited, for recreational purposes. Due to being a post-burgh gift it is less likely that this would be regarded as common good. However, land can also become common good through irrevocable dedication to public uses by the Council or by public use, as of right, for a particular purpose (or for general purposes) from time immemorial. If the land is common good a lease/sale/transfer would require the prior consent of the court.

3. Recommendations

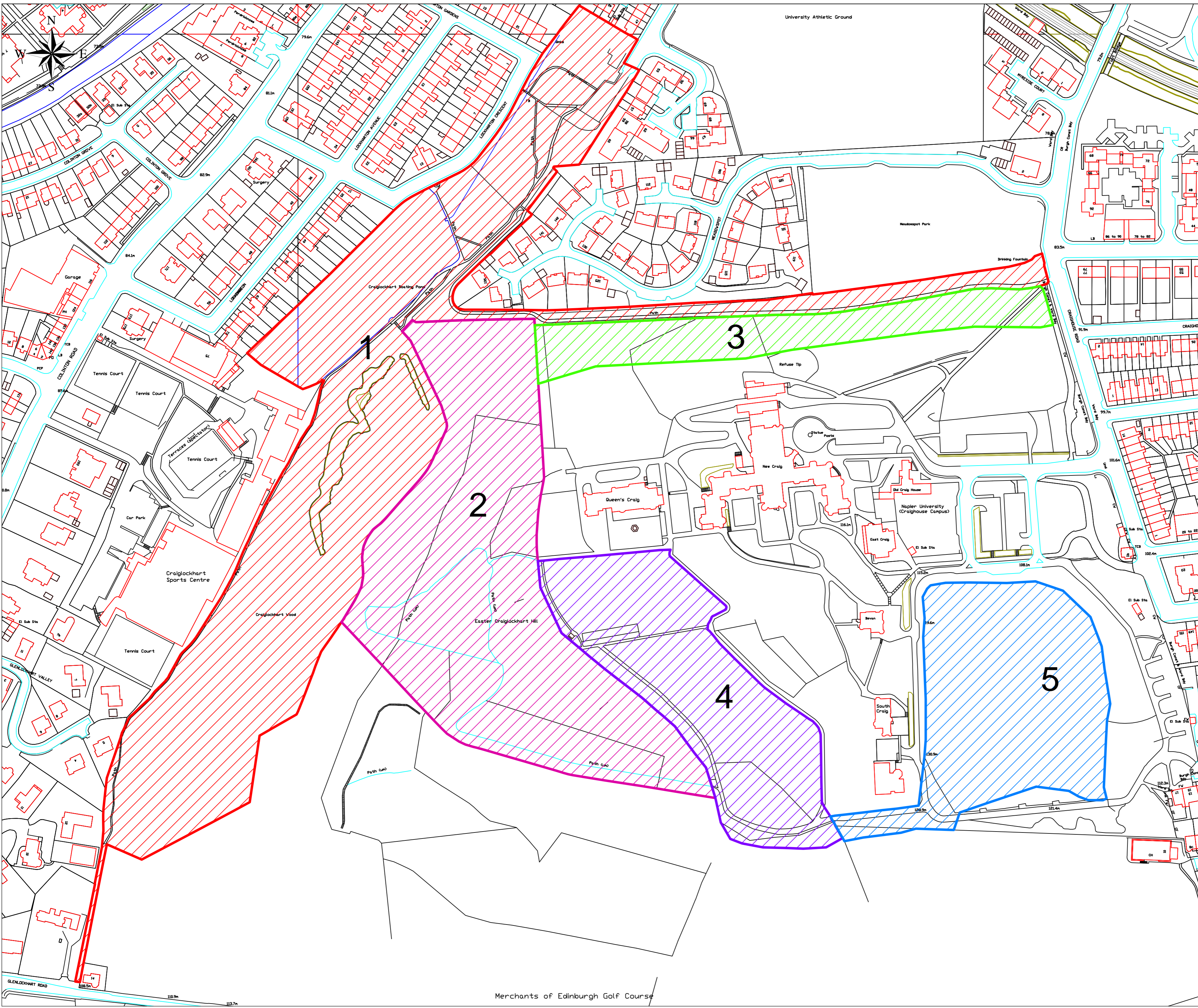
It is recommended that Committee:

1. Seeks Council approval to secure title to those open spaces on Easter Craiglockhart Hill that would enhance landscape connectivity and retain public access.
2. Supports the Council working with local residents and site users to ensure community involvement in the future management of the Hill's open spaces. This to include further consideration of community ownership or leasing of some or all of the secured public land to a community representative group, along the lines of Option 4a.
3. Refer any further financial matters pertaining to the transfer of open space land at Easter Craiglockhart Hill to either the Finance & Budget Committee or Full Council.

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Links

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Appendices	1.Consultation Map



Notes

Local Nature Reserve

- 1 South - Current Owner
City of Edinburgh Council.
- 2 North - Current Owner
Craighouse Partnership.

Non Local Nature Reserve

- 3 Meadowspot Wood -
Current Owner
Craighouse Partnership.
- 4 South Craighouse Woods
-Current owner
Craighouse Partnership.
- 5 Orchard - Current owner
Craighouse Partnership.

Revised Date	Revised Date
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 THE CITY OF EDINBURGH COUNCIL
 SERVICES FOR COMMUNITIES
 PARKS and GREENSPACE
 Waverley Court
 4 East Market Street
 Edinburgh
 EH8 8BG

**Easter
 Craiglockhart Hill
 Consultation**

Nat: Grid Ref:	Scale NTS
Date 21/01/2013	Drawn by Alan Grevers
District NHO	Plan No: ECH 01/001