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## **ACCESS RIGHTS TO THE GEORGE MEIKLE KEMP MEMORIAL, MOY HALL**

**Report by Service Director Assets & Infrastructure**

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### **PEEBLES COMMON GOOD SUB-COMMITTEE**

**25 May 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report informs the Peebles Common Good Sub-Committee on the access rights to the George Meikle Kemp Memorial at Moy Hall and seeks their approval to change the access rights subject to a preferred route being agreed for a new general use path from Peebles to Eddleston.**
- 1.2 George Meikle Kemp was the designer of the Scott Monument in Edinburgh. Peebles Town Council acquired the Kemp Memorial with access rights from the A703 at Moy Hall in 1935.
- 1.3 The neighbouring farmer is seeking planning permission for a new house and proposes to change the access route to the Kemp Memorial.
- 1.4 The Council's and Sustrans's preferred route for the proposed Peebles to Eddleston cycle path is through the grass field to the west of Moy Hall although the farmer's preferred route is along the edge of the A703.
- 1.5 The formal consent of the Peebles Common Good sub-committee is required to change the access rights to the Kemp Memorial and a condition of this change of access could be that the new cycle track is routed through the grass field instead of along the edge of the A703.

#### **2 RECOMMENDATIONS**

- 2.1 I recommend that the Peebles Common Good Sub Committee authorises the granting of a new right of access to the George Meikle Kemp Memorial on the condition that the proposed Peebles to Eddleston cycle and general purpose path is routed away from the A703 onto a safer route.**

### **3 BACKGROUND**

- 3.1 George Meikle Kemp is best known for being the designer of the Scott Monument in Edinburgh. He served his apprenticeship at Moy Hall between 1809 and 1813 and the memorial to him was erected in 1932 being the centenary of Sir Walter Scott's death. Peebles Town Council acquired the memorial in 1935 from James Horsburgh and it is classed as a Common Good asset.
- 3.2 Included in the ownership of the memorial is a right of access from the A703 to the memorial, as shown in blue on the attached plan as Appendix 1. Any changes to the Kemp Memorial access will require the formal consent of the Peebles Common Good sub-committee.
- 3.3 In February 2016 the neighbouring farmer applied for in principle planning permission for a new house just north of Moy Hall. The proposed access to the new house is a new junction from the A703 with the current access to Moy Hall being removed. The Council's Roads Planning Officer has recommended that no new access points or junctions should be made onto the A703 without the removal of an existing access point. The proposed access to Moy Hall and the Kemp Memorial would be from a new driveway from the new house (see attached plan on Appendix 2). The planning application (16/00117/PPP) is currently pending consideration.
- 3.4 Over the last few years the Government's sustainable transport charity, Sustrans, and to a lesser extent Scottish Borders Council, have been planning a new cycle and general purpose path from Peebles to Eddleston. Most of the route is along the former railway but this is not possible at the Kidston Mill and Nether Kidston sections because the old railway runs too close to two existing residential properties.
- 3.5 Two routes for the proposed path have been discussed with the relevant landowners at Moy Hall. One route is along the verge and footpath of the A703 and the other is through the grass field to the west of Moy Hall.
- 3.6 The route along the edge of the A703 is particularly narrow at Moy Hall and will be a potential risk for cyclists. The other route through the grass field will be more disruptive to the neighbours and they believe they will suffer an unacceptable loss of privacy and amenity. Sustrans's preferred route is through the grass field but if that is not agreeable to the landowner the route along the A703 is the only other suitable option. The attached plans show both potential routes for the cycle path although the actual route through the grass field is flexible and can be chosen to try to minimise noise and visual impact. See Appendix 3.

- 3.7 To date the landowner has not been willing to give his consent for the cycle path through the grass field although terms for compensation for the loss of land have not yet been discussed. The landowner has offered a strip of land next to the A703 both north and south of Moy Hall to make the cycle path wider but the narrow section of footpath at Moy Hall will still be a pinch point of 0.7 metres wide for cyclists and walkers. This will limit the appeal of the whole route and the type of people who can use it safely. See photo on Appendix 4.
- 3.8 There is a chance that the planning permission is refused and then an appeal could be submitted which could overturn the refusal. Regardless of the planning decision, the termination of the current right of access and realignment to a new access route requires the consent of the Common Good sub-committee.
- 3.9 Often a payment would be made to a property owner as a consideration for terminating or amending a right of access to their property. The proposed consideration for amending the right of access to the Kemp Memorial is routing the cycle path through the grass field.

#### **4 PROPOSAL**

- 4.1 It is proposed that the Peebles Common Good sub-committee grant consent to terminate the current access route to the Kemp Memorial and realign the access route from a new access to the north on the condition that permission for a new cycle path is granted through the grass field west of Moy Hall.

#### **5 IMPLICATIONS**

##### **5.1 Financial**

There are no specific financial implications to the Peebles Common Good Fund. Any compensation to the landowner and costs for the cycle path will be the responsibility of Sustrans and/or Scottish Borders Council and this could be independently assessed on behalf of both the landowner and Sustrans.

##### **5.2 Risks and Mitigations**

If agreement is not reached with the landowner for the cycle path route and the realignment of the access to the Kemp Memorial, he may withdraw his planning application for a new house.

There is a risk that the realignment of the access to the Kemp Memorial will affect the visitors to the monument should it ever become a popular tourist attraction. This is considered a minor risk and the access route is not considered to be a significant factor in the popularity of the monument.

##### **5.3 Equalities**

There are no adverse equality implications.

5.4 **Acting Sustainably**

There are no effects on the economic, social or environmental aspects contained in this report.

5.5 **Carbon Management**

There are no effects on carbon emissions as a result of the proposal in this report.

5.6 **Rural Proofing**

This report does not affect the Council's rural proofing policy.

5.7 **Changes to Scheme of Administration or Scheme of Delegation**

There are no changes to the Scheme of Administration or the Scheme of Delegation as a result of the proposals in this report.

**6 CONSULTATION**

- 6.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**Martin Joyce**  
**Service Director Assets & Infrastructure**

**Signature .....**

**Author(s)**

| Name          | Designation and Contact Number              |
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**Background Papers:** None

**Previous Minute Reference:** 2<sup>nd</sup> March 2016 Peebles Common Good Private

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. James Morison can also give information on other language translations as well as providing additional copies.

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