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| **Application Decision** |
| Site visit made on 15 October 2019 |
| **by Barney Grimshaw BA DPA MRTPI(Rtd)** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 12 November 2019** |

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| **Application Ref: COM/3224221 The Braid, Amble**Register Unit: VG75Registration Authority: Northumberland County Council |
| * The application, dated 1 March 2019, is made under Section 16 of the Commons Act

2006 (“the 2006 Act”) to deregister and exchange common land. |
| * The application is made on behalf of Amble Marina Limited.
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| * **The release land** comprises 1493m2 of land.
* **The replacement land** comprises 1648m2 of land
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## Decision

1. The application is granted in accordance with the terms of the application [Ref: COM/3224221] dated 1 March 2019, and the revised plan which replaces that submitted therewith.

## Preliminary Matters

1. Section 16(1) of the 2006 Act provides, among other things, that the owner of any land registered as common land may apply for the land (“the release

land”) to cease to be so registered. If the area of the release land is greater than 200m² a proposal must be made to replace it with other land to be registered as common land (“the replacement land”).

1. I made an inspection of the site on 15 October 2019 when I was able to view both the release land and the replacement land. I was accompanied at the inspection by representatives of the applicant and of Warkworth Parish Council.
2. Correspondence had taken place between the applicants and the Commons Registration Authority prior to my site visit regarding inaccuracies in the application and the plan attached thereto. A corrected plan had been prepared and the areas of the release land and the replacement land re-measured which had resulted in the measurements in the application having been found to be slightly inaccurate. I have therefore referred to the corrected measurements in this decision. I also attach a copy of the revised plan. I do not believe that the inaccuracies in the application or the substitution of the revised plan and measurements will have misled any party or prejudiced their interests.

## The Application

1. The application is made by the owners of Amble Marina for the purpose of providing more space for boatyard facilities said to be essential for the continued operation of the marina.

### *The Release Land*

1. The Release Land is a narrow area of land at the edge of Village Green No. 75, The Braid, Amble, which is 1493m² in area. It comprises part rough and part short, well-trodden grassland which includes part of a permissive footpath/cycle track leading to the town centre.

### *The Replacement Land*

1. The Replacement Land comprises 1648m² of similar rough grassland adjoining the eastern edge of the Village Green.

## The Statutory Requirements

1. I am required by Section 16(6) of the 2006 Act to have regard to the following in determining this application:
	1. the interests of persons having rights in relation to, or occupying, the release land;
	2. the interests of the neighbourhood;
	3. the public interest;1
	4. any other matter considered to be relevant.
2. I will also have regard to published guidance in relation to the determination of applications under Section 162.

## Representations

1. One objection and one representation expressing concern about the application were made by individuals. Other bodies consulted raised no objection although one, Northumbrian Water, sought an assurance regarding future access to the replacement land for operational purposes.

## Assessment

### *The interests of persons occupying or having rights in relation to the* release land

1. The release land is owned by the applicants for the deregistration and exchange. No other persons have rights in relation to the land other than the general public right of access to the village green.
2. The owners of the land state that the marina is currently operating at capacity with boats stored in every available space. The proposed exchange will allow the creation of a safe working site and permit the safe movement of heavy machinery.

1 Section 16(8) 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.

2 Common Land Consents Policy Guidance, November 2015, Defra.

### *The interests of the neighbourhood*

1. The 2006 Act does not define the term ‘neighbourhood’. However, published guidance3 makes it clear that the term should be taken to refer to the local inhabitants.
2. In this case, Amble Braid is close to the centre of the town and it would seem appropriate for the whole town of Amble to be regarded as the neighbourhood of the Village Green.
3. The area of the replacement land is greater than that of the release land, so approval of the application would not lead to any net loss of common land.
4. The proposed replacement land is close to the release land and similar in character to the rest of The Braid. It is already accessible to the public but, access is currently available on a permissive basis and there is no guarantee that the land would remain open in the future, especially if the application is not approved. Indeed, the marina operators might consider extending boatyard facilities on this land if the proposed release land is not available to them. If this land becomes part of the village green, its continued availability for public access will effectively be safeguarded.
5. The marina is itself of some benefit to the neighbourhood. It accommodates the local fishing fleet and 300 leisure boats and is visited by more than 400 other boats during the summer. Boat yard facilities are said to be essential to the continued operation of the marina particularly as nearby facilities at Amble Boat Company are closing to make way for housing development.
6. Amble Town Council resolved to make no objection to the proposed exchange.
7. Overall, it is my view that the proposed exchange will not have any adverse effect on the interests of the neighbourhood.

### *The public interest*

*Nature Conservation*

1. Natural England was consulted on the application and made no comment and, as far as I am aware, the proposed exchange is likely to have no adverse effect on nature conservation. A short section of Sea Buckthorn hedge at the south western corner of Amble Marina’s current operational site may have to be moved to allow the fence to be re-aligned. However, the applicants have stated that that this will be relocated along the new fence line and have offered to plant along the entire length of the proposed new boundary.

*Landscape*

1. The marina and associated facilities are already clearly visible from many points and although the proposed exchange will result in a limited expansion of the marina, it is unlikely that the character or appearance of the area will be significantly changed. Historic England, the national body with an interest in the conservation of the landscape was consulted on the proposal and made no objection.

3 The Explanatory Memorandum to the Deregistration and Exchange of Common Land and Greens (Procedure)(England) Regulations 2007, SI2007 No.2589.

1. In my view, the proposed exchange is likely to have no detrimental effect on the landscape of the area.

*Public Access*

1. One objector stated that part of the National Cycle Network crosses the release land and that, if this was diverted on to the rough grassland adjacent to what would be the new boundary of the marina, it would not be possible to use on a bicycle. However, although a cycle route does cross The Braid this is unaffected by the proposed exchange. The informal route across the release land has been created by permissive use and, if the marina fence is moved, it is likely that a new worn route will be re-established alongside it.

*Archaeological remains and features of historic interest*

1. No known archaeological remains or features of historic interest will be affected by the proposed exchange. Historic England was consulted on the application and made no comment.

*Conclusions on the public interest*

1. The proposed exchange will have no significant adverse effect on the public interest.

### *Other Matters*

1. Northumbrian Water, the statutory water and sewerage undertaker for the area, has equipment located under the proposed replacement land. No objection was raised to the proposed exchange subject to an undertaking being given that unrestricted and unencumbered access would be maintained to the land. Such an undertaking has been given by the applicant.
2. One objection stated that *“Amble Marine have repeatedly extended, removed access and restricted access not only to pedestrians but also the cyclists who use this route as part of the cycle ways”.* However, I have seen no evidence to substantiate this statement which is disputed by the applicants.

## Conclusion

1. This proposal will have a beneficial effect on the operation of the marina and no significant adverse effect on the interests of persons having rights in relation to, or occupying, the release land, the interests of the neighbourhood or the wider public. The application should therefore be granted.

# *Barney Grimshaw*

## 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** Northumberland County Council, as commons registration authority for the area in which the release land and the replacement land are situated:

1. to remove the release land from its register of common land, by amending register unit VG 75 to exclude the release land;
2. to register the replacement land as common land, by amending register unit VG 75 to include the replacement land;

**First Schedule –** the release land

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| **Colour on plan** | **Description** | **Extent** |
| Edged and cross hatched red | Land at Amble Braid. | 1493m2 |

**Second Schedule –** the replacement land

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| **Colour on plan** | **Description** | **Extent** |
| Edged and cross hatched green | Land adjoining Amble Braid. | 1648m2 |

# *Barney Grimshaw*

**INSPECTOR**

