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| **Application Decision** |
| Site visit made on Tuesday 3 May 2022 |
| **by Rory Cridland LLB (Hons), PG Dip, Solicitor** |
| **an Inspector appointed by the Secretary of State** |
| **Decision date: 25 May 2022** |

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| **Application Ref: COM/3285734**  **Land at The Triangle Village Green, South Road, Hailsham, East Sussex (VG35)** |
| * Register Unit:VG35 |
| * The application, dated 22 October 2021, is made under Section 16 of the Commons Act 2006 to deregister and exchange land registered as a town or village green. * The application is made by Hailsham Town Council, Wealden District Council and East Sussex County Council. * The release land comprises 2000m2 of land known as The Triangle Village Green and is located on the junction of South Road and Ersham Road, Hailsham. * The replacement land comprises 4300m2 of land to the west of the Cuckoo Trail, approximately 220m north of Ersham Road.   **Summary of Decision: The application is granted.**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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**Decision**

1. Consent is granted in accordance with the application dated 22 October 2021, to deregister and exchange land at The Triangle Village Green, South Road, Hailsham, East Sussex (Register Unit VG35).

**Preliminary Matters**

1. The Open Spaces Society made a number of representations but confirmed in its most recent correspondence that, having reviewed the further information provided by the Applicants, it did not wish its comments to be treated as an objection. I have had regard to their representations in my determination.

The Main Issues

1. Section 16(1) of the Commons Act 2006 (‘the 2006 Act’) provides, amongst other things, that the owner of any land registered as a town or village green 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 a town or village green (‘the replacement land’).
2. In determining such an application, I am required by Section 16(6) of the 2006 Act to have regard to the following:

(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; and

(4) Any other matter considered to be relevant.

1. I have also had regard to Defra’s Common Land Consents Policy (2015).

Reasons

***Interests of persons having rights in relation to, or occupying, the release land***

1. The release land comprises approximately 2000m2 of land known as The Triangle and is located on the junction of South Road and Ersham Road, Hailsham. It consists of an open area of land surrounded by hedgerows and a number of trees. An electricity substation occupies the northern end of the site. It is accessed via a pedestrian gate on Ersham Road as well as through gaps in the boundary hedge along South Road.
2. The release land is owned by Hailsham Town Council. The application notes that there are rights in favour of the electricity undertaker to route cables into the substation for the purposes of their undertaking but these would remain unaffected by the proposed exchange. Other than the rights for the public to use the land for lawful sports and pastimes, there are no other rights registered over it and no other known persons with rights over the land.

***Interests of the neighbourhood***

1. The Applicants state that the nearby road junction (A259 and B2104) badly needs redesigning in order to deal with existing and future traffic flows and reduce the environmental problems caused by slow or static vehicles waiting on the approaches to this junction. Furthermore, they explain that the only undeveloped land available for highway improvement works at the junction is the release land. Moreover, they note that the release land sees little use due to its small size and unattractive location, being adjacent to busy roads and that there is nothing there to make users linger to enjoy the green space.
2. I acknowledge that the ability to improve the junction would be of positive benefit to the neighbourhood. However, the release land provides a recreation area in what is otherwise an urban, heavily developed part of Hailsham. Nevertheless, in view of its small size, it is clearly limited in the types of sports and pastimes it is able to facilitate and I accept that there are other areas nearby which are more well used. The appeal site itself is likely to appeal more to those residing in its immediate vicinity than to the wider neighbourhood. This accords with the Applicants’ user survey which indicates limited use, both in terms of number of users and the activities they undertake on the site. Indeed, I observed that most use at the time I visited was by those using the site as a cut through between South Road and Ersham Road.
3. In contrast, the replacement land comprises a larger area of land, located in a quieter, more tranquil location away from traffic. It is fenced on the eastern boundary, while the southern and western boundaries comprise a hawthorn and blackthorn hedge and the northern boundary is defined by a row of mature trees. It is accessed via a gap in the eastern boundary along a recently constructed ramp.
4. Having viewed both sites, I consider the replacement land (notwithstanding its greater distance from the town centre) would be more appealing to those residing in the neighbourhood, both in terms of its increased size and accessibility. Whereas at present, access to the release land requires navigating the busy junction of South Road and Ersham Road, access to the replacement land would be achieved via the Cuckoo Trail and/or FP50. The quiet, rural location, on the outskirts of the town, would provide a more tranquil setting while its increased size would offer greater opportunities for recreation.
5. On balance, I consider that the proposed exchange would have beneficial impact on the interests of the neighbourhood, and find no harm in this respect.

**The public interest**

*Nature conservation*

1. The application notes that walk-over surveys were conducted on both the release and replacement land in March 2021 with a number of species recorded on both sites.
2. Natural England was consulted on the application and made no comment. Taking the above surveys into account, I do not consider the proposed exchange is likely to have any adverse effect on nature conservation.

*Conservation of the landscape*

1. No concerns have been raised with regard to any landscape impact. Neither the release land nor the replacement land is prominent within the surroundings, and they make little contribution to the character of the wider landscape. While there are likely to be subtle changes, these will be highly localised, and it is unlikely that the character or appearance of the area will be significantly changed.
2. In my view, the proposed exchange is unlikely to have a detrimental effect on the landscape.

*Recreation and access*

1. The release land does not benefit from any public access rights over and above those enjoyed by the public by virtue of its registration as a town and village green.
2. The replacement land is significantly larger than the existing area and is able to support a greater number of sports and pastimes. It is set back from the nearest road by around 50m and can be easily accessed from both the Cuckoo Trail and Public Footpath 50 Hailsham (FP 50).
3. The Applicants note that a disability compliant access ramp has already been constructed providing access from the Cuckoo Trail/FP 50 to the site, the access steps have been rebuilt and the stile replaced.
4. Overall, I envisage no impediments to access and consider there would be a general improvement in terms of recreation.

*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. Taking the above into account, I do not consider the proposed exchange would have any significant adverse effect on the public interest.

Conclusion

1. Having regard to these and all other matters raised in the written representations, I conclude that the application should be granted.

Rory Cridland

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** East Sussex 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 Town or Village Greens, by amending register unit VG 35 to exclude the release land;
2. to register the replacement land as a Town or Village Green, by amending register unit VG 35 to include the replacement land;

**First Schedule –** the release land

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| **Colour on plan** | **Description** | **Extent** |
| Edged red and shaded yellow | Land at The Triangle, Ersham Road, Hailsham. | 2000m2 |

**Second Schedule –** the replacement land

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| **Colour on plan** | **Description** | **Extent** |
| Edged blue and shaded yellow | Land to the west of the Cuckoo Trail, approximately 220 metres north of Ersham Road | 4300m2 |

Rory Cridland

Inspector

