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| **Application Decision** |
| Site visit made on 14 March 2022 |
| **by C Beeby BA (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date:** 3 October 2022 |

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| **Application Ref: COM/3285615**  **Longhorsley Village Green, Longhorsley, Northumberland**  **Register Unit No.: VG 18**  **Registration Authority: Northumberland County Council** |
| * The application, dated 25 October 2021, is made under Section 16 of the Commons Act 2006 to deregister land registered as village green. |
| * The application is made by Longhorsley Parish Council. |
| * The release land comprises approximately 54 square metres of land on the south side of East Road, Longhorsley. |
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Decision

1. The application is refused.

Preliminary Matters

2. Section 16(1) of the Commons Act 2006 (the 2006 Act) provides that the owner of any land registered as village green may apply for the land (the release land) to cease to be so registered. Sections 16(3) and 16(4) of the 2006 Act provide that if the release land is not more than 200 square metres in area, the application may include a proposal to register land in place of the release land.

3. In this case the release land comprises a section of verge adjacent to East Road and north of an area known as “Kirkups Corner”.

4. During my inspection of the release land I was accompanied by two parties representing the applicants.

The Main Issues

5. I am required by Section 16(6) of the 2006 Act to have regard to the following in determining this application:

(a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);

(b) the interests of the neighbourhood;

(c) the public interest; and

(d) any other matter considered to be relevant.

6. 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.

The application

7. Longhorsley Parish Council made the application to facilitate the sale of the release land to the owner of an adjacent home in order to construct a vehicular access.

8. The release land comprises roadside verge, and is bounded to the east by further village green land. The land is not more than 200 square metres in area and no replacement land is proposed in exchange for the release land.

**Representations and Objections**

9. A public notice was published in the Newcastle Journal on 25 October 2021 and at the site. The application was publicly displayed at the village noticeboard for the statutory period. Consultation letters were sent to interested parties, including Northumberland County Council, Natural England and the Open Spaces Society (the OSS).

10. The OSS objects to the application. It considers that the extent of the release land exceeds what is necessary to provide a vehicular access. It indicates that it is prepared not to object to deregistration of only that part of the release land which is required for the driveway itself. Nevertheless, the application before me relates to the proposed driveway area plus an additional area of land and therefore I must determine it on that basis.

11. The OSS further submits that the access’s location crossing the release land has not been justified. It refers to the Secretary of State’s Common Land consents policy (November 2015) (the 2015 Policy) concerning applications to deregister town or village green and cases where no replacement land is offered. It considers that the application does not demonstrate the exceptional circumstances or compelling public interest referred to at paragraph 5.3 of the 2015 Policy, and that the deregistration would serve one private interest only. As a result, it considers that the application should be refused.

**Assessment**

12.  In determining the application I have had regard to the 2015 Policy. Paragraph 3.2 of that document sets out overall policy objectives to protect commons and greens, which include the objective that the stock of such land is not diminished. Paragraph 5.2 states that even if the land to be deregistered is not more than 200m² the Secretary of State will usually expect land to be offered in exchange as the policy is not to allow the stock of common land and greens to diminish.

13. Paragraph 5.3 of the 2015 Policy sets out that in general, the Secretary of State will grant consent where no replacement land is offered only in exceptional circumstances. Such circumstances are most likely where a wider public interest is served by the deregistration which may mitigate the prejudice caused by the loss of the release land. An application for deregistration where no replacement land is offered is most unlikely to be granted if no compelling public interest is served by the deregistration.

***The interests of those having rights in relation to, or occupying, the release land***

14. The information before me suggests that one person owned the land at the time of its registration in 1972. The register lists rights to take timber, bracken, heather, turf and peat from the release land, and to graze six sheep over the unit as a whole. The land comprises an unenclosed strip of road verge which is likely to be unsuitable for the exercise of the majority of the rights, and the OSS and the applicant do not consider that the rights are now exercised. There is consequently a low likelihood of the application having an adverse effect on any person with an interest in the release land.

***The interests of the neighbourhood***

15. The 2015 Policy indicates that the issues to be considered in this context include any positive benefits of the application to the neighbourhood, effects caused by the loss of the existing use and effects on future use and enjoyment.

16. As the application proposes no replacement land it would result solely in the loss of the release land. Whilst it would have a small private benefit in providing a driveway to a property, I do not identify any positive benefits to the neighbourhood.

17. The release land is a narrow strip of roadside verge which is unlikely to be subject to sporting or recreation use due to its small scale, proximity to the road and sloping terrain. Thus, effects resulting from the loss of any existing use would be minimal.

18. Register unit 18 is comprised of a number of areas within the village, including large sections of highway verge and more extensive open areas. Access to other areas of the unit may generally be gained by using the village highways. The release land does not contribute to the use and enjoyment of the village green as a whole due to its separation from these areas.

19. Thus, whilst the neighbourhood would not lose existing uses of the village green unit and the release would have an acceptable effect on its future use and enjoyment, the application would not positively benefit the neighbourhood.

***The public interest***

*Nature conservation*

20. The release land is not subject to any national or local designations for conservation interest. The limited size of the land, presence of mown grass and proximity to vehicles on the highway would be likely to limit its conservation value.

*Impact on the landscape*

21. Whilst the release land does not lie in a National Park or an Area of Outstanding Natural Beauty, it forms part of the verge on the southern side of the road and as such it makes a modest contribution to the verdant and rural appearance of the village as a whole.

*Recreation and access*

22*.* I have concluded above that the release land is unlikely to be subject to sporting or recreation uses.As roadside verge the land is likely to be part of the highway, in which case deregistration as a village green would be unlikely to affect access to the land. Even if it is not highway, it is probable that the features of the land which I have identified above would deter a proportion of the public from walking on it. Access is additionally likely to be minimal due to the availability of a level and surfaced footway on the opposite side of the road. Thus, whether or not the land carries a right of way as roadside verge, the application would not have a harmful effect on recreation or access.

*Protection of archaeology and local heritage*

23. The application states that the release land does not contain a Scheduled Ancient Monument. No archaeological remains or features of historic interest on the land have been brought to my attention.

***Other matters considered to be relevant***

24. The release land is not more than 200 square metres in area and the application does not include a proposal for replacement land. I am consequently required, in accordance with section 16(7) of the 2006 Act, to have particular regard to the extent to which the absence of replacement land is prejudicial to the interests of persons having rights over, or occupying the release land, the interests of the neighbourhood and the public interest.

25*.* There is nothing before me to suggest that the rights over the release land are exercised and consequently the absence of replacement land is very unlikely to be prejudicial to the holders of those rights. The absence of replacement land would be prejudicial to the interests of the neighbourhood because its overall stock of village green would diminish. This prejudice is limited in extent as the release land is of a relatively small size. The absence of replacement land results in a reduction in the verdant and rural appearance of the village as a whole, however the loss to the public interest is modest, again due to the small area of replacement land which would be proposed.

**Conclusion**

26. The Secretary of State’s policy is not to allow the stock of common land and village greens to diminish. The application does not serve any wider public interest which may mitigate the prejudice which I have identified above. Thus, I find that consent for the deregistration should not be granted.

*C Beeby*

INSPECTOR