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| **Application Decision** |
| Site visit made on 1 November 2022 |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 24 November 2022** |

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| **Application Ref: COM/3301057****Longhorsley Town Green, Northumberland**Register Unit No.: V.G.18 (Part).Registration Authority: Northumberland County Council. |
| * The application dated 8June 2022 is made under Section 16 of the Commons Act 2006 to exchange land registered as a village green.
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| * The application is made by Longhorsley Parish Council.
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| * The release land comprises of 428.5m2 of land alongside South Road (A697), Longhorsley opposite Moor View, South Road and 34-38 Church View, Longhorsley.
* The replacement land comprises of 947.5m2 of land to the east of South Road (A697), Longhorsley adjoining The Shoulder of Mutton, Rest Harrow, The Shielding and Beeswing Cottage, East Road.
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| **Decision: The Application is granted** |
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**Preliminary Matters**

1. I undertook a site visit on 1 November 2022 accompanied by members of the Longhorsley Parish Council (LPC), their solicitor, the owners of the exchange land, their agents, the developer and two objectors who live locally.
2. The Register describes the land as a town green but for the purposes of my decision I have referred to it as a village green as the applicants did in their submission documents.

The Application

1. The release land is a narrow strip of village green containing bushes, shrubs and trees. It forms part of the roadside verge alongside South Road (A697). LPC made the application to allow the development of land to the east of the village green. It is supported by the developer and the owner of the replacement land. Natural England (NE) and three local residents have made representations and objections to the application. The release would enable the provision of an access road and visibility splays for a residential development which has been granted planning permission.
2. The replacement land would be a 7 metre wide strip of land forming part of the proposed public open space (POS) along the northern boundary of the development. The replacement land would be available prior to the development as cleared land. On completion of the development, it would be enhanced with planting, landscaping and part of an accessible route to the village.

The Main Issues

1. Section 16(1) of the Commons Act 2006 (the 2006 Act) provides that the owner of any land registered as common land or village green may apply for the land (the release land) to cease to be so registered. Section 16(2) and (3) of the 2006 Act provide that if the release land is more than 200m2 in area, the application must include a proposal to register land in place of the release land.
2. I am required by section 16(6) of the 2006 Act to have regard to the following in determining the application:
3. the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it);
4. the interests of the neighbourhood;
5. the public interest, which includes the interest in nature conservation, conservation of the landscape, protection of public rights of access and the protection of archaeological remains and features of historic interest;
6. any other matters considered to be relevant.
7. I have had regard to Defra’s Common Land Consents Policy Guidance (November 2015) (the 2015 Policy) in determining this application, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its own merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from this guidance.
8. Section 3 of the 2015 Policy sets out the overall objectives to safeguard and protect commons and greens. Paragraph 3.2 seeks to ensure that our stock of common land and greens is not diminished so that any deregistration of registered land is balanced by registration of other land of at least equal benefit.

Reasons

***The interests of those occupying or having rights over the release land***

1. The inhabitants of the township of Longhorsley have common rights of estovers (the right to collect timber) and turbary (the right to collect peat) over the whole of V.G. 18. It is not believed that these are currently exercised over the release land, but they would continue to exist over the existing village green. The land is owned by the LPC who made the application. The application is unlikely to have an adverse effect on anyone with an interest in the release land.

***The interests of the neighbourhood***

1. LPC believe that the replacement land would provide a betterment for the neighbourhood by offering a larger, more open area of land for use as a village green, further away from the A697. On completion of the development, it would be enhanced with planting and landscaping. They point out that the release land is largely impassable due to dense shrubs, bushes and trees. The replacement land would provide a village green that is more useable for recreation and enjoyment. The loss of the release land does not impact on the ability to access or use the rest of the village green.
2. LPC also consider that the development will also provide additional benefits for the village by providing affordable homes and enhancing connectivity. There will be an accessible, safe, lit route through the development, a new footway to the existing bus stop, a pedestrian crossing and additional POS.
3. NE asked for clarification on a number of points regarding additional POS and an accessible route within the development and access to an existing community woodland. LPC and the developers responded to these points explain where accessible route would be and how the additional POS would be managed. NE were disappointed that the additional POS was not going to be registered as village green and felt that an opportunity to provide additional access to the woodland had been missed. However, they concluded that the exchange land would provide more opportunities for public access due to its location and lack of dense vegetation and had no objections to the exchange.
4. During the site visit, I noted that most of the release land was covered in thick vegetation and dipped down in the middle making it inaccessible to the public. There was a footpath along the rear of the village green, but it only crossed the release land where the access road entered the development site; a length of 13 metres according to the plan provided. This would still be available following the completion of the development with a dropped kerb proposed at either side of the road. It was also possible to walk along a narrow, mown grass strip at the roadside, but this was very close to the traffic making it unpleasant to use. There was an existing footway on the opposite side of the road for pedestrians.
5. By comparison, the replacement land was an open grass strip with trees and hedging along much of the northern boundary. There was also a stone wall alongside the Shoulder of Mutton Public House (PH). Access is proposed at the south-western corner of the PH. At the time of my site visit there was a high step-up into the release land as the levels between the roadside verge and release land were different. I am advised that an accessible access will be provided. This access will also be part of the accessible route through the development. Just north of the PH there is a pelican crossing providing a crossing point over the A697.
6. Having viewed the release and replacement lands I consider that the proposed exchange would be in the interests of the neighbourhood by providing a larger, more open and accessible area of land away from the road which would provide opportunities for informal recreation and enjoyment.

***The public interest***

*Nature conservation*

1. The release and replacement lands are not subject to any national or local conservation interest designations. NE advise that, although there are a number of trees and scrub within the release land, due to the relatively small area there is limited nature conservation interest. The ecological appraisal for the development found that the site did not impact on habitat of high value and proposed an ecological design strategy to make a positive contribution to biodiversity.
2. The objectors have concerns about the loss of plants, trees and wildlife relating to the wider village green and development site as well as the release land. LPC and the developers advised that although there will be some trees removed within the release land to provide the access road, the majority of the existing trees and shrubs within the remaining village green will be unaffected. Furthermore, the development includes conditions to maintain and protect the landscape, trees and wildlife and enhance biodiversity. It requires a landscape and maintenance plan to include a species rich hedgerow, wildflower rich grassland, replanting of a wildlife corridor and details of replacement trees and shrubs. NE indicated that they were aware of the condition and were content to leave this in the hands of the Planning Authority.
3. During my site visit I noted that the hedge line where the access entered the site contained less trees than in other places and only a limited number would need to be removed. Additionally, there is a tree lined hedge along the boundary of the replacement land.
4. Due to the limited nature conservation value of the release land and given the existing hedges and trees along the edge of the replacement land and the conditions associated with the development, I consider that there would be no adverse impact on nature conservation as a result of the proposed exchange.

*Conservation of the landscape*

1. The release and exchange land do not lie in a National Park, Area of Outstanding Natural Beauty or Conservation Area. NE consider that the removal of trees and the installation of an access road would result in a significantly more developed feel to the village which would have a negative impact on its character. However, they acknowledge that the development contains a condition to maintain and protect the landscape value.
2. The area affected by the access is limited with the surrounding village green remaining unaffected. During my site visit I noted an access to another residential estate with a pedestrian refuge and associated road markings just south of the release land. There is also street furniture within the existing village green including a stone bus shelter, roadside barriers, road signs, streetlights, speed camera and a bin. I consider that these already give the area a developed feel therefore the new access road will have a limited impact on the existing landscape.
3. Taking the existing street furniture and mitigation measures into account I consider that the proposed exchange is unlikely to have a detrimental effect on the landscape.

*The protection of public rights of access*

1. The release land is largely inaccessible to the public due to existing scrub, bushes and trees. The replacement land is a larger open area which would be made available prior to the development and further enhanced on completion of it. It would offer a more useable space for public recreation and enjoyment.
2. The objectors refer to an ancient woodland footpath running along the rear of the village green which they consider to be a safer, more enjoyable route to the community woodland and the old church than the footway alongside the A697. LPC point out that this footpath is not recorded on the definitive map and statement, the legal record of public rights of way.
3. I walked this footpath during my site visit and found it to be a pleasant route set back from the road, enclosed by the surrounding hedges and vegetation with the remains of a stone slab surface along much of its length. It was clearly well used, although not a recorded public right of way.
4. Only 13 metres of the footpath is within the release land and this would be crossed by the access road. Drop kerbs would be provided to enable the public to cross it and the planning permission notes the need for it to be adopted by the Highway Authority through an agreement under Section 38 of the Highways Act 1980. The rest of the footpath would be unaffected and remain available for public use.
5. As the exchange would result in a larger, more useable area of village green and the footpath would still be available for public use, I consider that there would be an improvement in the public rights of access.

*Archaeological remains and features of historic interest*

1. No archaeological remains or features of historic interest on the land have been brought to my attention. Historic England have no comment to make in relation to the proposed exchange. The County Council’s Archaeologist sought planning conditions for a three-stage archaeological scheme and a topographical survey for any surviving ridge and furrow earthworks in relation to the development. Therefore, I consider that there are unlikely to be any adverse effects to archaeological remains or features of historic interest.

*Conclusions on the public interest*

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

***Other matters***

1. A number of other matters were raised by the objectors including issues relating to road safety, the accuracy of the Road Safety Audit and Transport Assessment, consultation timescales for the planning application, the location of the pedestrian crossing and street lighting, the impact on privacy and access to private properties and disturbance, noise and dust during construction. These matters appear to be in relation to the development and would have been taken into consideration by the Planning Authority when granting planning permission. Matters relating to the planning application are not before me. I can only consider matters relating to the application to deregister and exchange land and the relevant legal tests outlined under the Main Issues section above.

Conclusion

1. Having regard to these and all other matters raised in the written representations, I conclude that the application be granted and an Order of Exchange be made.

Formal Decision

1. The application to deregister and exchange land is granted in accordance with the terms of the application (Ref: COM/3301057) dated 8 June 2022 and the accompanying plan and that an Order of Exchange should be made.

Claire Tregembo

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** the 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 V.G.18 to exclude the release land;
2. to register the replacement land as common land, by amending the register unit V.G.18 to include the replacement land;

**First Schedule** – the release land

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| **Colour On Plan** | **Description** | **Extent** |
| Edged Red | Land forming part of Longhorsley Town Green alongside South Road (A697) opposite Moor View, South Road and 34-38 Church View, Longhorsley | 428.5m2 |

**Second Schedule** – the replacement land

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| **Colour On Plan** | **Description** | **Extent** |
| Cross Hatched Green | Land to the east of South Road, Longhorsley adjoining The Shoulder of Mutton, Rest Harrow, The Shielding and Beeswing Cottage, East Road | 947.5m2 |

