



Application Decision

Site visit made on 5 August 2015

by **Mark Yates BA(Hons) MIPROW**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 21 September 2015

Application Ref: COM 692

Heath Common, Wakefield, West Yorkshire

Register Unit: CL 5

Registration Authority: The Council of the City of Wakefield

- The application, dated 23 March 2015, is made under Section 16 of the Commons Act 2006 ("the 2006 Act") to deregister and exchange land registered as common land.
 - The application is made by The Council of the City of Wakefield ("the Council") and Stretton Estates.
 - **The release land** is formed of two parcels of land referred to as Areas 1 and 2. Area 1 comprises of 2062m² of land adjoining Doncaster Road to the south and Black Road to the east. Area 2 is separate to the remainder of the common and comprises of 4224m² of land mainly to the north of Doncaster Road, including part of the highway and former power station site.
 - **The replacement land**¹ comprises of a parcel of land adjacent to Heath Common and to the north of Black Road which has an area of 12,655m².
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Decision

1. Consent is granted in accordance with the application of 23 March 2015 and the associated plans to deregister and exchange common land at Heath Common (Register Unit CL 5). For the purpose of identification only, a plan showing the extent of the land involved is attached to this decision.

Preliminary Matters

2. 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").
3. I carried out a site visit on 5 August 2015 accompanied by Ms Brewer and Mr Horncastle for the Council.

Main Issues

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

¹ The Council has entered into a contract to purchase the land in question.

- (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 interest²;
- (d) any other matter considered to be relevant.

The Application

- 5. Planning permission has been granted for the construction of the Wakefield Eastern Relief Road ("WERR"). The exchange is required as sections of the road would encroach onto the common. No representations were received in relation to the application.

Assessment

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

- 6. The release land is owned by the joint applicants who clearly support the application.
- 7. There are rights over the common for the grazing of horses and cattle along with the rights of herbage by either mowing or grazing. The Council states that it exercises the rights of grazing over the common on behalf of the commoners. There is nothing to suggest that the proposed exchange would have an adverse effect on these rights, particularly given the nature of the release land which includes part of the former power station site and highway land.

The interests of the neighbourhood

- 8. Nothing is apparent to suggest that the exchange would have an adverse effect on the neighbourhood. Some of the potential benefits for members of the public generally, addressed below, are also likely to apply to local residents.

The public interest

- 9. The nature and extent of the release land in comparison to the replacement land suggests to me that the granting of the application would lead to greater access opportunities for the public. Access would also be readily available between the replacement land and the remainder of the common.
- 10. The statement of reasons in support of the application outlines that the wider public benefits associated with the construction of the WERR would include job creation, reduction in traffic congestion and increased accessibility. It is also expected that there would be improved conditions for bus passengers, pedestrians and cyclists.
- 11. No details have been provided to suggest that the exchange would impact upon any nature conservation interests, archaeological remains or features of historic interest.

² 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.

Conclusions

12. Overall, there is nothing to suggest that there are any adverse effects arising out of this application in respect of the interests set out in paragraph 4 above. Further, there are potential benefits attributed to the construction of the WERR. The exchange of common land would also lead to an increase in the extent of the common and improved access opportunities for local residents and the public generally. Therefore, I conclude that the application should be granted and an Order of Exchange should be given.

Mark Yates

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 Council of the City of Wakefield, as commons registration authority for the area in which the release land and the replacement land are situated:

- (a) to remove the release land from its register of common land, by amending register unit CL 5 to exclude the release land, and
- (b) to register the replacement land as common land, by amending register unit CL 5 to include the replacement land.

First Schedule – the release land

Colour On Plan	Descriptions	Total Extent
Edged red	Firstly, 2062m ² of land adjoining Doncaster Road to the south and Black Road to the east. Secondly, 4224m ² of land mainly to the north of Doncaster Road, including part of the highway and former power station site.	6286m ²

Second Schedule – the replacement land

Colour On Plan	Description	Extent
Edged light green	It comprises of a parcel of land lying to the north of Black Road and adjacent to Heath Common.	12,655m ²

Mark Yates

Inspector