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## Application Decision

Site visit made on 25 July 2017

by **Susan Doran** BA Hons MIPROW

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

Decision date: 11 August 2017

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**Application Ref: COM/3170402**

**Land at Horsell Common, Surrey**

Register Unit No. CL100

Registration Authority: Surrey County Council

- The application, dated 20 February 2017, is made under Section 16 of the Commons Act 2006 to deregister and exchange part of Horsell Common.
  - The application is made by Horsell Common Preservation Society and Campmoss Property Co. Ltd.
  - **The release land** comprises 780 square metres of land comprising two parcels, one adjacent to Monument Road and the other adjacent to Britannia Wharf.
  - **The replacement land** comprises 1589 square metres of land adjoining Britannia Wharf, the release land and Monument Road.
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### Decision

1. The application is granted. For the purposes of identification only a plan showing the location of the release land and the replacement land is attached to this decision.

### Preliminary matters

2. Section 16(1) of the Commons Act 2006 ('the 2006 Act') provides, amongst 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 200 square metres a proposal must be made to replace it with other land to be registered as common land ('the replacement land').
3. An amended application map was provided to reflect the correct position of the common land boundary in relation to the release land. I do not consider that anyone's interests have been prejudiced by this amendment, as the intention of the application is clear.
4. I carried out an inspection of the release land and the replacement land accompanied by representatives of the Horsell Common Preservation Society ('HCPS') and of Campmoss Property Co. Ltd. ('CPCL'), the applicants.

### Main Issues

5. 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 interests of the public<sup>1</sup>; and
  - (4) Any other matter considered to be relevant.
6. I will also have regard to published guidance<sup>2</sup> in relation to the determination of applications under Section 16.

### **The application**

7. The release land comprises two land parcels: one to the north east of Britannia Wharf which is required for its proposed development; and land adjacent to Monument Road required for a proposed lay-by. The replacement land adjoins Britannia Wharf and Monument Road. There is currently no formal public access to it, although it can be accessed informally. The land forms part of a Site of Nature Conservation Importance, is within an area designated as of High Archaeological Potential, and is close to a Conservation Area.

### **Representations**

8. Representations were received from Historic England, Natural England and the Open Spaces Society.

### **Reasons**

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

9. There are no common rights registered. The land is owned and managed by the HCPS and/or CPCL, and both support the application. There is no evidence before me that the proposal will have any harmful effect on the interests of those having rights to or occupying the land.

#### ***Interests of the neighbourhood***

10. There is nothing to suggest that the loss of the release land will have an adverse effect on the interests of the neighbourhood. Indeed, the exchange of a larger piece of land will, I consider, be beneficial to the interests of the neighbourhood as a whole. Furthermore, the proposal will help protect nearby archaeological remains and features of historic interest.

#### ***Public interest***

##### *Nature conservation*

11. The release land to the north-east of Britannia Wharf comprises unimproved woodland similar to adjacent areas of the Common. Alongside Monument Road, the release land is in part an informal car park and in part unimproved woodland. None of the affected land falls within areas designated as a site of special scientific interest or special protection area.

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<sup>1</sup> 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.

<sup>2</sup> Common Land Consents Policy Guidance, November 2015, Defra

12. There is nothing to suggest that deregistration of the release land would adversely affect nature conservation or the enjoyment of the rest of the Common in this respect. Natural England has raised no concerns about the proposal.

*Conservation of the landscape*

13. The proposal is to replace the existing informal car park alongside Monument Road with a lay-by to accommodate coaches and cars for visitors to the Grade II Muslim Burial Ground and Peace Garden, situated to the north of the application site. In addition, there would be a parking area, space for bin storage and turning space provided on the release land to the north-east of Britannia Wharf. In addition, the Bronze Age burial mound situated on the replacement land will be protected. No harm to the conservation of the landscape at this location is apparent as a result of the proposal.

*Recreation and access*

14. The public has access to the release land for air and exercise by virtue of section 193 of the Law of Property Act 1925. The replacement land adjoins Horsell Common and, other than a fence or marker to delineate the new boundary between Britannia Wharf and the Common, there will be no impediment to public access to the replacement land for users of the Common.
15. The proposal will facilitate recreation opportunities and public access as the replacement land is larger than the release land with, overall, a net gain of common land. Whilst the informal car park will be removed, the proposed lay-by will maintain and facilitate access to the Muslim Burial Ground and Peace Garden by the public and organised groups. The proposal will also benefit visitors to the Bronze Age Burial mound which lies within the replacement land, and nearby scheduled Bronze Age Barrows to the west.
16. Although deregistration would mean the public could no longer use the release land as a whole for recreation and access, the replacement land is larger and will be accessible. I consider the exchange will improve public access and recreational opportunities in the area.

*Archaeological remains and features of historic interest*

17. The replacement land is the site of one of three rare Bronze Age burial mounds in the immediate vicinity which are scheduled ancient monuments, described as one of the finest examples of a Bronze Age bell barrow in Surrey. Due to the presence of the barrow group, the land lies within an Area of High Archaeological Potential relating to the increased potential for the discovery of Bronze Age finds or features.
18. The majority of the tumulus is subject to tree and scrub encroachment and a small area forms part of the informal car park which has a thin gravel/stone surface. The proposal, including the removal of the informal car park, will allow the restoration and enhancement of the ancient monument and its long-term protection through better management - refurbishment works being carried out under the guidance of Historic England.
19. Historic England supports the proposal; and both Natural England and the Open Spaces Society concur that the proposal will be beneficial to the bell barrow, affording it better protection.

20. I consider the replacement land to be of significant benefit to the public interest in terms of the protection of archaeological remains and features of historic interest.

### **Conclusions**

21. The overriding factor is to protect and maintain commons and village greens and to ensure the overall stock of such land is not diminished. The main objective in reaching my conclusions is to ensure the adequacy of the proposed exchange in terms of the statutory criteria.

22. I am satisfied that de-registration and exchange as proposed would not adversely affect the interests of any person having rights in relation to the exchange land. Neither in my view would the interests of the neighbourhood or of the public be adversely affected. I conclude therefore that the application should be granted and an Order of Exchange should be made.

*S Doran*

**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** Surrey County Council, 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 CL100 to exclude the release land; and
- (b) to register the replacement land as common land, by amending register unit CL100 to include the replacement land.

**First Schedule – the release land**

<b>Colour On Plan</b>	<b>Description</b>	<b>Extent</b>
Edged red	Land forming part of Horsell Common, register unit CL100, along the north eastern side of Monument Road (comprising 283m <sup>2</sup> ) and land to the north-east of Britannia Wharf (comprising 497m <sup>2</sup> ).	780m <sup>2</sup> in total

**Second Schedule – the replacement land**

<b>Colour On Plan</b>	<b>Description</b>	<b>Extent</b>
Edged light green	Land north of Britannia Wharf abutting the southern boundary of Horsell Common, register unit CL100.	1,589m <sup>2</sup>

*S Doran*

**Inspector**



- Release Land
- The Replacement Land
- The Common Land

- D 14 March 2017 Layout and notes updated.
- C 20 Feb 2017 notes updated
- B 23 Jan 2017 Scale of the drawing changed
- A 11 Nov 2016 New Coach Lay By added. Areas updated

No. date revision  
 Project **Britannia Wharf,  
 Monument Road,  
 Woking  
 GU21 5LW**

Drawing Title  
**Proposed Location Plan. Land Exchange. PLAN 1**

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Campross Property Ltd

scale 1:1000 @ A3 date 14 March 2017  
 Drawn by TK rev D

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