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# Application Decision

Site visit made on 22 January 2020

**by Barney Grimshaw BA DPA MRTPI(Rtd)**

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

**Decision date: 6 February 2020**

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**Application Ref: COM/3231151**

**Adversane Village Green**

Register Unit: VG2

Registration Authority: West Sussex County Council

- The application, dated 12 June 2019, is made under Section 16 of the Commons Act 2006 ("the 2006 Act") to deregister part of a Village Green.
- The application is made on behalf of Graham Holmes.
- **The release land** comprises 46m<sup>2</sup> of land.

## Decision

1. The application is refused.

## Preliminary Matters

2. Section 16(1) of the 2006 Act provides, among other things, that the owner of any land registered as 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 200m<sup>2</sup> a proposal must be made to replace it with other land to be registered as common land ("the replacement land"). In this case, the area of the release land is 46m<sup>2</sup> and no replacement land has been offered.
3. I made an inspection of the site on 22 January 2020 when I was able to view the release land. I had expected to be accompanied by the applicant, Mr Holmes, but he did not attend. However, Mr Holmes' mother happened to be sitting in a car close by and she joined me for the inspection.

## The Application

4. The application is made by the owner of the release land and the adjacent property, 'Frennells', for the purpose of providing a vehicular access to his property.

## The Release Land

5. The Release Land is part of a grassed area between the A29 road and 'Frennells'. Planning permission has been obtained to provide an access road over the land to 'Frennells'.

## **The Statutory Requirements**

6. 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;
  - (b) the interests of the neighbourhood;
  - (c) the public interest;<sup>1</sup>
  - (d) any other matter considered to be relevant.
7. I will also have regard to published guidance in relation to the determination of applications under Section 16<sup>2</sup>.

## **Representations**

8. One objection has been made to the application. This was made on behalf of the Open Spaces Society on the grounds that the land proposed to be deregistered would cease to have the protection of village green status, but no exchange land has been offered.

## **Assessment**

### ***The interests of persons occupying or having rights in relation to the release land***

9. The release land is owned by the applicant for the deregistration. No other persons have rights in relation to the land other than the general public right of access to the village green.
10. The A29 is a busy road with no footway. There is a small lay-by with space for a single vehicle outside the adjacent property to 'Frennells' known as 'Griggs Cottage' but otherwise there is no safe parking place close to the property. It would clearly be in the interests of the occupier of 'Frennells' to have the ability to access the property in a vehicle and to park it away from the road.

### ***The interests of the neighbourhood***

11. The 2006 Act does not define the term 'neighbourhood'. However, published guidance<sup>3</sup> makes it clear that the term should be taken to refer to the local inhabitants.
12. In this case, Adversane is a small village and the Village Green is centrally located. It would seem appropriate for the whole village of Adversane to be regarded as the neighbourhood of the Village Green.
13. The area of the Village Green which includes the release land is effectively a wide roadside verge on the eastern side of the A29. As such it would appear to be of little value for recreational use although its presence and appearance might be considered to enhance the attraction of the village.

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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.

<sup>3</sup> The Explanatory Memorandum to the Deregistration and Exchange of Common Land and Greens (Procedure)(England) Regulations 2007, SI2007 No.2589.

14. No objection has been made to the proposed exchange by any local resident.
15. Although the area of the release land is small and the proposed access road seems unlikely to have a major effect on the appearance or public use of the Village Green, approval of the application would still result in a loss of registered village green. Official guidance, already referred to, states that the Secretary of State's policy "*...is not to allow our stock of common land and greens to diminish*" and that the purpose of section 16 is not "*...to facilitate the deregistration of 'unwanted' or 'useless' pieces of common land or green but to enable registered land to be released in exchange for replacement land of equal value*"<sup>4</sup>.
16. The guidance further states that in general consent for deregistration where no replacement land is offered will only be given in exceptional circumstances and that such circumstances are most likely to be where a wider public interest is being served.
17. In this case, the applicant states that the release land would remain open and accessible to the public after the access road is constructed. However, this cannot be guaranteed, circumstances may alter, or the property might change hands and, if the land is then not registered, public access could be restricted in some way.

### ***The public interest***

#### *Nature Conservation*

18. Natural England were consulted on the application and chose to make no comment. There would appear to be no known feature of nature conservation value that might be adversely affected by the proposed deregistration.

#### *Landscape*

19. The construction of the access road would have a limited effect on the appearance of this part of the Village Green but very little effect on the general landscape of the area.

#### *Public Access*

20. As already mentioned, the construction of the access road itself would not limit public access. However, deregistration of the land would raise the possibility of access being restricted in the future.

#### *Archaeological remains and features of historic interest*

21. No known archaeological remains or features of historic interest will be affected by the proposed exchange.

#### *Conclusions on the public interest*

22. In most respects the proposed deregistration will have little adverse effect on the public interest although it would raise the possibility of public access being restricted in the future.

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<sup>4</sup> Common Land Consents Policy Guidance, November 2015, Defra, section 5.2.

**Conclusion**

23. This proposal will have limited adverse effects in the short term but, nevertheless, would result in the loss of part of the Village Green without any mitigating public benefit. The application should not therefore be granted.

*Barney Grimshaw*

Inspector