



Application Decision

Site visit made on 29 January 2020

by Heidi Cruickshank BSc MSc MIPROW

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 13 March 2020

Application Ref: COM/3229630

Land at Carrine and Goodern Common, Cornwall

Register Unit No: CL 595¹

Commons Registration Authority: Cornwall Council

- The application, dated 5 August 2018, is made under paragraph 4 of Schedule 2 of the Commons Act 2006.
 - The application is made by Mr T Hill on behalf of the Open Spaces Society.
 - The application is to register waste land of a manor in the Register of Common Land.
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Decision

1. The application is approved. The land outlined and cross-hatched in pink on the plan attached to this decision shall be added to the Register of Common Land ("the RCL").

Procedural Matters

2. An initial objection was made to the application on behalf of the Tregothnan Estate. However, this was withdrawn on 11 June 2019. A letter of support was submitted in response to the initial notice of the application.
3. On 29 January 2020 I met the applicant, a representative of the Open Spaces Society ("the OSS"), near the site. He provided helpful advice on access and parking in the locality. As no other parties were present I continued unaccompanied to view the land so far as I was able from the surrounding publicly accessible land and highways.

The Application Land

4. On 9 February 2012 an Inspector approved an application to add land at Carrine Common to the RCL². The land subject of this application is generally adjacent to the land registered in 2012, lying on either side of two roads, both of which appear to be named locally as Pound Lane. The land lies to the south-west of Truro, generally westerly of the Truro – Falmouth railway line.
5. The OSS have excluded an area of land to the south of the Chacewater – Carnon Downs Road, which was part of the original area provisionally recorded, see below. This area is relatively secure and separated from the surrounding land, being used as a Cornwall Council highways depot, storing road materials. I agree with the OSS that this land can reasonably be considered to be occupied, so falling outside the criteria allowing it to be registered, as set out in the Main Issues below.

¹ Original common land register number

² Planning Inspectorate Application Ref: COM 273

Main Issues

6. The application has been made in accordance with the provisions of paragraph 4 of Schedule 2 to the Commons Act 2006 ("the 2006 Act"). Cornwall Council, the Commons Registration Authority ("the CRA") have confirmed that the application has been processed in accordance with the relevant regulations.
7. The main issue is whether the land is waste land of a manor, at the date of the current application, and whether before 1 October 2008:
 - a) the land was provisionally registered as common land under section 4 of the Commons Act 1965 ("the 1965 Act");
 - b) an objection was made in relation to the provisional registration; and
 - c) the provisional registration was cancelled in the circumstances specified in sub-paragraphs (3), (4) or (5).
8. Sub-paragraph (5), on which the OSS relies, requires that the person on whose application the provisional registration was made requested or agreed to its cancellation (whether before or after its referral to a Commons Commissioner).

Reasons

The requirements of paragraph 4 of Schedule 2

9. Application number 2090 was made by the Ramblers' Association ("the RA") on 31 December 1969³ to register the land as common land under the 1965 Act. The land was provisionally registered as unit CL 595 on 24 February 1970. Objection No X733, dated 12 January 1972, was made to this application on the grounds that the land was not common land at the date of registration. Objection No X971, dated 20 March 1972, was made by a separate party on the grounds that the land which was in his ownership was not common land and no rights existed over it.
10. A Commons Commissioner held a hearing into the provisional registration of the land on 9 July 1980. The Commissioner's decision⁴ records that there was a written request that confirmation of the registration be refused, signed on behalf of the RA. As a result the Commissioner refused to confirm the registration.
11. The provisional registration was cancelled on 16 September 1981, therefore before 1 October 2008, in the circumstances specified in paragraph 4(5) of Schedule 2 to the 2006 Act.

Whether at the time of the current application the land was waste land of a manor

12. The documents presented in relation to the application before me support the contention that the land under consideration was of manorial origin.
13. The definition of waste land of a manor arising from the case of *Attorney-General v Hanmer [1858]*⁵ is "*the open, uncultivated and unoccupied lands parcel of the manor other than the demesne lands of the manor*". Demesne

³ Received by the CRA on 2 January 1970

⁴ Reference No. 205/D/772-773, 12 August 1980

⁵ 27 LJ Ch 837

land that owned and occupied by the lord of the manor for his own purposes. For land to be occupied there must be exclusive use of it by a tenant or owner.

14. In relation to the application land no evidence has been provided to indicate that it would not have fulfilled the definition of waste land of the manor at the time of the application. There is nothing to suggest any material change affecting the land since submission of the application. I am satisfied from my site visit that, so far as I was able to view the land, it was open, uncultivated and unoccupied. As a result, I am satisfied that the application land should be registered as common land.

Conclusions

15. Having regard to these and all other matters raised in the written representations, I conclude that the criteria for the registration of the application land as common land under paragraph 2(4) of the Schedule 2 to the 2006 Act has been met. The application should be approved.

Heidi Cruickshank

Inspector

