



Application Decision

Site visit held on 6 June 2018

by **Sue M Arnott FIPROW**

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

Decision date: 2 July 2018

Application Ref: COM/3189137

Poulshot Village Green, Poulshot, Wiltshire

Register Unit No.: VG 16

Registration Authority: Wiltshire Council

- The application, dated 9 November 2017, is made under Section 16 of the Commons Act 2006 to deregister and exchange land registered as village green.
- The application is made by Poulshot Parish Council.
- **The release land** comprises 130 m² of land at the northern end of Poulshot Village Green forming the access from Poulshot Road to the former Higher Green Farm.
- **The replacement land** comprises 200 m² of improved grassland located to the north of the development site at the former Higher Green Farm, Poulshot.

Summary of Decision: The application is granted.

Preliminary Matters

1. 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 or village green may apply for the land (the release land) to cease to be so registered.
2. In this case the release land extends to some 130 m² of land registered as part of Poulshot Village Green but which has formed a gravelled vehicular access track from the public road across the green to the former Higher Green Farm where planning permission has been granted for residential development.
3. In exchange, an area of 200 m² of former agricultural grazing land adjacent to the proposed development site is offered for registration as village green (the replacement land).
4. During my inspection of the release land and the replacement land I was accompanied by Ms R Yeomans of RCC Town Planning Consultancy, Mr G Collett (Chairman of Poulshot Parish Council (PPC)), Mrs E Martin (Clerk to PPC) and Ms S Wright-Hurn (a PPC Councillor).

Main Issues

5. I am required by Section 16(6) of the 2006 Act to have regard to the following in determining this application:
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- (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 interest;¹ and
- (d) any other matter considered to be relevant.

The application

6. Poulshot Parish Council made this application as owners of the village green to facilitate the re-development of the Higher Green Farm site for which planning permission was granted on 14 May 2015 (Ref K/59951/F). Plans have been approved for the erection of 9 new dwellings (including 4 affordable houses) taking access from Poulshot Road across the village green along the line of the gravelled driveway which previously serviced Higher Green Farm.
7. The proposal is to deregister 130 m² of village green parcel VG 16 (which, as registered, extends to some 4.9 ha (approximately 12 acres) of land in total) in order to provide an appropriately surfaced vehicular access into the development site. The release site would be replaced with a 200m² area of (former) agricultural land immediately to the north of the proposed residential development.

The release land

8. The release land is in the ownership of the applicant, Poulshot Parish Council.
9. The registration of Poulshot Village Green as VG 16 became final on 15 August 1982. The Register records rights to graze horses, ponies, donkeys, cattle and sheep, goats, fowl, ducks, geese and attendant goslings on the village green. One entry also notes a right to take herbage, turf and tree loppings over the whole of the land in this Register unit.
10. The green is the central focus of the village with the majority of properties situated around its periphery, several taking vehicular access across the green. The proposed release land is the historic access to Higher Green Farm, crossing the green at a point where it is described as "a generous grass verge"; its gravelled width is essentially 3.5m or so but is said to have spread over the adjacent grass in recent years. Most of the other 9 access tracks across the green are of a similar 3.5m width and 4 are measured at 4.5m; all extend to 12.7m at the bellmouth onto the public road.
11. It has been agreed with Wiltshire Council's Highways Department that the new vehicular access into the development site would retain the informal character of all similar tracks across the green, it being surfaced with bonded resin and with kerbed footways omitted. However its width would extend to 5.8 metres, wider than other tracks but less than the existing gravelled area at this point as visible on the aerial photograph submitted. Consistent with other tracks, it would be 12.7m at the bellmouth.

¹ 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.

The replacement land

12. In exchange the applicant offers a larger area of land to the north, adjoining the proposed development site. Here, a 200m² area would be formally designated as village green. The intended replacement land is currently a grassed, level area of land within a much larger field (1.2 acres) for which planning permission has been granted for recreational use. It is intended that ownership of this field will be transferred to PPC for use for village community activities. However only a part is offered in exchange for the release land (although greater in size) since PPC wishes the remainder of the field to continue free of the restrictions that formal designation as 'village green' will bring, especially in terms of siting children's play equipment etc.
13. Public pedestrian access to the replacement land (and community recreational field) would be gained from the village green via the internal road through the development. A separate vehicular access would be available for maintenance purposes from Sillington Lane to the north of the site.
14. No formal designations, statutory or otherwise, apply to the replacement land, or the field within which it is situated.

Representations

15. As required by the statute, a public notice was published in the Wiltshire Gazette and Herald on 16 November 2017 and on the site. The application was publicly displayed on the village notice board and at the offices of Wiltshire Council for the statutory 28 day period. Consultation letters were sent to interested parties as required, including Wiltshire Council, Poulshot Parish Council (the applicant), Natural England, Historic England and the Open Spaces Society.
16. Responses were received from Wiltshire Council, Historic England and the Open Spaces Society but no adverse representations were submitted.

Assessment

The interests of those occupying, or having rights in relation to, the release land

17. The last known active commoner with rights on the village green was the previous tenant farmer of Higher Green Farm, these being cattle grazing rights last exercised in 2005. The farm was subsequently sold in 2007 for development.
18. The main parcel of village green land is unfenced and the Commons Register identifies those with common rights attached to land adjoining the village green. All possible holders of rights to graze the village green have been contacted with no adverse responses. The right to take herbage, turf and tree loppings could not practically be exercised over the release land.
19. No negative effects of the proposed exchange have been highlighted (although it seems unlikely that the release land would be grazed), and since the surface of the release land has existed as a gravel track for many years, I conclude that the proposal would not have any noticeable effect in terms of the overall availability of village green land capable of being grazed.

The interests of the neighbourhood

20. There is no definition within the 2006 Act of the term 'neighbourhood'. In a rural situation such as this, the parish of Poulshot would be the most appropriate area to consider with Poulshot Parish Council being best placed to represent people living in this particular neighbourhood.
21. Since the application is made by PPC and, given that the Council has been instrumental in working with the developer to achieve a positive outcome from the proposals for local residents, it seems clear that the overall effect of deregistration of the release land and substitution with the replacement land would be to the benefit of the village.
22. No adverse comments have been submitted in response to consultation locally other than from three residents, these raising concerns that have not been pursued as objections to this application. Indeed no evidence has been presented from any party that might suggest the proposed deregistration and exchange would have any negative effect upon the way those in the neighbourhood make use of the village green.
23. Taking into account also the reasonable needs of people with disabilities who may use the green, I am satisfied that the effect of deregistration of the release land on the interests of the inhabitants of the neighbourhood would be negligible and that the replacement land would be of greater potential value to the local community than the release land.

The public interest

24. There are no submissions which suggest that any nature conservation aspects of either site will be compromised by the proposed exchange. Neither has the presence of any features of archaeological or historical interest been highlighted in relation to the areas in question.
25. As regards the effect on the local landscape, there will be relatively little impact on views of and across the village green. The approved plans for the vehicular access between the public road and the development site would visually improve the rather scruffy gravelled track without over-formalising the green. The replacement land would sit within the new community recreation field for which planning consent has been granted and would be seen within an entirely appropriate context.
26. In terms of public use, both the release land and the replacement land would be accessible to the public, the latter as village green and the former as adopted highway². However whereas at present the release land has a roughly gravelled surface, the replacement land is grass and will be managed as such as part of the new recreational field, thereby increasing the scope for the type of recreational activities that may be enjoyed there.
27. Although the replacement land lies some 90 metres from the release land, access to it on foot³ would be provided through the new development site via the proposed internal access road leading to the new community recreational field. This has been the subject of an agreement between the present landowner and

² This will be subject to the agreement of the highway authority in due course.

³ Vehicular access to the field for maintenance purposes is to be provided by easement from Sillington lane.

PPC in association with the intended transfer of the replacement land (and the recreation field) to PPC ownership. Through this agreement, a right of way on foot at all times and for all purposes will be granted to PPC, its successors in title and all persons authorised by them (and thereby facilitating use by the public) between the present village green and the replacement land.

28. On the basis of the submissions, and from my observations on site, I consider the proposal to be just and reasonable, and I conclude that no adverse effect upon the public's interest will arise as a result of the proposed deregistration and exchange.

Other relevant considerations

29. There would be no reduction in the overall area of village green as a result of the exchange; in fact there would be an increase. In addition, the replacement land would form part of a larger community area, together offering opportunities for local sports and pastimes alongside other recreational activities.

Conclusions

30. I conclude that the proposed deregistration of the release land and substitution with the replacement land would have a minimal effect on the interests of any registered graziers and, in some respects, offer a positive benefit to the inhabitants of the neighbourhood. Further I find that the public interest would not be adversely affected in any detrimental way. Overall, having regard to the criteria in Section 16(6) of the 2006 Act, I conclude that the application should be granted.

Formal Decision

31. The application to deregister and exchange land is granted in accordance with the terms of the application (Ref: COM/3189137) dated 9 November 2017 and an Order of Exchange should be made.

Sue Arnott

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** Wiltshire 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 forming part of Poulshot Village Green in the Parish of Poulshot (Register Unit No. VG 16) from its register of common land and village green, and
- (b) to register the replacement land as village green (also as part of Register Unit No. VG 16).

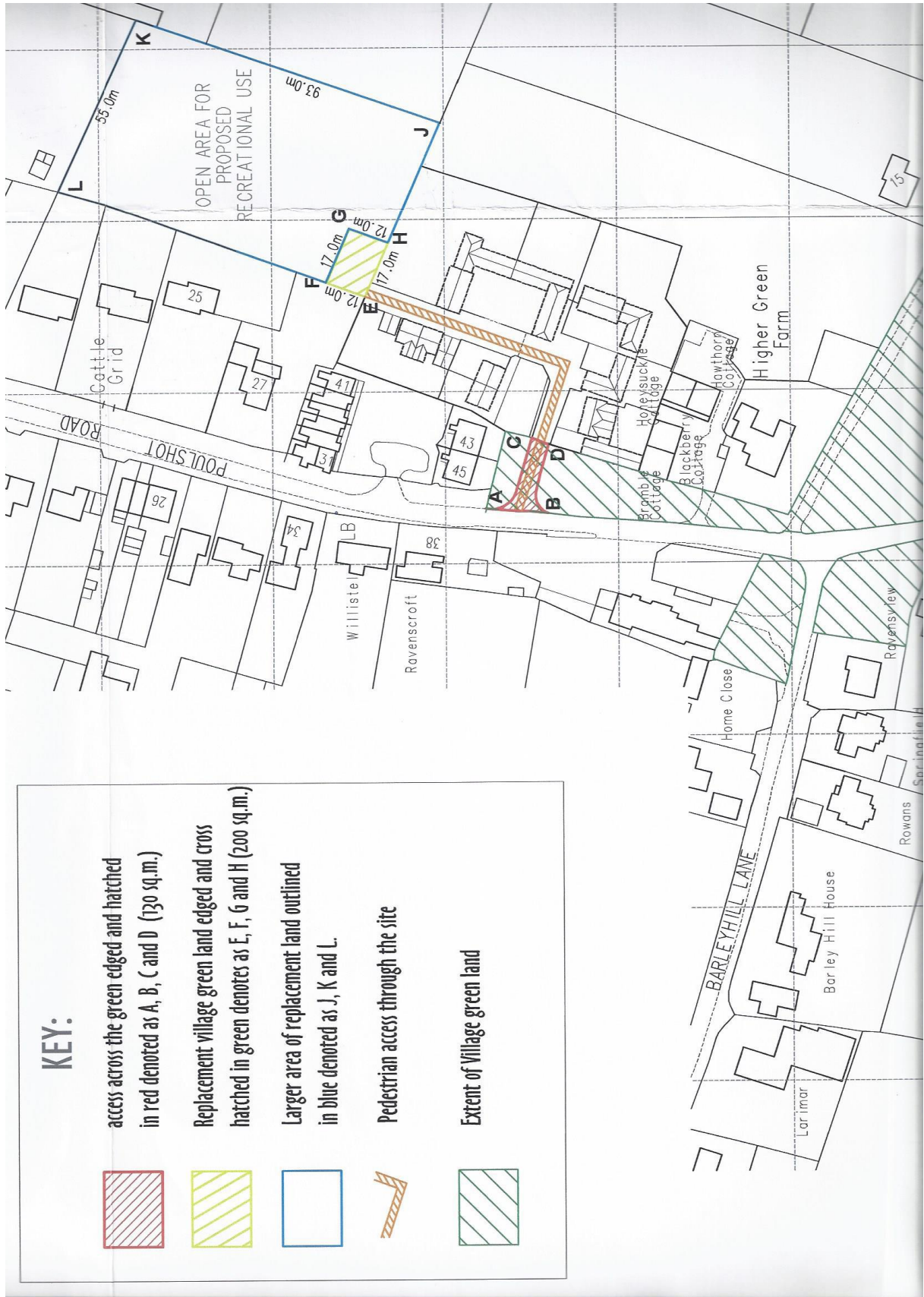
First Schedule – the release land

| Colour On Plan | Description | Extent |
|---|--|--------------------|
| Edged and hatched red on the plan at Appendix A and denoted by points A, B, C & D | Land centred on OS grid reference 397026 160126 situated at the northern end of Poulshot village, on the eastern side of Poulshot Road, previously affording access to Higher Green Farm, Poulshot, forming part of Poulshot Village Green (Register Unit VG 16) at Poulshot in Wiltshire. | 130 m ² |

Second Schedule – the replacement land

| Colour On Plan | Description | Extent |
|---|--|--------------------|
| Edged and hatched light green on the plan at Appendix A and denoted by points E, F, G & H | Land centred on OS grid reference 397089 160181 situated on the north side of Poulshot village within the (proposed) community recreation field located on the north side of (proposed) residential properties on the former site of Higher Green Farm, Poulshot, forming part of Poulshot Village Green (Register Unit VG 16) at Poulshot in Wiltshire. | 200 m ² |

APPENDIX A



NOT TO ORIGINAL SCALE