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## Application Decision

Site visit made on 15 August 2018

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

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

**Decision date: 24 September 2018**

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### **Application Ref: COM/3198278 Chipperfield Common, Hertfordshire**

Register Unit: CL 210

Registration Authority: Hertfordshire County Council

- The application, dated 15 March 2018, is made under Section 16 of the Commons Act 2006 ("the 2006 Act") to deregister and exchange common land.
- The application is made by Dacorum Borough Council (in association with the Chipperfield Burial Ground Trust).
- **The release land** comprises 1210m<sup>2</sup> of land which is an overgrown section of the common immediately adjoining the wall of St Paul's Church graveyard.
- **The replacement land** comprises 2130m<sup>2</sup> of land which is an overgrown triangular area of trees and scrub bounded by a children's play area, a public footpath and an unfenced access track. This land is not contiguous with the rest of the common and is situated almost 1 km from the release land.

### **Decision**

1. The application is granted in accordance with the terms of the application [Ref: COM/3198278] dated 15 March 2018, and the plan submitted therewith.

### **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 200m<sup>2</sup> a proposal must be made to replace it with other land to be registered as common land ("the replacement land").
3. I made an inspection of the site on 15 August 2018 when I was able to view both the release land and the replacement land. I was accompanied at the inspection by Mr S Morrill, Mr and Mrs D Bunker and Mr J Good representing the Chipperfield Burial Ground Trust (CBGT) and Mrs U Killich, Clerk to Chipperfield Parish Council.

### **The Application**

4. The application is made by Dacorum Borough Council in order to allow the release land to be leased to the Chipperfield Burial Ground Trust (CBGT) for the purpose of allowing burials to continue in Chipperfield once the adjoining St Paul's Churchyard is full.

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### ***The Release Land***

5. The release land is a rectangular piece of land at the north-western edge of the common. It comprises 1210m<sup>2</sup> of land bounded by the wall of St Paul's Churchyard on one side, an unfenced road on another and the existing common on the remaining two sides. It is largely overgrown and said to be little used although on my visit a trodden path across it was visible which had apparently been created after some clearance work had taken place to allow surveys to be made in connection with the application.

### ***The Replacement Land***

6. The replacement land is a triangular piece of land which is not contiguous with the rest of the common and is situated almost 1km from the release land. It comprises 2130m<sup>2</sup> of land bounded on one side by a children's play area, by a public footpath on another and by an unfenced access track on the third side. The land is currently wooded and overgrown and not crossed by any paths.

### **The Statutory Requirements**

7. 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.
8. I will also have regard to published guidance in relation to the determination of applications under Section 16<sup>2</sup>.

### **Representations**

#### **Assessment**

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

9. The release land is owned by Dacorum Borough Council, the applicant. There are no rights of common registered over it.

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

10. 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.
11. In this case it seems clear that all the residents of the village of Chipperfield are local inhabitants of the common and I have therefore taken the entire

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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, 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.

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village of Chipperfield to be the appropriate 'neighbourhood' for the purpose of assessing this application.

12. CBGT organised public meetings and delivered a questionnaire to all households in the parish regarding the proposal to extend the churchyard on to part of the common. Out of 691 questionnaires returned, 645 (93%) supported such an extension. This clearly provides some indication that the inhabitants of the neighbourhood themselves regard the proposed deregistration and exchange as being beneficial to their interests.
13. The burial ground at St Paul's Churchyard is almost full and it appears that there is a strong desire within the local community to ensure that deceased family members can continue to be buried in the village and not in burial grounds in other towns some distance away. The proposed extension of the burial ground had already received planning permission.
14. The release land comprises a very small part of the whole common (0.255%) and is arguably of limited value as it is at the edge adjacent to a road and the churchyard and overgrown. The replacement land is significantly larger in area than the release land and, although some distance from the rest of the common, is still close to houses, easily accessible and potentially more attractive.

*Conclusions regarding the interests of the neighbourhood*

15. The proposed deregistration and exchange will result in very little detrimental effect on the interests of the neighbourhood and should result in significant benefits as a result of the provision of much needed additional burial space and the registration of an increased area of common land.

***The public interest***

*Nature Conservation*

16. Natural England (NE) has commented that as the replacement land is deciduous woodland, a priority habitat, it is possible that the biodiversity value of this land is greater than that of the release land. In addition, it is noted that cemeteries can be valuable for wildlife if managed appropriately so the release land could retain an ecological value. Overall, NE expressed support for the application.
17. The Woodlands Officer of Dacorum Borough Council has commented that the trees on the release land are unremarkable and there is no particular case for their retention. He therefore raised no objection to the proposal.
18. A Bat Survey and a Habitat Survey have been carried out on the release land. No evidence of bat roosting was discovered although one tree that could have been suitable for bat roosting was identified. Unfortunately this tree blew down in January. The Habitat Survey concluded that the area was a potential habitat or foraging area for a number of species and that care should be taken when clearing the site. No evidence of any protected species being present on the site was found.
19. The proposals for the site include the retention of the existing churchyard wall and some of the existing larger trees. Other boundaries are to be planted with

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blackthorn hedges which will provide habitat for nesting birds and other species.

20. Overall, the proposed deregistration and exchange will have little adverse effect on nature conservation and will potentially result in some benefits.

#### *Landscape*

21. The proposed development of the release land as a relatively small extension to the existing burial ground is unlikely to detract from the village landscape, particularly as it is to be carried out in a manner which respects existing features.
22. Chipperfield Common is largely wooded and the proposed partial clearance of a relatively small number of unremarkable trees should not have any significant adverse effect on the landscape of the common as a whole.

#### *Public Access*

23. The release land was said to be relatively inaccessible due to overgrowth until recently when some clearance was undertaken to enable surveys to be carried out in connection with the application.
24. If the land is developed as an extension to the burial ground as proposed, there will be unrestricted public access at all times, as is the case with the existing churchyard.
25. The replacement land is also somewhat overgrown and difficult to access at present but it adjoins a public footpath on one side and is also potentially accessible from the other two sides. It is proposed that it will be managed by the Dacorum Woodlands Officer and a path through it could be created and working parties of the 'Friends of Chipperfield Common' would also be able to work on it.
26. Overall, the proposed deregistration and exchange will not diminish public access to common land and will potentially enhance opportunities for access to a larger more attractive area.

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

27. An archaeological evaluation of the release land was carried out in January 2015. Two trenches were dug and no archaeological features or finds were revealed.
28. Historic England was consulted regarding the application and stated that it was not considered that the proposal would harm any highly designated assets in the vicinity and no objection was raised.
29. Accordingly, there seems to be no reason to believe that approval of the application will lead to any detrimental effect on archaeological remains or features of historic interest.

#### *Conclusions on the public interest*

30. Overall, the proposed deregistration and exchange will have little adverse effect on the public interest and potentially will bring some benefit.

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**Conclusion**

31. This proposal will have very little adverse effect on either the interests of the neighbourhood or the wider public and will be of benefit to both. The application should therefore be granted and an Order of Exchange should be made.

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## 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** Hertfordshire 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 CL 210 to exclude the release land;
- (b) to register the replacement land as common land, by amending register unit CL 210 to include the replacement land;

### First Schedule – the release land

Colour on plan	Description	Extent
Edged red	Land adjacent to the south-western boundary of St Paul's Churchyard, Chipperfield.	1210m <sup>2</sup>

### Second Schedule – the replacement land

Colour on plan	Description	Extent
Edged green	Land to the north-east of a children's play area at Croft Meadow, Chipperfield.	2130m <sup>2</sup>

*Barney Grimshaw*

**INSPECTOR**

