Planning Inspectorate logo

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| **Application Decision** |
| Site visit made on 3 November 2021 |
| **by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 13 December 2021** |

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| **Application Ref: COM/3275417**  **Dalton Piercy Village Green, Dalton Piercy, Hartlepool**  Register Unit No: VG75  Commons Registration Authority: Hartlepool Borough Council |
| * The application, dated 10 May 2021, is made under Section 16 of the Commons Act * 2006 to deregister and exchange land registered as a Village Green (VG). * The application is made by Derab Rezai (Chair) of Dalton Piercy Parish Council (the Council). * **The release land** comprises 33m² of land to the south of plot 5419 between Leamount and Manor Farm. * **The replacement land** comprises 74m2 of land to the south of Dene Garth. |
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Decision

1. Consent is granted in accordance with the application dated 10 May 2021, to deregister and exchange land at Dalton Piercy Village Green, Dalton Piercy, Hartlepool (Register Unit VG75, registered at HM Land registry under title number CE204232). For the purpose of identification only a copy of the application plan is attached to this decision.

**Preliminary Matters**

1. Section 16(1) of the 2006 Act provides, among other things, that the owner of any land registered as VG may apply for the land (“the release land”) to cease to be so registered. If the area of the release land is greater than 200m² a proposal must be made to replace it with other land to be registered as VG (“the replacement land”). In this case, the area of the release land is 33m2 and 2no. parcels of replacement land has been offered amounting to 74m2.
2. I will also have regard to published guidance in relation to the determination of applications under section 16 which states that where a deregistration order is made, such rights transfer to the replacement land (Section 17(6) of the 2006 Act)
3. This application has been determined solely on the basis of written evidence and an accompanied site visit, accompanied by Lyn Noble and Jennifer White for the Council.
4. I have taken account of the representations made by Natural England (NE), the Open Spaces Society (OSS) and Historic England (HE) in reaching my decision.

**Main Issues**

1. 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 (and in particular persons exercising rights over it);

b. the interests of the neighbourhood;

c. the public interest; and,

d. any other matter considered to be relevant.

**Reasons**

**The Application**

1. The application seeks to provide access to a plot of land (Field number 5419) located between Leamount and Manor Farm (the plot) to enable pedestrian/vehicular access and the installation of service media. It is indicated that a single dwelling will be constructed on the plot.

***The interests of those occupying or having rights over the land***

1. The release land is owned by the applicant who clearly supports the application. There are no registered rights recorded over the land. The applicant confirms that there are rights of access to the general public and that they will retain ownership of the released land. There is nothing to suggest that the proposed exchange would have an adverse effect on these rights, particularly given the nature of the release land, including its size, lie of the land and proximity to a track leading to Manor Farm.

***The interests of the neighbourhood***

1. Nothing is apparent to suggest that the exchange would have an adverse effect on the neighbourhood. I accept that the replacement land already has a visual and physical connection to the existing VG, particularly the section in front of North View. Nonetheless, the replacement land was de-registered to provide parking areas for residents, albeit the scheme was never implemented, as a parking area opposite this section of the VG has been created.
2. The replacement land has also had large rocks placed along its edges at either end of the VG to deter vehicular parking. Additionally, planters have been sited in proximity to both the road junctions at North View. The 2006 Act does not define the term ‘neighbourhood’. However, published guidance in the Explanatory Memorandum to the Deregistration and Exchange of Common Land and Greens (Procedure)(England) Regulations 2007, SI2007 No.2589, makes it clear that the term should be taken to refer to the local inhabitants.
3. The area of the release land is modest and the proposed access would appear unlikely to have a significant impact on the appearance or public use of the VG. Furthermore, whilst the replacement land already has a visual and physical connection to the VG, its re-registration will benefit the wider community as it will once again preserve this section of the VG. Additionally, no objection has been made to the proposed exchange by any local resident.

***The public interest***

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.

*Nature Conservation*

1. There is no evidence before me to indicate that the proposed exchange will harm nature conservation interests. Additionally, NE do not raise any objections.

*Landscape*

1. The land is not in a National Park, Area of Outstanding Natural Beauty or covered by any formal landscape designation. Nonetheless, the area subject of this application positively contributes to the wider visual amenities of the VG. NE and the OSS do not object to the application. Although, the OSS have raised some concerns surrounding permitted development rights. However, I am confident that sufficient control would be exercised in this regard through the Council continuing in its ownership of the release land.

*Public access*

1. The construction of the access itself, would not limit public access. Furthermore, the Council remaining as owner of the land after deregistration would significantly reduce the likelihood of access being restricted in the future.

*Archaeological Remains and Features of Historic Interest*

1. There is no evidence to suggest that the proposed exchange would have an adverse effect on any archaeological remains or features of historic interest. HE has not provided any comments on the application, as no heritage assets would be affected.

**Conclusion**

1. Overall, there is nothing to suggest that there are any adverse effects arising out of this application in respect of the interests set out above. The exchange of land would also lead to an overall increase in the extent of the VG, albeit modest. Therefore, I conclude that the application should be granted and an Order of Exchange should be given.

W Johnson

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**

Hartlepool Borough 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 VG75 to exclude the release land;

(b) to register the replacement land, by amending register unit VG75 to include the replacement land; and,

(c) to register as exercisable over the replacement land (in addition to remaining exercisable over the remainder of the land comprised in register unit VG75) any rights which, immediately before the date on which the release land is removed from the register, are registered as exercisable over the release land and the remainder of the land comprised in register unit VG75.

**First Schedule** – the release land

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| **Colour on Plan** | **Description** | **Extent** |
| Edged red | Land forming part of register unit VG75, comprising a strip of land between Leamount and Manor Farm, from the access to field number 5419 to join the existing track to the south. | 33m2 |

**Second Schedule** – the replacement land

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| **Colour on Plan** | **Description** | **Extent** |
| Edged light green | 2no. parcels of land, located in front of North View and at each end, abutting part of VG75 and each comprising 37m2. | 74m2 |

W Johnson

INSPECTOR

