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| **Application Decision** |
| Site visit made on 29 November 2022 |
| **by Barney Grimshaw BA DPA MRTPI(Rtd)** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 18 April 2023** |

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| **Application Ref: COM/3303863**  Register Unit: VG 18  Registration Authority: Northumberland County Council |
| * The application, dated 25 July 2022, is made under Section 16 of the Commons Act 2006 (“the 2006 Act”) to deregister common land or village green. |
| * The application is made on behalf of Longhorsley Parish Council. |
| * **The release land** comprises 139m2 of land. |

**Decision**

1. The application is granted in accordance with the terms of the application [Ref: COM/3303863] dated 25 July 2022, and the plan submitted therewith.

Preliminary Matters

1. 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 200m² a proposal must be made to replace it with other land to be registered as common land (“the replacement land”).
2. I made an inspection of the site on 29 November 2022. I was accompanied at the inspection by representatives of the applicant (Longhorsley Parish Council) and both the owner and prospective developer of adjacent land.
3. I attach a copy of the application plan for information purposes.

###### The Application

1. The application has been made by the owner of the village green, Longhorsley Parish Council, in order to allow the construction of an access road to approved residential development of land to the north-west of the village green.
2. No replacement land is offered as part of the application.

The Release Land

1. The release land forms part of a strip of grass verge alongside East Road at a point where it is crossed by an access to an adjacent field.

###### The Statutory Requirements

1. I am required by Section 16(6) of the 2006 Act to have regard to the following in determining this application:
2. the interests of persons having rights in relation to, or occupying, the release land;
3. the interests of the neighbourhood;
4. the public interest, which includes the public interest in nature conservation, the conservation of the landscape, the protection of public rights of access and the protection of archaeological remains and features of historic interest;
5. any other matter considered to be relevant.
6. I will also have regard to published guidance in relation to the determination of applications under Section 16 (common land Consents Policy Guidance, November 2015, Defra).

Representations

1. The Open Spaces Society has objected to the deregistration on the grounds that it offers no benefit to the public to compensate for the loss of village green.

###### Assessment

1. The official guidance referred to above states (Para.5.2) that *“Even if the land to be deregistered is not more than 200m2 the Secretary of State will usually expect land to be offered in exchange for the land being deregistered as her policy is not to allow our stock of common land and greens to diminish. The Secretary of State does not interpret the purpose of section 16 as being 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”.*
2. It further states (Para.5.3) that *“In considering* *an application which does not propose replacement land, the Secretary of State is required to have “particular regard … to the extent to which the absence of such a proposal is prejudicial to the interests specified in section 16(6)(a) to (c)” (i.e. the ‘private’ interests, the interests of the neighbourhood, and the public interest)”. In general, the Secretary of State will grant consent where no replacement land is offered only in exceptional circumstances. Such circumstances are most likely where a public interest is being served by the deregistration which may mitigate the prejudice caused by the loss of the release land.”* It further states that *“It follows that an application for deregistration where no replacement land is offered is most unlikely to be granted if no compelling public interest is served by the deregistration”*.
3. Para.5.3 also states that even in cases that otherwise satisfy these requirements *“…land should be offered in exchange unless there is a compelling reason why this is not possible”*
4. Accordingly, it is clear that the current application should only be granted if it is demonstrated that the proposed deregistration of part of the village green without the offer of replacement land will serve a ‘compelling’ public interest that mitigates any prejudice caused by the loss of the release land and that there is a ‘compelling’ reason why it is not possible to offer land in exchange..

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

1. The applicant is the owner of the release land and states that no rights of common are registered over it. According to the transcript of the official register I have seen, this is not strictly true as some parties have rights to collect estovers and dig peat and one has the right to graze 6 sheep. However, these rights relate to the whole of VG18 and it seems safe to assume that they are not now exercised in relation to the release land.

The interests of the neighbourhood

1. The 2006 Act does not define the term ‘neighbourhood’. However, in this case it seems logical to consider the village of Longhorsley to be the appropriate neighbourhood.
2. The village contains extensive areas of village green which include football pitches, a war memorial and a pond area. The release land forms part of a fairly narrow strip of roadside verge which is not suitable for any recreational use and does not include a footpath. It is therefore considered by the applicant that the de-registration proposed would not result in any significant loss to the inhabitants of the village.
3. The proposed de-registration would enable a new access to be formed to land to the north-west and enable its development with 9 houses in accordance with an approved plan. The houses are said to be needed to maintain the vitality of the village.
4. In addition, if the de-registration is approved, the release land is to be sold to the developer of the adjacent land in return for a significant sum of money which will be used to provide improved facilities for village residents.
5. Although it is arguable that the proposed deregistration is in the interests of the neighbourhood it is not clear that the circumstances are sufficiently ‘exceptional’ to satisfy the guidance nor that it would serve a ‘compelling’ public interest . In addition, as the proposed development that would be enabled as a result of the deregistration includes some landscaped open space there would seem to be no ‘compelling’ reason why the offer of replacement land is not possible.
6. However, since the application was submitted and the site visit held, the current owner of land adjacent to the release land and the proposed future owner and developer of this land have entered into a legally binding agreement to register 2 areas of land as village green, if the deregistration of the release land is approved. The land subject to this agreement comprises 2 strips of amenity land immediately adjoining the existing village green and in total significantly larger in area than the release land. This land will effectively become replacement land for the release land and the agreement specifies that it will be registered as village green within 3 months of the completion of the associated housing development.
7. The provision of this additional village green land along with the other benefits of the proposed deregistration described above satisfies the requirement for the deregistration to be in the interests of the neighbourhood.

The public interest

Nature Conservation

1. There is no evidence that the proposed deregistration will have any adverse effect on nature conservation. The area proposed to be de-registered is not subject to any designation for nature conservation. Natural England (NE) was consulted on the application and commented that the release land is unlikely to have any notable level of biodiversity interest and NE had no objection to the proposal.

Landscape

1. The construction of the proposed access road will alter the appearance of the village green to a limited extent but will not have a significant effect on the wider landscape.

Public Access

1. As it is proposed that the release land will become a public road if the deregistration is approved, public access will still be available. In addition, the proposed registration of additional village green land will increase the amount of land available for public access.
2. At present there is no footpath within this section of the village green and it does not appear to be much used by pedestrians. It is proposed in the application that a footpath will be created on part of the existing village green to facilitate pedestrian access.

Archaeological remains and features of historic interest

1. There are no known issues relating to archaeological remains or features of historic interest.

Conclusions on the public interest

1. Overall, the proposed deregistration, along with the registration of additional village green, will not have an adverse effect on the public interest.

Conclusion

1. This application, when considered in association with the legal agreement that will come into effect if it is approved, will have no significant adverse effect on the interests of persons having rights in relation to, or occupying, the release land, the interests of the neighbourhood or the wider public. The application should therefore be granted.

Barney Grimshaw

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**

Northumberland County Council, as commons registration authority for the area in which the release land is situated:

- to remove the release land from its register of town and village greens, by amending register unit VG 18 to exclude the release land;

**Schedule –** the release land

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| **Colour on plan** | **Description** | **Extent** |
| Edged red | Land to the north-west of East Road, Longhorsley. | 139m2 |

