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| **Application Decision** |
| Site visit on 9 May 2023 |
| **by Mark Yates BA(Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 20 June 2023** |

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| **Application Ref: COM/3311432**  **Bury Mead Recreation Ground, Stevenage** |
| Register Unit: VG105 |
| Registration Authority: Hertfordshire County Council |
| * The application, dated 17 November 2022, is made under Section 16 of the Commons Act 2006 (‘the 2006 Act’) to deregister land registered as a town or village green (‘TVG’). * The application was made on behalf of The Burymead Trust (‘the Trust’). * The release land comprises of 90m² of land located to the east of North Road, Stevenage.  |  | | --- | |  |   **Decision** |

1. Consent is granted in accordance with the application of 17 November 2022 to deregister land registered as a TVGat Bury Mead Recreation Ground, Stevenage.

**Preliminary Matters**

1. When I was approached during the site visit by two people I explained the reason for looking at the site, but I did not enter into any discussion regarding the merits of the application.
2. For the purpose of identification only the location of the release land is shown on the attached plan.

**Main Issues**

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 (and in particular persons exercising rights of common over it);
3. the interests of the neighbourhood;
4. the public interest which includes the 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; and
5. any other matter considered to be relevant.
6. In considering these tests, regard should be given to the Department for Environment, Food and Rural Affairs Common Land Consents Policy of November 2015 (‘the consents policy).

**Reasons**

***The Application***

1. The Trust made the application to enable Hertfordshire County Council (‘HCC’) to develop a new cycle route on the eastern side of North Road. The project is stated to be one of a number of Active Travel Fund schemes funded by the Department for Transport in Hertfordshire.
2. The release land comprises of 90m² of grass verge (63.5 metres in length) adjacent to the current eastern footway of North Road and lies towards the western edge of the TVG. Within this strip of land there is a low-level metal fence, trees and other vegetation. However, it is notable that the release land is significantly wider at its northern end where it is around 3 metres wide. For the majority of its length the release land comprises of a much narrower strip of land.
3. Three representations were submitted in response to the application with the Open Spaces Society (‘OSS’) objecting to the proposal. Before considering the main issues outlined above, I shall firstly address some procedural issues raised by the OSS.
4. Although there is no registered owner of the land at the Land Registry, the Trust have provided some evidence in support of their ownership of the release land. Reference is also made to the registration of the leaseholder title by the Land Registry following the Trust granting a lease to Stevenage Borough Council. In light of the information provided, I proceed on the basis that the Trust owns all of the release land. The borough council has also consented to the application as required by Section 16(9) of the 2006 Act.
5. As issue is also raised regarding whether the consent of the Charities Commission is required for the Trust to proceed with the application. It is apparent that consent is required where there is a disposition of land by reference to Section 117(1) of the Charities Act 2011. However, the application before me is seeking the de-registration of an area of TVG ratherthan the sale, transfer, leaseor disposal of land.Therefore, I am not satisfied on balance that consent of the Charities Commission is required in terms of this application. It is not for me to determine whether any such consent is required in terms of the proposed dedication of a section of the cycle track once it is completed.
6. HCC are the highway authority and they have provided a map showing the current extent of the highway land in this location.

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

1. The application was made by the landowner, and this is clearly indicative of their support for the deregistration of the relevant area of TVG. Consent has also been given by the leaseholder. No other party is identified as occupying or having rights over the release land.

***The interests of the neighbourhood***

1. The impact of the proposed deregistration of the land on members of the public generally is considered below. These matters will have particular relevance to local people. There is nothing to indicate that there are any matters that would impact on local residents alone.

***The public interest***

1. There is no requirement for replacement land to be offered in exchange where the release land is less than 200m². However, paragraph 5.2 of the consents policy outlines that it will usually be expected that land will be offered in exchange to prevent the stock of TVGs from being diminished.
2. Paragraph 5.3 of the policy further outlines “…*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 wider public interest is being served by the deregistration which may mitigate the prejudice caused by the loss of the release land… 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. No suitable replacement land has been identified or proposed in this case. Furthermore, I do not find that the additional support offered by HCC to enhance the remainder of the TVG would compensate for the loss of the release land. As outlined above, consent will only be granted in exceptional circumstances, and this is most likely to arise where the application would serve the wider public interest.
4. Reference is made to the proposed cycle track providing connections to local amenities, most notably the nearby Lister Hospital. It would connect to other walking and cycling facilities in the town and beyond via the National Cycle Network**.** During the course of the site visit (undertaken early in the afternoon) I observed a steady flow of traffic using North Road which may act as a deterrent to people cycling in this locality at the present time, particularly school children.
5. The Trust refers to the need to make provision for walking and cycling routes in light of planned housing growth in the north of the town set out in the Local Plan. HCC’s Local Transport Plan supports the delivery of cycling and walking schemes to encourage a shift away from car use for short journeys or as part of a longer journey**.** Additionally, Stevenage Borough Council has an adopted policy to enhance the walking and cycling provision in the town, which forms part of their Local Cycling and Walking Improvement Plan.
6. Whilst the loss of land registered as TVG would ordinarily not be approved in the absence of the provision of suitable replacement land, there will be instances where this may be permitted. The most likely situation when this will arise is where a proposal is in the public interest. From my observations of the site and the details provided, I consider that the provision of a cycle track is likely to provide significant public benefits in term of serving to facilitate and encourage people to use more sustainable modes of transport. This will be particularly relevant for local people.

*Public rights of access*

1. It is evident that the TVG is open to the public for general recreational use. In terms of the release land itself, this comprises of a grass verge which lies adjacent to the current footway of North Road. To some extent the nature of the release land will limit the recreational use that can be presently undertaken on it when compared to other parts of the TVG. The use made of the release land is likely to increase should the cycle track be constructed with the intention being that it would be designated as highway land.

*Nature conservation*

1. Natural England have confirmed that the land is not subject to any statutory designations for nature conservation for which their consent or assent is required. Nor are they aware of any notable level of biodiversity interest associated with the land. The Trust also outlines that there is no evidence of any features that require further assessment in terms of biodiversity.
2. It is notable that the intention is for the existing vegetation to be largely retained along this section of the route and it is only proposed to trim it back to the fence line and highway boundary. The one exception being the removal of a single tree towards the northern end of the release land.It is also outlined that works would follow best practice in terms of timing to protect ecology, or otherwise be supervised by a qualified ecologist.
3. In light of the above there is nothing to suggest the proposed works that would follow in the event the land is de-registered would have a significant impact on nature conservation or that any other information is required on this issue.

*Conservation of the landscape*

1. As outlined above it is intended that the existing vegetation would belargely retained which should generally preserve the views of the landscape features from both within the TVG and towards it. The proposed cycle track would be a limited extension to the existing metalled highway. Overall, I find that the proposal should have little impact on public enjoyment of the landscape.

*Archaeological remains or features of historical interest*

1. No details have been provided of any archaeological remains or features of historical interest that would be affected by the de-registration of the land.

***Alternatives***

1. The OSS have suggested that North Road could be reduced in width so as to provide most or all of the land to accommodate the cycle track. However, the details supplied in support of the promoted scheme reveal that it is proposed that the carriageway width would be reduced to allow for the introduction of the cycle route. It is considered that the design minimises the extent of the land needed beyond the existing highway boundary.
2. In terms of using the existing verge on the western side of the carriageway, it is stated that this would require re-aligning the road on the approach to the Martins Way bridge, which would create inadequate sweep paths. Re-aligning the road would also involve the loss of a length of established hedgerow along the verge on the western side of the road.

**Other Matters**

1. The concern raised in one of the representations regarding whether the cycle track would be kept free of vegetation is a highway maintenance issue for HCC to address.

**Conclusions**

1. The Secretary of State’s policy is not to allow the stock of TVGs to be diminished unless exceptional circumstances are applicable. In this case, the works proposed on the release land would be of significant public benefit and could justify the deregistration of the land. Further, the public would continue to be able to use the land as part of the proposed cycle track. There is no apparent viable alternative to this scheme in relation to the placing of the cycle track.
2. Having regard to these and the other relevant matters addressed above, I conclude on balance thatthis piece of land should be deregistered.

Mark Yates

**Inspector**

**Order**

On behalf of the Secretary of State for Environment, Food and Rural Affairs and pursuant to Section 17(1) of the Commons Act 2006, **I HEREBY** **ORDER** Hertfordshire 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 or village greens, by amending register unit VG105 to exclude the release land.

**Schedule** **–** the release land

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| **Colour on Plan** | **Description** | **Extent** |
| Edged red | An area of land adjacent to North Road, Stevenage. | 90m² |

Mark Yates

**Inspector**

