Planning Inspectorate logo

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| **Application Decision** |
| Hearing held on 23 July 2024  Site Visit conducted on 23 July 2024 |
| **by Rory Cridland LLB (Hons) PG Dip, Solicitor** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 August 2024** |

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| **Application Ref: COM/3324088**  **Chynhalls Cliff, St Keverne, Cornwall**  Register Unit No: CL537  Commons Registration Authority: Cornwall Council |
| * The application, dated 24 December 2020 is made under Schedule 2, paragraph 4 of the Commons Act 2006 (“the 2006 Act”). * The application is made by Tomas D.J.S Hill * The application is to register waste land of a manor as common land in the register of common land,  |  | | --- | |  | |
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Decision

1. The application is not approved.

**The Application Land**

1. The application land consists of an area of around 14 hectares of land at Chynhalls Cliff, Coverack in the parish of St Keverne. A number of footpaths cross the land including parts of the South West Coast Path. The land is designated access land under the Countryside and Rights of Way Act 2000.

**Main Issues**

1. The main issue is whether the land was waste land of a manor and whether before 1 October 2008:
   1. the land was provisionally registered as common land under section 4 of the Commons Act 1965;
   2. an objection was made in relation to the provisional registration; and
   3. the provisional registration was cancelled in the circumstances specified in sub-paragraphs (5) of the Commons Act 2006. This requires the person who made the application for provisional registration to request or agree to its cancellation (whether before or after its referral to a Commons Commissioner).

Reasons

*The requirements of paragraph 4 of Schedule 2*

1. The land was provisionally registered as common land under register unit CL537 on 19 December 1969 following an application from Trewillis Farmers Limited of Trewillis Farm dated 4 December 1969.
2. One objection was made by Cornwall County Council dated 21 July 1972. This was on the basis that it considered the land was not common land at the date of registration.
3. Entry 2 in the Register of Common Land for CL537 dated 5 February 1980 notes that the provisional registration was cancelled under section 6(2) of the Commons Registration Act 1965 and by the direction of the Commons Commissioner dated 2 November 1979.
4. The Commons Commissioner Decision dated 21 August 1979 confirmed that this was as a result of neither of the successors in title to Trewillis Farm wishing the claimed grazing right to be maintained.
5. Overall, I am satisfied that the application land meets the criteria set out in paragraphs 3(a) – (c) above.

**Whether the land is waste land of a manor**

1. In the case of Attorney General v. Hanmer (1858) 2 LJ Ch 837 (‘Hanmer’), it was held that the true meaning of waste land of a manor is “..the open and uncultivated and unoccupied lands parcel of the manor other than demesne lands…”. Furthermore, the courts have made clear that the phrase should be construed as meaning ‘waste land which was once waste land of a manner in the days when copyhold tenure still existed’.
2. It is seldom possible to prove definitively that a particular parcel of land is ‘of a manor’. But it is sufficient to show, on the balance of probabilities, that the land lies in an area which is recognised to have been, or still be, manorial, and that there is no convincing evidence to the contrary.
3. The Applicant considers the application land lies within the manor of Traboe and has provided a plan which forms part of a set of 30 plans showing the tenements in Traboe manor (reference G/1868/13). It is understood to be late 18th century and includes the application land. The relevant record entry explains that each plan shows plots outlined in colour and with reference numbers, which it notes would link to a table or reference book.
4. The plan itself depicts a number of parcels of land outlined in yellow which appear to be linked to the tenement of Trewillis. Others, outlined in green, appear to be linked to a neighbouring tenement. The area comprising the application land is outlined in yellow but from the reference numbers and annotation it appears to be linked to both tenements. Although no table or reference book has been produced, I accept that the plan does indicate that the application land may have once formed part of the manor of Traboe.
5. However, there is nothing which would suggest that the application land was considered to be waste land of that manor or fell within the definition as set down in Hanmer. Indeed, taking the plan at face value, it appears that the application land was recognised as forming part of Trewillis Farm and the neighbouring tenement at the time it was prepared.
6. Furthermore, there is no evidence which would indicate that the land was accessible to, or used by, anyone other than the occupiers of Trewillis Farm and the neighbouring tenement. While I acknowledge that the history of manorial land is complex and rarely straightforward, from the limited evidence available, it appears that there may have been some exclusive, albeit joint, occupation of the application land in the late 18th century which would have resulted in it ceasing to be waste – if, indeed, it ever was.
7. Accordingly, while I accept that the application land may have once formed part of the manor of Traboe, I do not consider it has been demonstrated that it was waste land of that manor.

**Whether the land fulfils the character of waste land of a manor**

1. As I have found above that it has not been demonstrated that the application land is waste land of a manor, I have not gone on to consider if the land fulfils the character of waste land.

**Conclusion**

1. Having regard to these and all other matters raised, I conclude that the application land does not fulfil the necessary criteria for registration. Consequently, I do not approve the application.

Rory Cridland

INSPECTOR

**APPEARANCES**

**For the Applicant**

Tomas D.J.S Hill Applicant

**For the Commons Registration Authority**

Hannah Rodger Countryside Access Team, Cornwall Council

**For the Objectors**

Mr Patton Objector

Dr Milson Objector

**DOCUMENTS submitted at the Hearing**

Blackhead Higher Tier County Stewardship Agreement No 1630806