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| **Application Decision** |
| Site visit made on 25 February 2025 |
| **by G D Jones BSc(Hons) DipTP DMS MA MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 13 March 2025** |

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| **Application Ref: COM/3343054**  **Adwalton Common, Drighlington, Bradford** |
| Register Unit No: CL67 |
| Registration Authority: Leeds City Council |
| * The application was submitted on 17 April 2024 and is made under Section 16 of the Commons Act 2006 to deregister and exchange land registered as common land. * The application was made on behalf of Mr and Mrs Todd. * The release land comprises of approximately 187m² of land adjacent to West Street to the northeast of No 60.  |  | | --- | |  | |

**Decision**

1. The application is refused.

**Preliminary Matters**

1. Section 16(1) of the Commons Act 2006 provides 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 land in question is greater than 200m2 a proposal must be made to replace it with other land to be registered as common land. However, 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 it so that the stock of common land will not diminish.

**Main Issues**

1. I am required by Section 16(6) of the Commons Act 2006 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 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.

**Release Land & Application**

1. The release land is a roughly square parcel of land measuring some 187m². Its southeastern boundary fronts on to West Street. Its three other boundaries are adjoined by the surrounding residential development to the northwest of West Street, albeit that there is a driveway to the northeast that serves a number of dwellings beyond the Common to the north. The release land is also located to the northeast of 60 West Street, which is the applicant’s property. The submissions indicate that the applicants wish to build a one and a half storey dwelling on the release land.

**Representations**

1. The only representations that have been made are from Natural England (NE) and the Open Spaces Society (OSS). Both object to the application. Their submissions are a matter of public record, such that it is not necessary to reproduce them here. Nonetheless, the matters raised, as far as they are pertinent to my decision, are addressed in the following section.

**Reasons**

1. In determining the application I have had regard to the Secretary of State’s *Common Land consents policy*, November 2015 (the 2015 Policy). Para 3.2 of which sets out overall policy objectives to protect commons, including the objective that the stock of such land is not diminished. Para 5.2 states 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 as the policy is not to allow the stock of common land to diminish. In this case, the area of land in question is below the threshold and no replacement land is proposed.
2. Para 5.3 of the 2015 Policy sets out that in general, the Secretary of State will grant consent where no replacement land is offered only in exceptional circumstances. It adds that such circumstances are most likely where a wider public interest is served by the deregistration which may mitigate the prejudice caused by the loss of the release land. Para 5.3 goes on to say 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.

*Interests of those having rights in relation to the release land and of the neighbourhood*

1. Adwalton Common is subject to a Scheme (the Scheme) made under the Commons Act 1899. Amongst other things, the Scheme enables ‘the inhabitants of the district and neighbourhood’ to ‘have a right of free access to every part of the Common and a privilege of playing games and of enjoying other species of recreation thereon’. Via Section 15(2) of the Countryside and Rights of Way Act 2000 the rights of those inhabitants in relation to the land is exercisable by members of the public generally. Accordingly, I deal with the first two main issues here together. They are, of course, also relevant to the *public interest* in terms of the protection of *public rights of access*.
2. The release land is small in area. It also makes up a very small proportion of the greater Common. It is separated by West Street from the significant majority of the grassland that is characteristic of the Common. Consequently, the effect of its loss from the Common for ‘access’, ‘games’ and ‘recreation’ would be limited alone, in its own right, as well as in connection with the use of the Common at large.
3. Were the application to be allowed, an even smaller strip of the Common would remain between No 60 and the release land. While that remaining land would continue to form part of the Common, its use for ‘access’, ‘games’ and ‘recreation’ would be significantly undermined by the deregistration of the release land. This is chiefly because of the loss of the release land as the only adjoining part of the Common located to the northwest of West Street and the absence of any other adjoining public land or throughway to the north, combined with its very limited size and rather awkward, corridor-like shape. Accordingly, the effect of granting the application would be a little greater than merely the loss of the release land from the Common.
4. Although the frontage to West Street is rather overgrown, there is boundary treatment to the northeast and the rough grass land within the site a little uneven, the release land remains easily accessible and could be used alone or in conjunction with the adjoining land to the side of No 60 as described above. Notwithstanding the applicants’ submissions, the release land does not appear to pose any significant threat to public safety. I see no good reason why access, ease of use and the appearance of the land could not be improved through better management and maintenance, which is within the gift of the Council under the terms of the Scheme.

*Public Interest*

1. From the information before me and from what I observed during my site visit, there is no basis to conclude that the release land is of any significant *nature conservation* value. Nonetheless, as an undeveloped area of grassland with some shrubs and trees it will be of some, albeit limited nature conservation value. Were the release land to be developed along the lines suggested by the applicants, it is reasonable to conclude, as NE has advised, that there would be a potential loss of biodiversity on this area of common land. Alternatively, if the site were to remain undeveloped there is no good reason to believe that there would be any significant benefits to nature conservation arising from its deregistration.
2. In terms of the *conservation of the landscape*, were the release land to be developed as suggested by the applicants, there would be an additional urbanising effect. Nonetheless, given the current built-up, residential character of the northwestern side of West Street and the relative scale of the remaining Common, any landscape impact on the Common at large would be limited.
3. Matters of public interest associated with *public rights of access* are as outlined in the preceding subsection.
4. The area is of some historic interest, most notably in respect to its associations with the Civil War Battle of Adwalton Moor 1643. The removal of the release land from the Common, taken in isolation, would not affect any *archaeological remains and features of historic interest*. The applicants’ proposals for the land’s development have, though, the potential to effect archaeological remains, should such remains be present. Nonetheless, there is no compelling evidence that such remains do exist. Historic England has been notified of the current application and has raised no objection or concerns about the proposed deregistration.
5. In the event that the applicants were to pursue a scheme for the development of a new dwelling on the land it would require planning permission. At that stage Historic England and other interested parties would have a further opportunity to comment. Were planning permission to be granted for such development, conditions could be imposed to secure the protection and/or recording of matters of archaeological interest within the site. Overall, there is therefore no basis to resist the application for reasons relating to archaeology and historic interest.

*Other Matters, Claimed Benefits and Assessment*

1. A number of other considerations have been advanced in support of the application, including what are claimed to be benefits in the public interest. Notable amongst these are that the release land is not used for ‘access’, ‘games’ and ‘recreation’ and has not been for many years. Furthermore, that if it were to be used for any of those purposes, it would be of limited value due to its constrained size and condition, particularly in the context of the greater Common, which offers substantially more space, flexibility and connectivity beyond its boundary. I also note the range of other outdoor recreational facilities available in the wider area.
2. Nonetheless, the release land and the adjoining land which forms part of the Common had a similar configuration and relationship with the greater Common when the Common was created, albeit that the character of West Street as a highway is likely to have changed. It is reasonable to assume, therefore, that at that time the release land was considered to be of value or at the very least of potential value as an integral part of the Common and for use for ‘access’, ‘games’ and ‘recreation’ even though it protrudes from the main body of the Common.
3. While access to the release land is likely to be more constrained than it once was, particularly due to the vegetation to the West Street frontage and the enclosure to the northeastern boundary, pedestrian access is not difficult. With better maintenance and management, which the Council is entitled to do under the terms of the Scheme, access to the land and its attractiveness for ‘games’ and ‘recreation’ could be reasonably achieved along the lines originally envisaged for the Common at large. Accordingly, these considerations carry no more than limited weight in favour of the application.
4. It is also suggested that the deregistration of the release land and/or its development for a dwelling would bring benefits, for instance in terms of the land’s appearance and the delivery of housing in the area. While the release land does look somewhat unkept, it does not have a significant effect on the character and appearance of the area. Consequently, any improvements in this regard that might result from, solely, the deregistration of the land or, additionally, from its development for residential purposes would be limited.
5. The provision of a new dwelling along the lines suggested by the applicants would bring benefits, including the creation of a new home within an established community, as well as benefits to the local economy associated with the construction process. However, these would be limited due to the modest scale of development that could be accommodated on this small piece of land. There can also be no guarantee that such development would necessarily be granted planning permission. Accordingly, these matters also carry limited weight in favour of the application.
6. The applicants also refer to there having been no objections from local people or any other party aside from NE and OSS to the application notwithstanding the consultation that has been undertaken. Nonetheless, while there have been objections, there have been no submissions made in support of the application, notwithstanding the appellant’s assertions regarding the land’s appearance, safety and misuse and the potential delivery of a dwelling. Accordingly, that there have been no more objections to the application carries little weight.
7. The public interest considerations that weigh against the application are modest, largely due to the limited size of the release land and its useability for ‘access’, ‘games’ and ‘recreation’. However, they collectively carry significant weight, sufficient to comfortably outbalance all of the matters that have been advanced as being in favour of the application. These include those outlined above as well as the wider points raised, including that it is not feasible to provide replacement land due to local constraints. I have come to this conclusion bearing in mind the great importance the Secretary of State gives to the retention of common land as reflected in the 2015 Policy.

**Conclusion**

1. The Secretary of State’s policy is not to allow the stock of common land to diminish. For the reasons outlined above, the application does not serve any compelling wider public interests which would collectively mitigate the loss of common land. Consent for the proposed deregistration should not, therefore, be granted.

G D Jones

INSPECTOR