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| **Application Decision** |
| Site visit made on 18 June 2025 |
| **by J Ingram LLB (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 10 July 2025** |

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| **Application Ref: COM/3353753**  **Sneedhams Green, Matson, Gloucestershire** |
| Register Unit: CL252 |
| Registration Authority: Gloucestershire County Council |
| * The application, dated 4 October 2024, is made under Section 16 of the Commons Act 2006 (“the 2006 Act”) to deregister and exchange common land. * The application is made by Gloucester City Council, Gloucestershire County Council and the Trustees of the GW Hughes Will Trust. * The release land comprises 3 parcels of land totalling 350m² on the east side of Winneycroft Lane. * The replacement land comprises 2092m² of land to the east of Winneycroft Lane on part of a site known as ‘Land at Snow Capel’.  |  | | --- | |  | |

**Decision:**

1. Consent is granted and an Order of Exchange given in accordance with the application dated 4 October 2024, to deregister and exchange common land at Sneedhams Green, Matson, Gloucestershire. As part of the Order of Exchange a copy of the application plan (Drawing CL100) showing the area for deregistration and exchange is attached to this decision.

**Procedural matters**

1. I carried out an inspection of the release land and the exchange land on Wednesday 18 June 2025 in the company of representatives from, the Trustees of the GW Hughes Will Trust, Bromford Housing, Historic England and one of the registered commoners.
2. It is noted that Gloucestershire County Council are not the landowner of either the release or replacement land but are required to be a cosignatory to the application where a Public Right of Way crosses release or replacement land.
3. Following advertisement of the application, a total of 5 representations were received.
4. The application has been determined on the basis of the written evidence and my own observations of the site and surroundings.

**Main Issues**

1. I am required by Sections 16(6) of the 2006 Act to have regard to the following in determining the application:

(a) the interests of persons having rights in relation to, or occupying, the land

(and in particular persons exercising rights of common over it);

(b) the interests of the neighbourhood;

(c) the public interest, including 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; and

(d) any other matter considered to be relevant.

1. 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”) which has been published for the guidance of both the Planning Inspectorate and applicants.

**The Application**

1. On 4 July 2023, Gloucester City Council Planning Committee provided delegated authority to permit the proposed development of 'Land at Snow Capel' under planning application 22/00519/FUL subject to completion of a Section 106 Agreement. The residential development proposes 180 dwellings, vehicular, pedestrian and cycle access from Winneycroft Lane, public open space and landscaping, drainage attenuation, acoustic barrier and other associated works. The land to which the proposed development relates is generally to the east of Sneedhams Green.
2. The proposed development includes three new accesses linking with Winneycroft Lane. The northern access would be for pedestrians and includes an existing public right of way, the central access would be the vehicular access into the development, the southern access would be for emergency vehicle access with pedestrian and cyclist access. These accesses would be formed on land currently registered as Common Land under CL252 Sneedhams Green Common. The application also seeks deregistration to allow for necessary easements for utilities and services through the proposed release land, alongside access formation.
3. Two areas of replacement land are proposed, located within the north west and west of the development site. The proposed replacement land is in existing agricultural use and is bound by hedgerow to the north and west, and agricultural land to the south and east. The proposed areas of replacement land are adjacent to part of the existing Common land separated by the hedgerow to the west.

**Reasons**

1. Although “any other matter considered to be relevant” is listed last in my paragraph 6 above, I intend to address this first because it informs my consideration of the matters to which I must have regard. Under this heading I propose to examine whether the exchange land that is offered is at least equally advantageous to the interests set out in Sections 16(6) of the 2006 Act.

***Other matters considered to be relevant***

1. The Secretary of State’s primary objective in determining applications under section 16(1) is to ensure the adequacy of the exchange of land in terms of the statutory criteria. Therefore, even where an applicant makes an otherwise compelling case for an exchange, the Secretary of State’s expectation will be that the interests (notably the landowner, commoners, and the wider public) will be no worse off in consequence of the exchange than without it, having regard to the objectives set out above. The expectation is more likely to be realised where the replacement land is at least equal in area to the release land, and equally advantageous to the interests. I must evaluate the exchange in terms of both quality and quantity. The consents policy indicates that an inadequate exchange will seldom be satisfactory, whatever the merits of the case for deregistration might otherwise be.
2. In quantitative terms, the application proposes the release of 3 parcels of land totalling 350.80m² of CL252 on the eastern side of Winneycroft Lane. The area of the proposed replacement land totals 2092.11m². This equates to a net gain in the area of common land of 1741.31m². This exceeds the expectation in the consents policy of the replacement land being at least equal in area to the release land.
3. In qualitative terms, the proposed replacement land is all existing pasture. It would be adjacent to the eastern side of CL252, separated by a hedgerow. The replacement land would form part of the amenity land and wider public open space to be provided within the development. The replacement land would be separated from Winneycroft Lane by the hedgerow and would therefore be screened from traffic by the vegetation, whereas the release land is immediately adjacent to the carriageway. I consider it would therefore be a more pleasant environment for recreation than the release land. Furthermore, the release land comprises 3 small parcels of land, 2 of which are partially hardstanding with limited grass surface, which severely limits the potential for grazing and recreation.
4. The proposed development would deliver a number of benefits, including a significant number of much needed market and affordable houses, economic benefits through job creation during construction, delivery of public open space, improved pedestrian/cycle interlinkages and a biodiversity net gain, amongst other things. Taken together, the benefits of the scheme attract substantial weight. I consider the benefits would accrue to the local neighbourhood and wider public interest. As the formation of the accesses and utility works proposed are necessary to facilitate the development and thereby secure those benefits, I similarly afford them appropriate weight.
5. In summary, the release land comprises 3 narrow strips of land adjoining a carriageway. It is adversely affected by the passing traffic and offers very limited scope for grazing or recreation. In contrast, the replacement land is a much greater area, and although still narrow in parts, it is a more usable space for recreation. Moreover, the replacement land is screened from the traffic, and I consider it a more pleasant environment to be in. I therefore conclude that, the replacement land is of at least equal value to the release land and accords with the consents policy in that regard.

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

1. There are 3 common rights registered in relation to the release land, however, only one commoner currently exercises their right to graze sheep and their lambs on an ongoing basis. I consider that the replacement land would be an improvement in both the quantity and quality of the grazing land. Unrestricted access to the replacement land from Winneycroft Lane is proposed at the northern end, therefore the sheep would be able to access it easily. In addition, a ‘sheep bridge’ crossing point over the existing ditch is proposed near to the southern end of the replacement land, to enable the sheep to cross from the existing common. There are also other informal sheep access points. Furthermore, a cattle grid is proposed on the vehicular access road into the development, this would benefit both the commoner and residents by preventing sheep from straying into the residential area. I am therefore satisfied that no interests or rights are adversely affected by the proposals.

***The interests of the neighbourhood***

1. As stated above, due to the proximity to the carriageway and its narrow width, the release land is affected by the traffic and associated noise. For the reasons that I set out above, I consider that the replacement land is of at least equal value to the release land. Indeed, I put it higher and consider that, on balance, the replacement land is superior to the release land, both in terms of area and usability for recreation. I therefore conclude that, on the whole, the exchange of land is the interests of the neighbourhood.

***The public interest***

*Conservation of the landscape*

1. Natural England comment that although it is likely there will be a negative impact on the overall landscape quality of the area as result of the planned access works, the registration of a significantly larger area of common than that being lost would ensure no net loss of common land. They state it will also provide a measure of mitigation for the impact of the new access works within the semi natural and rural landscape. The applicant states that the proposed development includes significant biodiversity net gain, secured through hedgerow, tree and wildflower planting. Consequently, I consider the harm arising to the landscape from the application to facilitate the accesses, would be mitigated.

*Nature conservation*

1. There does not appear to be any direct nature conservation impacts arising from the proposed exchange of land. I consider any loss would be limited, and the mitigation measures and biodiversity net gain referred to above would also apply to nature conservation.

*Protection of archaeological remains and features of historic interest*

1. Historic England (HE) have commented on the application. There is included within the development site a scheduled monument known as, ‘Moated site at Sneedhams Green’. This is a highly designated heritage asset. However, HE has stated work would not directly impact on this or any other designated heritage assets. I therefore consider that there is no indication that any archaeological remains or features of historic interest would be lost or damaged as a result of the proposal.
2. Concerns were raised regarding the boundary treatment, as it was considered that a proposed hedge on the eastern side of the replacement land adjacent to the scheduled monument would restrict views between the common and the monument. Agreement has now been reached between the parties, there is now a proposed a 1.2 metre stock proof fence rather than a hedgerow along the replacement land eastern boundary. This would allow the grazing sheep to be contained on the common and provide unrestricted views of the scheduled monument.

*Protection of public rights of access to any area of land*

1. Public access is not affected by the application, the public also have the right to access the common land under the Countryside and Rights of Way Act 2000. There is an existing public footpath at the northern parcel of proposed release land from Winneycroft Lane, this enters the site at the north west corner and would be unrestricted. The public footpath would then run adjacent to the replacement land for a short distance, between the two northern parcels. There is a proposal of a gate on the public footpath within the southern boundary of the two northern parcels. The gate would effectively replace the current roadside stile and would be required for stock control as it would prevent sheep from entering the residential area.
2. For the southern parcel of replacement land, unrestricted public access is proposed on the northern boundary. In addition, public access would be provided in the stock proof fence by the incorporation of gates on the central area of the eastern boundary and at the southern boundary. I am therefore satisfied that the application would not adversely affect public access.

**Conclusion**

1. The development of the land at Snow Capel for which delegated authority to permit was given in July 2023 would bring significant benefits. Those benefits would be in the public interest and can only be secured by allowing the necessary provision of the infrastructure required on the release land.
2. The replacement land proposed would be of at least equal value to the release land and, in my view, would be of greater value in terms of offering potential for grazing and recreation. In weighing the overall balance, I conclude that the proposals are acceptable, and that consent should be granted.

J Ingram

INSPECTOR

**CONSENT 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** Gloucestershire County Council, as commons registration authority for the area in which the release land and the replacement land are situated:

1. to remove the release land from its register of common land, by amending register unit CL252 to exclude the release land;
2. to register the replacement land as common land, by amending register unit CL252 to include the replacement land; and
3. to register as exercisable over the replacement land (in addition to remaining exercisable over the remainder of the land comprised in register unit CL252) any rights of common 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 CL252.

**First Schedule** – the release land

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| **Colour On Plan** | **Description** | **Extent** |
| Edged red | Land forming part of register unit CL252 and comprising 3 parcels of land on the east side of the Winneycroft Lane.  Northern parcel  Centre parcel  Southern parcel | 51.87m²  188.02m²  110.91m² |

**Second Schedule** – the replacement land

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| **Colour On Plan** | **Description** | **Extent** |
| Edged green | Land to the eastern side of CL252 opposite the junction of Matson Lane and Winneycroft Lane, from the north western corner of the field and extending in a generally southerly direction.  Northern parcel  Southern parcel | 278.49m²  1813.62m² |

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INSPECTOR

Drawing CL100 – Release and Replacement Land (Not to scale)

