



Application Decision

Site visit held on 9 October 2015

By Martin Elliott BSc FIPROW

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 30/10/15

Application Ref: COM 702

Register Unit: VG 68

Registration Authority: Suffolk County Council

- The application, dated 13 February 2015 and 24 March 2015, is made under Section 16 of the Commons Act 2006 ("the 2006 Act") to deregister and exchange land forming a village green.
 - The application is made by Stowupland Parish Council and Suffolk County Council.
 - **The release land** comprises 599.4 sq.m of land at Thorney Green, Stowupland, Suffolk.
 - **The replacement land** comprises 631.2 sq.m of land along the northeast side of Thorney Green forming part of the grounds of Stowupland High School.
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Decision

1. Consent is granted in accordance with the application dated 13 February 2015 and 24 March 2015, to deregister and exchange land forming a village green at Thorney Green (Register Unit VG 68). For the purpose of identification only, a copy of the application plan is attached to this decision.

Preliminary Matters

2. I carried out an accompanied site visit on 9 October 2015 when I was joined by representatives of Stowupland Parish Council, Suffolk County Council and Kier.

Main Issues

3. I am required by section 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;¹
 - (d) any other matter considered to be relevant.
4. I have had regard to Defra's Common Land Consents Policy Guidance² in determining these applications which has been published for the guidance of

¹ Sections 16(8) and 39(2) of the 2006 Act provides that the public interest includes 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.

² Common Land Consents Policy Guidance (Defra July 2009)

both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.

The Application

5. The application is to allow for the construction of a 2.5 metre wide hard surfaced shared use path. The path will provide a safe all-weather route to and from Stowupland High School and Freeman Primary School. The path will also provide an all-weather surfaced route for members of the public to the village hall and other local facilities.

The Release Land

6. The release land comprises a strip of land, varying in width between 1.8 and 3 metres the majority being 2.5 metres wide, across Thorney Green. The strip of land extends from Maple Road at the southwest corner of the village green and splits into two sections, one section leading to a relocated bus stop on Thorney Green. The other section proceeds to Thorney Green continuing on the opposite side of this road, passing to the south of Mill Cottages and proceeding in a north-easterly direction to Stowupland School. The land is currently mown grass with the exception of a small part where it is crossed by an existing surfaced public right of way. The land is owned by Stowupland Parish Council.

The Replacement Land

7. The replacement land is located on the northeast boundary of the existing village green. The land contains trees and undergrowth and is crossed by an informal path. The land forms part of Stowupland High School and is owned by Suffolk County Council.

Representations

8. Following the notice of the application three representations were received from the Open Spaces Society, Natural England and Heritage England. None of these organisations raised any objections to the application.

Assessment

Interests of those occupying or having rights over the land

9. There are seven common rights registered for grazing, herbage and piscary. All the registered commoners have been contacted with one response. Mr Carter of Green Farm indicates that he takes hay off part of the green in most years. Green Farm have not grazed cattle on the green since the 1950s due to lack of fencing. However, grazing may be considered in the future if circumstances favoured this.
10. The release land will be provided with an all-weather surface and would not therefore provide grazing or hay. The replacement land is made up of trees and undergrowth and would not be suitable for the cutting of hay and would provide very limited, if any, grazing. However, whilst the amount of land available for the cutting of hay and grazing will be reduced there is nothing before me to suggest that any adverse effects will be anything more than very minor.

11. The release land is used for public recreation and as a route to Stowupland High School. Such use will not be prevented by the exchange and there will be benefits in the provision of an all-weather surfaced path which can be used to access the school, the village hall and other local facilities. Although I have not been provided with information as to any formal dedication of the proposed paths as public rights of way there is nothing to indicate that access to the release land will be restricted; the path which will be provided is intended for public use and public access will therefore continue. There is nothing to indicate that the rights of the public will be adversely affected.

Interests of the neighbourhood

12. As noted above the exchange will provide for the construction of an all-weather surfaced path which will improve access to local schools and village facilities. The exchange will not restrict access to the village green and there will be no loss in the total area of village green. The all-weather surfaced path will in my view be of benefit to the neighbourhood.

The public interest

The protection of public rights of access

13. There is nothing to suggest that the exchange will have any adverse effect on public rights of access.

Nature conservation

14. Natural England made a representation in response to the notice of the application. They have raised no concerns as to any effects on nature conservation and I have no evidence to indicate that the proposal will have any adverse effects thereon. The Council will carry out any works in accordance with recommendations from Natural England.

Conservation of landscape

15. The approval of the application will result in an all-weather surface path crossing the village green albeit that the land over which the path passes will no longer form part of the green. The village green is within the built up area of Stowupland and is surrounded by residential properties and other buildings. The land is crossed by the road known as Thorney Green and is bounded along its south-eastern corner by Church Road. Given the context of the village green the provision of a surfaced path will have no significant adverse effect on the landscape.

Archaeological remains and features of historic interest

16. Historic England do not raise any objections to the application and there is no evidence that the proposals will have any adverse effect on archaeological remains or features of historic interest. Historic England have suggested that consultation is undertaken with the Suffolk County Council Archaeological Service. The Council has accepted the recommendation.

Conclusion

17. Having regard to these and all other matters raised in the application and in the written representations I conclude that the application will not have any significant adverse effects on those with rights of common over the land.

There will be a benefit to the neighbourhood and there is no evidence of any adverse effect on the interests of the public. The application is allowed.

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

- (a) to remove the release land from its register of village greens, by amending register unit VG 68 to exclude the release land;
- (b) to register the replacement land as village green, by amending register unit VG 68 to include the replacement land; and
- (c) to register as exercisable over the replacement land (in addition to remaining exercisable over the remainder of the land comprised in register unit VG 68) 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 VG 68.

First Schedule – the release land

Colour On Plan	Description	Extent
Edged red	Land forming part of Thorney Green, register unit VG 68, comprising three strips of land varying between 1.8 and 3.1 metres in width leading from the carriageway of Thorney Green.	0.05994 hectares

Second Schedule – the replacement land

Colour On Plan	Description	Extent
Edged light green	Land abutting VG 68 to the northeast of a drain which forms the boundary of Stowupland High School. The land contains trees and undergrowth.	0.06312 hectares

Martin Elliott

INSPECTOR

