



**APPLICATION COM/232618 FOR  
DEREGISTRATION OF PART OF COMMON  
LAND AT THE SANDS, DURHAM**

**THE DEREGISTRATION AND EXCHANGE  
OF COMMON LAND AND GREENS  
(PROCEDURE) (ENGLAND) REGULATIONS  
2007**

**Applicant's Summary  
Statement of Case**

## **Introduction**

1. The applicant, Durham County Council (“DCC”), applies as owner under section 16(1) of the Commons Act 2006 to the appropriate national authority for “the Release Land” (land presently registered as common land) to cease to be so registered. DCC proposes that land specified in the application (“the Replacement Land”) be registered as common land in place of the Release Land.

## **The Release Land**

2. The Release Land is 1,675m<sup>2</sup> (0.17ha). It is 5.76% of an area of registered common land (“CL29”) known as The Sands, which is 29,074m<sup>2</sup> (2.91ha). The effect of applications and proceedings under the Commons Registration Act 1965 was, amongst other things, to record the right of common of the Trustees and Wardens of the Freemen to graze 20 cows, 50 sheep, 10 goats and 10 horses over the whole of The Sands. *Pro rata*, the registered right of common equates to a right to graze 6 animals on the Release Land. The Trustees, Wardens and Freemen have never exercised this right of common. On 18 January 1995, the Trustees and Wardens of the Freemen on the one hand and DCC’s forerunner on the other hand entered into an agreement whereby the former granted to the latter a right to use the Release Land as a municipal car park until 7 September 2080 in return for a yearly sum. As part of this agreement, the Trustees and Wardens of the Freemen surrendered all their rights in an agreement of 18 September 1850 with respect to the Release Land. Pursuant to this 1995 agreement, the Release Land was used as a municipal car park and subsequently as a coach park. In February 2019, planning permission was granted for the relocation of the coach park and it was relocated. On 1 April 2019, planning permission was granted for DCC’s new HQ. The approved plans show the Release Land as a municipal car park<sup>1</sup> and the site of the water storage tank for the HQ’s fire safety sprinkler system. The planning permission is being implemented. There is no evidence that the Trustees, Wardens or Freemen have any intention of exercising a grazing right of common on the Release Land. Pursuant to section 193 of the Law of Property Act 1925, members of the public have a technical right of access to the Release Land for air and exercise (on foot or on horseback). There is very limited if any evidence before the inquiry that the public has invoked this technical right since WWII at the latest.

## **The Replacement Land**

3. The Replacement Land (known as Land East of Rivergreen Centre, Aykley Heads) is 18,371m<sup>2</sup> (1.84ha) and so more than ten times the size of the Release Land. It is an enclosed and gated area of semi-improved grassland, cut annually, with the appearance of an undulating meadow. It is readily capable of being grazed. It is extremely accessible from The Sands and elsewhere.

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<sup>1</sup> Proposed to be open for public parking in the evening and at weekends.

### **Interests of persons having rights in relation to, or occupying, the Release Land**

4. The proposals would not affect the Freeman's ability to exercise their illusory rights or adversely affect their interests. There is very limited if any evidence before the inquiry that the public has sought to enjoy its technical right of access to the Release Land since WWII at the latest. There is no evidence of anyone having sought to do so on horseback. The public can and does easily enjoy this right of access on the balance of The Sands. It would easily be able to do so on the Replacement Land if the application is granted. De-registration of the Release Land would not adversely or materially affect the interests of the public in terms of the access right. DCC's proposals would not cause any financial loss to rights holders. There is no alternative which would reduce the impact on the Freeman's illusory right.

### **The interests of the neighbourhood**

5. The Release Land and the Replacement Land may serve different neighbourhoods. The proposed Replacement Land would positively benefit its neighbourhood. Public users of the Release Land for air and exercise (if any) would find the Replacement Land more or less convenient or equally convenient. The Replacement Land would represent a quantitative and qualitative improvement. Loss of the Release Land would not mean that local people would be prevented from using the common in the way they are used to.

### **Public interest**

6. The proposal is consistent with the purpose of conserving biodiversity. The proposal does not give rise to any adverse landscape or visual impact on the Release Land or Replacement Land, nor would it adversely affect enjoyment of the remaining part of The Sands. The proposal has no archaeological implications. The proposal has no material heritage impact. Local heritage of public recreation, fairs and circuses on the balance of The Sands would be unaffected.

### **Other relevant matters**

7. The proposal would regularise the *de facto* position and permit, without legal qualification, the implementation of the new HQ scheme in accordance with the planning permission. The new HQ will be of significant socio-economic benefit to the city, there would be a significant socio-economic cost if the proposed development on the Release Land or any part of it has to occur elsewhere and there are considerable socio-economic benefits associated with the use of the existing County Hall site as a strategic employment site with an estimated creation of several thousand jobs. DCC has considered all viable options and alternatives. None is preferable to the proposal.