

## HAMPSHIRE COUNTY COUNCIL

### Officer Decision Record

<b>Decision Maker</b>	Jonathan Woods – Countryside Access Group Manager
<b>Title</b>	Application to deregister a building and land within the curtilage of a building wrongly registered as common land (Schedule 2 Paragraph 6 of the Commons Act 2006) CL108 – Warnborough Green

**Tel:** 01962 846044

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#### **1. The decision:**

- 1.1. Hampshire County Council, in its capacity as Commons Registration Authority ('CRA') for Hampshire, has received an application from the owners of Folly Cottage, North Warnborough, under Schedule 2 Paragraph 6 of the Commons Act 2006, for the deregistration of a building and land forming part of their property. The application asserts that, at the time of first registration, part of the common known as Warnborough Green (now recorded on the register as CL 108), was covered by a building, and land falling within the curtilage of that building (see location map for details).
- 1.2. Following a consideration of the application and the evidence provided in its support, and having had regard to all consultation responses, it is considered that the requested amendment should be made to the commons register.

#### **2. Reason(s) for the decision:**

- 2.1. Schedule 2 Paragraph 6 allows for applications to be made to the CRA to deregister land that is covered by a building or the curtilage of a building (the land that 'belongs' to a building) that was wrongly registered as common land.
- 2.2. The regulations associated with these applications require that consultations are carried out with interested parties (including affected landowners, those with a right of common on the affected land, and other individuals who have been asked to be consulted on such proposals), and that they are advertised on the CRA's website and notices erected on site for a period six weeks. A copy of the notice is at Appendix 1.
- 2.3. The consultation period for the application commenced on 3 August 2018. During the six week period, three representations were received, from the Open Spaces

Society, Hart District Council, and a local resident. None of these parties opposed the application, with support coming from the OSS and the District Council.

2.4 The evidence provided in support of the application includes historic Ordnance Survey mapping, deeds of conveyance and Land Registry documents. The applicant observes that the County Council took it upon itself to register the land in question without application being made by any third party, relying on a small scale map included in a 1957 publication entitled 'The Common Lands of Hampshire', by Dr L Tavener, who at the time was a senior lecturer in Geography at the University of Southampton. However, the map relied upon by the County Council in this book included a misprint, with the application land mistakenly registered as part of Warnborough Green as a result.

2.5 The discrepancy outlined above compounded by the fact that the final registration of Warnborough Green in October 1970 was not contested, and was completed without the matter being considered by the Commons Commissioner. As a result, the mistake remained undetected.

2.6 In response to the application, the OSS has said "*we find the analysis made by the applicants' consultant to be compelling, and we are satisfied that the long strip of land behind Folly Cottage, bordering the River Whitewater, is and was curtilage of the cottage between the date of provisional registration and the present, having the character of a linear garden.*" Officer share this view, and it is considered that the register should be amended accordingly.

2.5 Section 36 of the 2014 Regulations requires that the CRA gives written notice of its decision (and its reasons for reaching the decision) to the applicant, any person who made representations concerning the application. It is proposed that should be carried out following the approval of this recommendation.

### **3. Other options considered and rejected:**

3.1. N/A

### **4. Conflicts of interest:**

4.1. N/A

### **5. Dispensation granted by the Head of Paid Service:**

5.1. None

### **6. Consultations**

6.1 Open Spaces Society, Local Member (Cllr Jonathan Glen), Hart District Council, Hampshire Wildlife Trust, Odiham Parish Council, DEFRA, all landowners with a registered right of common on CL108.

### **7. Supporting information:**

6.1. Appendix 1 – Notice of application

6.2 Location plan

**Approved by:**

**Date:**

\_\_\_\_\_ (signature)

**3 December 2018**

**Jonathan Woods – Countryside Access Group Leader**

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**On behalf of the Director of Culture Communities and  
Business Services**

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	no

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Improvement plan link number (if appropriate):	

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
Reference: Woodcroft Dedication	Countryside Access Team Castle Avenue Winchester SO23 8UL

**IMPACT ASSESSMENTS:**

**1 Equalities Impact Assessment:**

*The route will be surfaced to a standard that will facilitate use by walkers, cyclists, horse riders and non-motorised vehicles, and will be step free throughout.*

**2. Impact on Crime and Disorder: N/A**

**3. Climate Change:**

How does what is being proposed impact on our carbon footprint / energy consumption?

**N/A**

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? **N/A**