



**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**

**SUMMARY PROOF OF EVIDENCE OF  
SUSAN ROBINSON ON BEHALF OF  
DURHAM COUNTY COUNCIL**

(Ownership/history of land)

27<sup>th</sup> November 2020

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# 1 INTRODUCTION AND SCOPE OF EVIDENCE

- 1.1 My name is Susan Robinson. I am the Council's Head of Corporate Property and Land, a position which I have held since 3<sup>rd</sup> June 2019. My service deals with the management of the Council's property and land portfolio and my duties are primarily to lead the policy making processes of the Council in relation to the strategic and operational management and direction of the Authority's property and land portfolio. I therefore have overall responsibility for the Council's land holdings.
- 1.2 I qualified as a Chartered Surveyor in 2007 (*DipSurv MRICS*) and have 33 years' experience working in the public sector.
- 1.3 I understand my duty as an expert witness to the Inquiry and I have complied with and continue to comply with that duty. The evidence which I have prepared and provide for this Inquiry is true. I confirm that the opinions expressed are my true professional opinions.
- 1.4 My evidence concerns the release land at the Sands and the replacement land at Aykley Heads.
- 1.5 My evidence will address the acquisition and title review of the release land and the replacement land.
- 1.6 A list of the documents to which I refer is included in my main Proof of Evidence.

# 2 RELEASE LAND

- 2.1 My evidence states that the County Council of Durham are the registered freehold proprietors of The Sands (including The Release Land) as part of registered title DU312002 (**Document 6i**).
- 2.3 Durham City Council entered into a lease for the release land in 1848 and on the 18<sup>th</sup> September 1850, granted to the Freement rights which were for the holding of fairs and a right of herbage (**Documents 6ii & 12xi**).
- 2.4 The freehold to the release land was acquired by the Mayor Alderman and Citizens of the City of Durham on the 20<sup>th</sup> December 1860 from The Ecclesiastical Commissioners for England (**Document 6iii**). The land is currently held as an asset under construction and has been appropriated to the Local Government Act 1972 (**Document 6iv**).
- 2.5 On the 29<sup>th</sup> February 1968 the Freemen successfully registered a Right of Common based on the 1850 Agreement (**Document 12xi**). The registration was disputed and was settled with part of the land being excluded from the Commons Registration.
- 2.6 The effect of this amendment is that the Release Land continued to be common land under the Commons Registration (CL29) and the Car Park land was excluded in respect of The Commons Register. A plan of the Common Land registration is at **Document 12iii**.

- 2.7 On September 1981 the City Council entered into two agreements with the Freeman for the Car Park land, excluded from the Commons Registration; and The Release Land (**Document 6v**).
- 2.8 The agreement is for a term of 99 years which acknowledges that the land is in the ownership of the City Council and is subject to the rights of the Freeman to use and exercise rights of common set out in the 1850 Agreement.
- 2.9 The 1981 agreement states the 1850 agreement entitles the Freeman to receive a portion of rents and profits from the land out the Release Land, in return for a rent the Freeman agreed to the construction of a Sports Centre or other Municipal Buildings on the land.
- 2.10 Further the Wardens of the City of Durham Freeman agreed to waive the rights of common in the 1850 agreement in return for rent. A subsequent deed of variation allowed for the land to be used as a municipal car park.
- 2.11 My main Proof of Evidence outlines further agreements which have been entered into between the The City Council and The Freeman, in particular in 1995 (**document 12v**) and goes on to indicate that in return for the Freeman surrendering their rights under the 1850 agreement they will received rents to facilitate the development of a car park on the land.
- 2.12 My main Proof of Evidence also sets out that the annual fee included in the 1995 agreement is reviewable every three years. The current annual fee payable to the Freeman (reviewed September 2017) in relation to the Release Land is £5,920.
- 2.13 The Common Land Registration includes for the grazing of stock. A review of the historic maps for the Release Land establishes that prior to the Common Land application by the Freeman, the Release Land was split by a former mill race.
- 2.14 The historic maps (**Document 6vi**) establish that by 1969 there is a building on the southern part of the Release Land which extended to cover most it.
- 2.15 An aerial phograph taken in 2001 (**Document 6vii**) indicates that the building had been demolished, laid out as a car park or coach park which use has continued since the aerial photograph of 2001. More recently the Release Land has become part of the construction site for the new County Council HQ.
- 2.16 It is evident that there was only a very small area on the Release Land available for grazing from 1860 to the closure of the mill race in about 1960. The developmnet of a building on the site at the latest in 1979 establishes that there has not been any grazing of stock on the Release Land over the last 41 years.
- 2.17 In the event that the adjacent land had not been developed for municipal offices, the Release Land would be retained for use as a coach park.

### **3 REPLACEMENT LAND**

- 3.1 The replacement land was purchased by the County Council of Durham on the 12<sup>th</sup> July 1951 (**Document 16ii**) and the Council are the registered freehold proprietors under title number DU285400 (**Document 16 viii**).
- 3.2 This was purchased by the Finance Department and held under the Finance Act 1950. The Replacement Land, and surrounding land, was appropriated to the Countryside Act on the 3<sup>rd</sup> March 2008 to facilitate tree planting as part of the Mineral Valleys Project. No trees were planted on the replacement as part of this scheme (**Document 16 iv**).
- 3.3 The Replacement Land has not been used for any form of grazing and there is no intention by the Council to allow grazing on the Replacement Land.
- 3.4 Other other parts of title number DU285400 have been developed for various uses including County Hall, office blocks, residential development and for the Durham Police Headquarters building.
- 3.5 There have been numerous grants of easements in respect of this title (**Document 6ix**).

## **4 ALTERNATIVE SITES CONSIDERED & CONSULTATION**

- 4.1 The proposed new HQ building for the County Council involves the Release Land extending to 1,752 m<sup>2</sup> (0.17ha). A search for replacement land was undertaken in October 2018.
- 4.2 The criteria for the replacement Common Land were:
  1. The land should be adjacent to an existing area of Common Land;
  2. The potential land must be in the ownership of Durham County Council;
  3. If not adjacent then as close as practical to the land to be replaced; and,
  4. A size suitable to replace the Common Land to be registered
- 4.3 Six sites in the ownership of the County Council were reviewed which included consultation with other Council Service Areas. The assessment identified an area of land to the East of the Rivergreen offices at Aykley Heads (site 5) as the most appropriate for the replacement land. Plans of all the sites considered are at **Document 6x**.
- 4.4 Delegated Authority was given to proceed with the Replacement Land and submit a S16 application (**Document 6xi**).
- 4.5 Prior to submitting the application, authorization was given separately to undertake an informal public consultation (**Document 12xiv**).
- 4.6 Informal consultation included the County Council Portfolio Holders and Local Ward Members for the Release and Replacement Land. A list of the all consultees has been included in my main proof of evidence (**Document 6xii**).

## **5 PROCEDURAL HISTORY OF S16 APPLICATION**

- 5.1 My main Proof of Evidence sets out the procedural history of the S16 application.

## **6 SUMMARY AND CONCLUSIONS**

- 5.1 The Release Land has been in the ownership and County Council since 1860, is registered under title number DU312002 and is currently held under the Local Government Act 1972.
- 5.2 The Replacement Land has been owned by the Council since 1951, is registered under title number DU285400 and is currently held under the Countryside Act 1968.
- 5.3 It is evident from the historical maps and aerial photographs that only a small area of the Release Land would have been available for grazing between 1860 and 1960 and due to the existence of a building, it would have been difficult, if not impossible, for such to take place over the last 41 years. The Freeman surrendered their grazing rights on the Release land in 1995 in return for an annual fee which the Council pays. There is no evidence that the Freeman have any intention whatsoever to graze the Release Land.
- 5.3 In the event that the adjoining land had not been developed for Municipal offices, the Release Land would have continued in use as a coach park.
- 5.4 The Replacement Land was identified through a comprehensive site search and is a suitable substitute for the Release Land.