

# 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 Alan Kind for the Open Spaces Society

1. I am Alan Kind of 1 Foxley Close, Newcastle upon Tyne NE12 6FX, and I have worked professionally on recreational land use issues for 35 years. I have bachelor's and masters degrees in law from Newcastle University, and am an Honorary Fellow of the Institute of Public Rights of Way Management.
2. This proof of evidence below is a sub-1500-word summary of my full witness statement, as contained within the full statement of case of the Open Spaces Society.
3. This summary does not match the paragraph numbers in the full witness statement.

### The Site Visits

4. I made 2 site visits, unaccompanied, because matters arising from my first visit required a further look.
5. I looked at the 1:25,000 scale Ordnance Survey map to see if I could judge how people might get from The Sands, up to the proposed replacement land area and its wider setting. I was particularly aware of the need to assess 'the neighbourhood' of each area. In my view using the Ordnance Survey map gives a better visualisation of the topography between the 2 sites than do the various plans put in by Durham County Council.
6. **On Monday 7th December 2020** I drove to Durham, parked on the North Road near the railway station, and walked to The Sands via the Market Place. I took photographs of the area. I afterwards drove up to Aykley Heads and parked in the new Aykley Woods housing development. From there I walked down to the Rivergreen Centre, and the entrance to the Police headquarters, and from there initially southwards on the main track and other worn paths. I took photographs of the area.
7. I was at The Sands in the late morning on a reasonably bright, dry and chilly winter's day. The proposed release land was fenced-off and major building works were taking place. I saw nobody on the grass, and saw a handful of people on the roads and footways nearby. I noted on the riverbank, bench seats, waste bins, life-saving

equipment, and, on street furniture, notices about dog fouling. I took the view that this provision is because local people use The Sands for air and exercise.

8. I noted the proximity of the houses bounded by Providence Row, Orchard Drive, and Gilesgate. It appeared to me that this housing was very much a defined residential neighbourhood, bounded by the river, the A690, and the non-residential city centre. The city provides shops and the usual needs of everyday life. The Sands provides for the residential neighbourhood an adjacent, good-quality, 'friendly and safe' site for dog-walking, kicking a ball about, and generally taking air and exercise. It is also within easy reach of office and commercial developments.
9. I then drove to Aykley Heads. I judged it to be a considerable uphill distance to walk on a winter's day. There is no signed or obvious public parking provision, nor any disabled parking bays. I parked lawfully in the new housing development, but that is not a realistic provision for general public use. I walked along the footway, past the Rivergreen Centre, through the access point (vehicle barrier) on to the well-made track, and turned right (south), so that the proposed replacement land was immediately on my left. I went as far as the signed and gated access (on my left) to Aykley Woods Nature Reserve, and I turned westwards (facing the back of County Hall) for a short distance on to the fair quality open land, which was being used by several dog walkers. The presence of waste bins and dog fouling notices in the area as a whole suggested to me that public access was welcomed.
10. The main track during my visit was being used by local walkers (i.e. not 'hikers') spanning age brackets, and some with dogs or pushchairs. The land and track into the Aykley Wood Nature Reserve was much rougher and wetter, and had no 'welcoming' signs, but equally, no 'keep out'.
11. I turned back north on the main track. The Nature Reserve and East Coast Main Line Railway were then on my right, and at places I could see down towards the area of The Sands. There was no visible form of access linking the 2 areas. The Nature Reserve land was fenced off, with no obvious public access points.
12. I walked further northwards on the main track, to the barrier access point (through which I had entered the undeveloped land), and continued on the main track, so that the proposed replacement land was on my right. I then made a clockwise circuit around the perimeter of the proposed replacement land, on the tracks outside the fence.
13. The proposed replacement land is fully fenced off, with 'Ground Nesting Birds' warning signs on the fence. The post-and-wire fence alongside the main track is more robust and 'tighter' than on the other edges. I saw 2 field gates, each padlocked. The proposed

replacement land did not look particularly inviting to use other than for, say, dog-walking, even if the gates had been open.

14. On this visit I put my mind to the neighbourhood and localities of the proposed replacement land. The Aykley Woods housing development has made an unbroken connection between Framwellgate Moor and the proposed replacement land, and Newton Hall is already close and connected.
15. **On 10th March 2021** I returned to Aykley Heads for a second site visit. I particularly wanted to consider whether the established built-up areas of Aykley Heads, Framwellgate Moor, and Newton Hall, all or some relate to Aykley Woods and the proposed replacement land so as to be a larger neighbourhood. I also walked around the proposed replacement land perimeter again and took more photographs.
16. As regards the proposed replacement land I noticed several places where what I describe as 'worn foot tracks' lead up to the wire fence, and continue inside the proposed replacement land, suggesting to me that people are climbing the fence (or, in places, going under the top strand of wire) and are walking inside. I cannot think of any other cause. I photographed six of these locations (attached), and there were others, less defined. These locations can be seen on a site visit. There are places (e.g. near the bench seat at the northern end of the proposed replacement land) where the wire fence is very loose, and can readily be stepped over, or through. I do not think that these paths predate the fence. The fence is plainly not recent (condition of wood and wire) while these tracks have beaten-down the 2020 growth of vegetation.
17. At what I call the northeast corner of the tracks that make a perimeter route, I could see, not far away, the roofs of houses which are the southern edge of Newton Hall. These houses are in easy walking distance from the proposed replacement land, and the surrounding land in recreational use. As I stood at this point I estimated I was about 465 metres from where a public footpath crosses the East Coast Main Line, but the terrain to get there directly did not look at all 'friendly', if usable at all.
18. I drove back through the Aykley Heads site to the roundabout on the B6532, and into Framwellgate Moor. Within a kilometre of the proposed replacement land I noted primary schools, secondary schools, colleges, shops, churches, commercial premises, pubs and a war memorial. Framwellgate Moor seamlessly becomes Pity Me, with more local facilities. Newton Hall, to the right has a retail park, employment, churches, medical facilities, and schools. There is a wide range of housing types / values. Pity Me and Newton Hall each have a post office.
19. The City of Durham is a parish, as is Framwellgate Moor. Newton Hall, and Aykley Heads around the school, are unparished.

20. It appeared to me as I drove around that Aykley Heads, the new Aykley Woods housing estate, Framwellgate Moor, and Newton Hall, together make a cohesive neighbourhood with a character quite distinct from the City of Durham itself. Simply, a family could live in this neighbourhood with no need to travel to the City of Durham for the everyday needs of life.

### Observations Arising From the Site Visit

21. I saw 2 distinct neighbourhoods: The Sands and the adjacent housing; and the Aykley Heads undeveloped land including the proposed replacement land, in the context of Aykley Woods, Framwellgate Moor, and Newton Hall. Residents at The Sands are separated from Aykley Heads by the River Wear, the Mainline Railway, and a circuitous and steeply uphill walking route. There is no easy car access.
22. The most practicable route for walkers from the proposed release land to the southern end of the proposed replacement land: 1.73 kilometres, or thereabouts.
23. In my view the location of the proposed replacement land cannot be said to be in the same neighbourhood as is The Sands.
24. It was clear to me that there are fewer opportunities for the public to enjoy accessible open space on the south (City) side of the River Wear than there are on the Aykley Heads side, once the busy roads and railway have been passed. Simply, a few square metres of accessible land at The Sands is worth much more to the public than the same, or some more, elsewhere.
25. In my view the proposed replacement land is, by virtue of its character, distance, and difficulty of access, no replacement at all for the loss of the proposed release land to the neighbourhood of The Sands.

1494 words

Alan Kind



17 March 2021