



COMMONS ACT 2006

SCHEDULE 2 – PARAGRAPH 6

TO DEREGISTER A BUILDING WRONGLY REGISTERED

AS COMMON LAND

DECISION NOTICE

The Proposal

An Application dated 4th October 2019 was made by Mrs Linda Jane O’Neill (“the Applicant”) to Gloucestershire County Council, Shire Hall, Westgate Street, Gloucester, GL1 2TG acting as the Commons Registration Authority (“the CRA”) under Schedule 2 Paragraph 6 of the Commons Act 2006 (“the Act”) and in accordance with The Commons Registration (England) Regulations 2014 (“the Regulations”).

Schedule 2 Paragraph 6 of the Act states: -

“6 (1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.

(2) This paragraph applies to land where—

(a) the land was provisionally registered as common land under section 4 of the 1965

Act;

(b) on the date of the provisional registration the land was covered by a building or was within the curtilage of a building;

(c) the provisional registration became final; and

(d) since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building...”

The Applicant sought to deregister land that is covered by a building or is within the curtilage of a building that has been wrongly registered as common land under Register Unit CL20 (Cleeve Common).

The proposal has been published as specified under the Regulations giving a period of 42 days for representations to be submitted.

Representations

The CRA received two representations in respect of the application. One supporting the Application the other objecting to the Application.

The representations were considered by the CRA and it was concluded as follows:-

The representation supporting the application was received from the registered owner of Register Unit CL20 and was duly noted.

The representation in objection to the Application sought to rely on policy SD7 of the Joint Core Strategy and Policy UE2 of the Cotswold AONB Management Plan.

Policy SD7 relates to new development proposals within the Cotswold ANOB. This policy was not considered relevant to this Application given the land and buildings have been in situ prior to 1828.

Policy UE2 relates to common land subject to public access, given the land and buildings within this Application form part of a private dwelling house it was considered that this policy was not applicable to this Application.

No evidence to counter argue that the land subject to the Application was not covered by a building or within the curtilage of a building at the time of first registration was provided.

For the reasons given above the CRA dismissed the objection.

Conclusion

The CRA has considered all the evidence with regards to this proposal and conclude that the proposal meets the criteria set out in the Act; as such the proposal should be accepted.

Decision

The CRA should correct the entry in the commons register under CL20 to exclude the area set out in the Application.

Dated: 20th August 2020

Gillian Parkinson
Assistant Director of Legal Services
Gloucestershire County Council

Shire Hall
Westgate Street
Gloucester
GL1 2TG