



**COMMONS ACT 2006
SCHEDULE 2 – PARAGRAPH 6**

**TO Deregister a Building Wrongly Registered
As Common Land**

CL 12 – LAND AT SHEPHERDS PIECE KNOLL HILL CRANHAM GLOUCESTERSHIRE

DECISION NOTICE

The Proposal

An Application dated 18th December 2015 was made by Mr M Whitaker, Ms C Harris, Ms S Smith and Ms K Franklin (“the Applicants”) 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 Applicants are seeking 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 CL12.

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 5 formal representations in relation to the Application – 4 objections and 1 letter of support. These were sent to the Applicants in accordance with the Regulations for comment. A report was drawn up for consideration by the Head of Legal Services (who has appropriate delegated authority in conjunction with the Lead members). Further clarification was sought from the Applicants (via their solicitors) by the Head of Legal Services in relation to the structure which had been in situ on the land prior to the mobile home in 1985. From the evidence supplied and the further clarification from the Applicants, it was clear that the Application site had been securely fenced since at least 1956 and has a separate and distinct ownership from the larger remaining part of CL12. Before the mobile home was erected in 1985, the caravan which it replaced, had been used as a dwelling and had a sufficient degree of annexation and permanence due to the fact that it had mains water, a septic tank, electricity and had not moved from the site. In the CRAs view, it therefore fell within the definition in paragraph 2 of Schedule 6 – particularly as there is no definition of building in the legislation itself. No evidence came forward during the consultation period to contradict or provide further evidence to suggest that the caravan/mobile home were not on the land during the relevant period or to suggest that the caravan was of a temporary nature.

Conclusion

The CRA has considered all the evidence with regards to this proposal and concludes that on the balance of probabilities (the civil test for determining corrective applications) the proposal meets the criteria set out in the Act and as such the proposal should be accepted.

Decision

The CRA should correct the entry in the commons register under CL12 to exclude the area set out in the Application.

Dated: 17 May 2017

Gillian Parkinson
Head of Legal Services
Gloucestershire County Council
Shire Hall
Westgate Street
Gloucester
GL1 2TG