

REAPS MOSS
2012

The Planning Inspectorate

Application to deregister or to deregister and exchange common land or town or village greens

Commons Act 2006: Section 16

Return completed application to:

**The Planning Inspectorate
Zone 4/05 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN**

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Application to deregister or to deregister and exchange common land

- Answer all the questions on this form in full and only use a separate sheet where there is insufficient space for your answer.
- Refer to the separate "Note on completing this form" (the "Notes") when applying
- Consult informally and widely about your ideas before developing a formal proposal
- References throughout this form to 'Common Land' apply equally to 'town or village green'

SECTION A – The common land (or village green) – to be deregistered - the "release land" (see Notes 1, 2, 3, 4, and 5)

Section A1 – The common:

1. Name of common CL/VG No.
2. Located in the:
- (a) Parish/Town of
- (b) Borough/District/City of
3. Commons Registration Authority

Section A2 – The owner (see Note 1):

4. Title (e.g Mr/Mrs/Miss/Ms/Dr)
- (a) Forename (s)
- (b) Surname
- (c) Position/Organisation (if appropriate)

5. Full Postal Address

Postcode

Telephone number (incl national dialling code)

Mobile No

Fax number (incl national dialling code)

E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person named above – not to the owner of the replacement land shown in Section B2.

Please tick as appropriate:

Please send all correspondence to the owner above in question 4.....

Please copy all correspondence to the person named in question 15.....

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SECTION A – The common land (or village green) – to be deregistered - the "release land" (see Notes 1, 2, 3, 4, and 5)

Section A1 – The common:

1. Name of common CLVG No.
2. Located in the:
- (a) Parish/Town of
- (b) Borough/District/City of
3. Commons Registration Authority

Section A2 – The owner (see Note 1):

4. Title (e.g Mr/Mrs/Miss/Ms/Dr)
- (a) Forename (s)
- (b) Surname
- (c) Position/Organisation (if appropriate)

5. Full Postal Address

Postcode

Telephone number (incl national dialling code)

Mobile No

Fax number (incl national dialling code)

E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person named above – not to the owner of the replacement land shown in Section B2.

Please tick as appropriate:

- Please send all correspondence to the owner above in question 4.....
- Please copy all correspondence to the person named in question 15.....

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- References throughout this form to 'Common Land' apply equally to 'town or village green'

SECTION A – The common land (or village green) – to be deregistered - the "release land" (see Notes 1, 2, 3, 4, and 5)

Section A1 – The common:

1. Name of common CLVG No.
2. Located in the:
(a) Parish/Town of
(b) Borough/District/City of
3. Commons Registration Authority

Section A2 – The owner (see Note 1):

4. Title (e.g Mr/Mrs/Miss/Ms/Dr)
- (a) Forename (s)
- (b) Surname
- (c) Position/Organisation (if appropriate)

5. Full Postal Address

Postcode

Telephone number (incl national dialling code)

Mobile No

Fax number (incl national dialling code)

E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person named above – not to the owner of the replacement land shown in Section B2.

Please tick as appropriate:

Please send all correspondence to the owner above in question 4.....

Please copy all correspondence to the person named in question 15.....

Application to deregister or to deregister and exchange common land

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- References throughout this form to 'Common Land' apply equally to 'town or village green'

SECTION A – The common land (or village green) – to be deregistered - the "release land" (see Notes 1, 2, 3, 4, and 5)

Section A1 – The common:

1. Name of common CL/VG No.
2. Located in the:
(a) Parish/Town of
(b) Borough/District/City of
3. Commons Registration Authority

Section A2 – The owner (see Note 1):

4. Title (e.g Mr/Mrs/Miss/Ms/Dr)
- (a) Forename (s)
(b) Surname
(c) Position/Organisation (if appropriate)

5. Full Postal Address

Postcode

Telephone number (incl national dialling code)

Mobile No

Fax number (incl national dialling code)

E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person named above – not to the owner of the replacement land shown in Section B2.

Please tick as appropriate:

- Please send all correspondence to the owner above in question 4.....
Please copy all correspondence to the person named in question 15.....

Section A3 – Area of common and common rights:

6. What is the total area of common as registered? (see Note 2)

7. What common rights, if any, are registered (e.g number and type)? If the land is a town or village green, to what recreational use is it put?

Cowtoot Farm – 7 Cows with followers
Parrock Farm – 17 Cows and followers
Shackleton Holme Farm – 100 Sheep

8. If common rights are registered, are they ever exercised?.....Yes No

9. If Yes, to what extent (e.g which commoners are active, which rights are exercised, and how frequently)?

Some of the Inchfield Moor Commoners exercise their rights. Consultation has not revealed the level of grazing. Sites visits indicate that the area at the entrance to the moor appears to be infrequently grazed. The area where turbines will be placed is very undergrazed.

Section A4 – Other rights over the common:

10. Give details of any relevant leaseholders, other occupiers, or those holding any relevant charges over the release land (see Note 4) and enclose copies of their written consent to this application (see Note 3).

Over land relating to Mrs Heaps: there is the right to draw water and other subsiding rights in favour of James Peregrine Dearden (title now passed to Jeremy James Dearden) and Thomas Temperley and Son Limited (Companies House reveals that company no longer exists).
All three titles have a charge on them in favour of Reaps Moss Limited. A letter of consent is included with this application.
All three titles have a charge on them in favour of CEP Wind 1 Limited. A letter of consent is included with this application.

Section A5 – Description of the release land:

11. Area of release land (m² or hectares)

12. Description (including location) of release land (see Note 5).

Differing parcels of land along Limers Gate and on Reaps Moss, sitting immediately adjacent to the area deregistered under COM135 edged red on the plan accompanying this application.

SECTION B – The land to be given in exchange – the “replacement land”
(see Notes 6, 7, 8, and 9)

13. Are you proposing to provide replacement land in exchange for the release land?.....Yes No

If Yes, go to Question 14. If No, please explain here why you are not providing replacement land (see Note 6) and then go to Question 22.

Section B1 - Location of the replacement land:

14. Name, if any, of the replacement land:
The replacement land is located in the:

(a) Parish/Town of
(b) Borough/District/City of
(c) County of

Section B2 – The owner of the replacement land (see Note 1):

15. Title (e.g Mr/Mrs/Miss/Dr)
(a) Forename (s)
(b) Surname
(c) Position/Organisation (if appropriate)

16. Full Postal Address

Postcode
Telephone No (incl national dialling code)
Mobile No
Fax No (incl national dialling code)
E-mail address

I prefer to be contacted by Email Post

Please note that unless you tell us otherwise, we will send all correspondence to the person shown in Section A2.

Section B3 – Description of replacement land:

17. Area of land proposed as replacement land (m² or hectares)

18. Description (including location) of land proposed as replacement land (see Note 5).

The land forms part of the area of peat grass land located at Reaps Moss. It is grazed by livestock. It is on the western edge of the area of Inchfield Moor known as Reaps Moss as shown on the accompanying plan edged in light green.

19. Please confirm that the proposed replacement land is not already registered as common land or town or village green (See Note 7).....

20. Is the proposed replacement land subject to any other formal designation (for example, as public open space)? (See Note 8)..... Yes No

If Yes, give full details:

A section of the southern part of the replacement land is CROW access land.
It is also partially within the Reaps Moss BHS and Reaps Moss RIGS.

21. Give details of any relevant leaseholders, or other occupiers, or those holding any relevant charges over the replacement land: (see Note 9).

n/a

SECTION C - Access arrangements and current features of the lands (see Notes 10, 11 and 12)

For questions 22 to 28 complete both parts of each question if replacement land is being provided. If no replacement land is being provided, complete part (a) of each question.

Section C1 – Access to the lands:

22. To what extent is there public access over the lands to be exchanged?

(a) The release land

A bridleway (Todmorden 096) crosses north east to south west through two release land areas (that are required for the site entrance). These can be identified on the plan as the areas that have a land take of 4231m² and 1343m²

Foot path 394 crosses the triangular area east to west located at the spur to Turbine 1

(b) The replacement land

Foot path 394 crosses the replacement land north east to southwest

Part of the southern part of the replacement area is CROW access Land

23. What will the access arrangements be after the exchange?

(a) The release land

The exchange is to allow turbines to be constructed. This will take 6 months. Before construction access will continue as normal. Once construction starts, the release land and the area deregistered under COM135 is likely to be temporarily fenced for safety purposes. Land alongside the access tracks which is being used to place peat shall remain fenced off until re-vegetation has taken place. Again this is temporary. After construction and re-vegetation fencing shall be removed. Access will then continue as before the exchange except access will be restricted to the turbine and met mast bases and the substation. Please see extension in Appendix 1 to this form.

(b) The replacement land

This land will become Common Land and therefore will have corresponding rights and access over it.

Section C2 - Current condition of the lands:

24. Describe the current condition and use of the:

(a) release land

Currently the condition of the affected land is mixed. Some of the land is ungrazed peat moss. It also included several fields of agriculturally improved grass lands with small areas of moss vegetation. Some of the area is made up of the Limers Gate path. Apart from the central area known as Reaps Moss all fields are grazed. The Reaps Moss area is peat land habitat.

(b) replacement land

The land is semi improved grass land grazed by livestock.

25. What structures, (e.g buildings, roads, bridleways, footpaths, walls, fences or other constructions currently exist on the:

(a) release land

Some of the area is Limers Gate path. There is also a fence denoting the borough and county boundaries.

(b) replacement land

none

26. What boundary features e.g. fences, hedges, walls (and access points such as stiles and gates) currently exist on (or on land immediately adjoining) the:

(a) release land

The land is common land with open access so there is no boundary features in the centre of the common. Fences are present along some but not all of the commons boundary with stiles on the public foot paths.

(b) replacement land

Fencing and walls to denote landowner boundaries.

27. What, if any, boundary features are proposed to be removed or erected as part of the exchange?

(a) release land

Part of the borough and county boundary fence will be removed.
As part of construction temporary fences may well be erected for health and safety to the general public. Where peat is disturbed these areas are likely to be fenced off to allow for regeneration of the peat for up to three years. Three years is a maximum time limit and as areas revegetate and restore fences will be removed. This approach was found to be acceptable under COM135

(b) replacement land

As part of COM135 part of the dry stone wall will be removed to allow access from the old common. There is no current boundary between the land that is now common (the replacement land for COM135) and the replacement land for this application. A new boundary will be created along the most western extent of this replacement land with fencing.

28. Are any works or other things to be done by any party as part of the exchange?.....Yes No

If Yes, give details:

(a) release land

Construction of the wind farm is proposed for the release land.

(b) replacement land

none

29. Are any of the lands subject to any other rights or easements not already mentioned on this form?.....Yes No

If Yes, give full details:

On title WYK186420 (Heap) there are rights granted to Fred Temperly and Sons Limited to work Inchfield Moor for Fireclay, ironstone, ganister and shale. Fred Temperly and Sons Limited was dissolved in December 1960 and the rights have not been exercised for many years.

Over land relating to Mrs Heaps: there is the right to draw water and other subsiding rights in favour of James Peregrine Dearden (title now passed to Jeremy James Dearden) and Thomas Temperley and Son Limited (Companies House reveals that company no longer exists).

SECTION D – Details of the exchange or deregistration, and any informal consultations (see Notes 13, 14 and 15)

30. What are the reasons for the exchange or deregistration and the circumstances surrounding it?

See Appendix 1

31. It is strongly recommended that you consult informally on your proposals at an early stage in their development (see Annex A of the Notes). What informal consultation (e.g with local inhabitants) have you carried out? Give details below and provide written evidence.

COM135 was consulted on, and inquiry held in July 2010 and determined in April 2011.

A pre-application consultation was carried out for this application. The results of this are included with this application.

SECTION E – Designations (see Notes 16 and 17)

32. Are any of the lands subject to this application in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC), a Special Protection Area (SPA), or Wetland listed in accordance with the Ramsar Convention?.....Yes No

If Yes, please give details, identify on the map (see section J), and provide evidence of any consultation you have consulted Natural England (see Note 16).

33. Do any of the lands contain a Scheduled Ancient Monument?.....Yes No

If Yes, give details, identify on the map (see section J), and provide evidence of any consultation you have carried out with English Heritage (see Note 17).

34. Are any of the lands subject to this application in a National Park or Area of Outstanding Natural Beauty?.....Yes No

SECTION F – Adjacent Common Land (see Note 18)

35. Does any area of common land or village green, of a different registration number, adjoin the common land or green subject to this application?.....Yes No

If Yes, give details and identify them on the map (see Section J):

SECTION G – Public Access (see Notes 19, 20 and 21)

36. Do the public have a right of access to the release land for air and exercise under section 193 of the Law of Property Act 1925?.....Yes No

37. Is the release land subject to an Order of Limitation made under section 193?.....Yes No

If Yes, give its date and other details, and send us a copy:

SECTION H – Scheme of management and local Acts (see Note 22)

38. Is there a Scheme of Management for the release land, made under the Metropolitan Commons Act 1866 or the Commons Act 1899?.....Yes No

39. Is the release land subject to any other regulatory Scheme or Act (e.g a Provisional Order Confirmation Act made under the Commons Act 1876) ?.....Yes No

If **Yes**, to either question, give its date and other details below, and send us a copy of the Scheme or Act. Do you wish to seek any special arrangements to be made in relation to any of these provisions?

SECTION I – Advertisement and Consultation (see Notes 23, 24 and 25)

You must advertise your proposal in one main local newspaper and at the main points of entry to the lands within 7 days of making your application. Use the draft notice at Annex B of the Notes.

You must also send a copy of the notice (using the letter at Annex D of the Notes) to the following:

- the commons council or association (if there is one)
- all active commoners
- others with an interest in the lands e.g tenants, those with easements or other rights over the lands
- any relevant parish, district, city or county council
- Natural England (if applicable)
- English Heritage (if applicable)
- National Park Authority (if the lands are in a National Park)
- AONB Conservation Board or Joint Advisory Committee (if the lands are in an AONB)
- Open Spaces Society (see Note 25)

40. Which newspaper will the advertisement appear in, and on what date?

Todmorden News
Rossendale Free Press

SECTION J – Maps (see Note 26)

You must include with your application **two copies** of a map which fully meets the requirements set out in **Note 26**.

41. Two copies of the map that meets the requirements set out in **Note 26** are enclosed.....

SECTION K – Public inquiry or hearing (see Note 27)

42. Give the name and address of a suitable place in the locality for holding a public local inquiry or hearing, should this be needed:

Contact name/Telephone number:

Checklist (tick to confirm)

I have read the **Notes** in full.....

I have:

- answered all the questions on this form in full.....
- enclosed two copies of the map that meets the requirements of Section J,.....
- enclosed a copy of the commons register in respect of this common (i.e details of the land, rights, and ownership, and the register map),.....
- enclosed a copy of any document mentioned in answering the questions on this form (e.g scheme of management, written permission of any relevant leaseholders, letters from informal committees etc).....
- understood that any of the application papers may be copied to interested parties on request, and have informed people as necessary.....
- enclosed my application fee of £4,900.00.....

I will, within 7 days:

- advertise the proposal in one local newspaper.....
- post a copy of the notice at the main entry points to the lands.....
- send a copy of the notice to all those listed in Section I.....
- place a copy of the notice, map and application at the inspection point.....

I will write to you as soon as possible, using the letter at **Annex E** of the **Notes**, to confirm that the advertising requirements have been met.....

SECTION L – Declaration

I/We hereby declare that:

- (a) I/We am/are the owner/s of the land/s to be deregistered/exchanged as detailed in this application.
- (b) [No person is a relevant leaseholder, or holds a relevant charge, over any of the land/s to be deregistered/exchanged.]
Or
[I/We enclose the written consent of every person who is a relevant leaseholder, or holds a relevant charge, over any of the lands to be deregistered/exchanged.]
- (c) The contents of this application are true and complete to the best of my/our knowledge and belief.

Signatures of the parties to the deregistration/exchange:

Release Land:

Signature of owner

Name
(in BLOCK letters)

Date

Signature of co-owner
(if applicable)

Name of co-owner
(if applicable)

Date

Replacement Land:

Signature of owner

Name
(in BLOCK letters)

Date

Signature of co-owner
(if applicable)

Name of co-owner
(if applicable)

Date

You must keep a copy of your completed form

Data Protection Act

To process your application, we may need to disclose information we receive from you to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.

SECTION L – Declaration

I/We hereby declare that:

- (a) I/We am/are the owner/s of the land/s to be deregistered/exchanged as detailed in this application.
- (b) [No person is a relevant leaseholder, or holds a relevant charge, over any of the land/s to be deregistered/exchanged.]
Or
[I/We enclose the written consent of every person who is a relevant leaseholder, or holds a relevant charge, over any of the lands to be deregistered/exchanged.]
- (c) The contents of this application are true and complete to the best of my/our knowledge and belief.

Signatures of the parties to the deregistration/exchange:

Release Land:

Signature of owner

Name
(in BLOCK letters)

Date

Signature of co-owner
(if applicable)

Name of co-owner
(if applicable)

Date

Replacement Land:

Signature of owner

Name
(in BLOCK letters)

Date

Signature of co-owner
(if applicable)

Name of co-owner
(if applicable)

Date

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Appendix 1

Extension to Question 23

- (a) The applicants' are aware that when the common land is deregistered the public's rights to access the release land will cease. To deal with this and to ensure that so far as is possible the public's access to this area of land does not cease, the following is proposed:

Granting Public Access

The applicants will enter into a public access agreement with Calderdale and Rossendale MBC to grant public access over all areas of the deregistered land except:

1. The areas of the turbine bases, the substation and the met mast will be excluded.
2. There will be the ability to temporarily restrict access to enable construction, operations or maintenance to be carried out to the wind farm as and when necessary.

Granting of a licence to the Commoners

The applicants will grant an irrevocable licence for the life of the wind farm (25 years) for the Commoners and their animals to cross, re-cross and use the deregistered land for movements of their animals and grazing except:

1. The areas of the turbine bases, the substation and the met mast will not be covered by the licence.
2. There will be the ability to temporarily restrict the licence to enable construction, operations or maintenance to be carried out to the wind farm as and when necessary.

Re- Registration

Please see details in the extension to Question 30 below regarding the re-registration of land back to the common. Once re- registered, the public's right to access this land will continue as it had in the past. The re- registration will also ensure that the commoners' rights to graze live stock over the original common land are restored to this reregistered common land.

The overall outcome of the application being that the public will be able to access all areas of the release land even though it has been deregistered. The exception being the physical impediments of the turbine towers, the substation and the base of the met mast.

S16(6)(c)

(i) Nature Conservation

The effect of the wind farm on nature conservation were considered in great detail by Mr Baird and the Secretary of State (**SoS**) when they were considering whether to grant planning permission for the wind farm. This was done and Mr Baird's conclusions and the decision of the SoS are included with this application. Mr Elliot also assessed the effects of granting COM135 on peat.

As a result of this application there will be a loss of vegetation under the access tracks, turbine bases and substation. There will be a need to excavate peat but this can be stored on site and there will be fencing placed where necessary to allow disturbed and replaced peat to re-vegetate. Best practice will be employed to ensure that the wind farm construction and operation has minimal impact on peat.

(ii) Conservation of the landscape

If granted this application will allow the construction of a wind farm. This wind farm will have an effect on the landscape of the common land adjacent to the release land. The acceptability of the effect on landscape and its visual impact was considered by Mr Elliot and the SoS. It was also considered by Mr Elliot. However it must be pointed out that this application relates solely to areas that will either be tracks or earthworks.

(iii) Protection of Public Rights of Access to any Area of Land

This is addressed at question 23.

(iv) Archaeology

The application will not lead to any direct or indirect effects on known heritage assets.

The planning permission for the wind farm has in place a condition ensuring that a suitable ground investigation is carried out to ensure that unknown archaeology is protected. This is standard in terms of wind farm development and development in these areas.

S16(6)(d)

As this application will allow the construction of a wind farm the need for the development must be considered in the balance. Nationally the UK government is signed up to producing 20% of all energy through renewables by 2020. The wind farm that will be built if this application is successful will go towards meeting this target.

The need for such developments and the reason for the national targets stems from the need to reduce the release of carbon from fossil fuel sources and delivering energy security. Support for these policy objectives is still on going as is the support for the development of onshore wind farms.

When this application is considered the importance of government policy on climate change and renewables must be considered.

It is also worth of note that the Defra Consents guidance 2009 specifically mentions the use of commons by renewable energy installations recognising that they are often considered appropriate for this type of development.

A detailed discussion on need and benefits is found at paragraph 11.1511.36 of Mr Baird's report and paragraph 229 of Mr Elliot's report.