

Lancashire County Council

Commons and Town Greens Sub-Committee

**Minutes of the Meeting held on Tuesday, 23rd September, 2014 at 10.00 am
in Cabinet Room 'C' - County Hall, Preston**

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

I Brown
P Rigby
D T Smith

C Wakeford
D Whipp

*County Councillor D Smith replaced County Councillor M Barron on the Sub Committee for this meeting only.

1. Appointment of Chair.

Resolved: That the appointment of County Councillor J Oakes by the full County Council on the 15th May, 2014, as the Chair for the remainder of the 2014/15 municipal year is noted.

2. Appointment of Deputy Chair.

Resolved: That the appointment of County Councillor Miss K Snape by the full County Council on the 15th May, 2014, as the Deputy Chair for the remainder of the 2014/15 municipal year is noted.

3. Constitution, Membership and Terms of Reference.

A report was presented regarding the constitution, membership and Terms of Reference of the Sub Committee together with the agreed programme of meetings for 2014/15.

It was reported that the full County Council on the 15th May 2014 had agreed the constitution of the Sub Committee as being 11 members on the basis of 5 Labour, 5 Conservative and 1 Liberal Democrat.

Resolved:

1. That the current membership of the Sub Committee, as set out below, is noted.

M Barron P Rigby
I Brown R Shewan
D Clifford Miss K Snape
N Hennessy C Wakeford
J Oakes D Whipp
 B Yates

2. That the Terms of Reference of the Sub Committee, as set out below, are noted:
 1. To exercise the Council's powers under the Commons Registration (New Land) Regulations 1969 to register common land or town or village greens (except where the power is to be exercised solely for the purpose of giving effect to an exchange of land by an order under Section 19(3) or Schedule 3 of the Acquisition of Land Act 1981, or an order under Section 147 of the Inclosure Act 1845).
 2. To make recommendations to the Cabinet Member with responsibility for the Environment on matters under the Commons Registration Act 1965 as amended and Regulations thereunder where responsibility lies with the Cabinet.
 3. To amend the register in respect of rights of common under Regulation 29 of the Commons Registration (General) Regulations 1966, namely to apportion, vary, extinguish, release or transfer a right of common.
 4. To exercise the duties powers and functions of the County Council as Registration Authority under Part 1 Commons Act 2006
3. That the 2014/15 programme of meetings for the Sub Committee, as approved by the full Council in December, 2013 and set out below is noted, with all meetings to be held at County Hall, Preston, unless otherwise specified, commencing at 10.00am.

30th July 2014 (subsequently cancelled)
23rd September 2014
11th November 2014
2nd March 2015
21st April 2015

4. Apologies

Apologies for absence were received from County Councillor Miss Snape, County Councillor R Shewan and County Councillor B Yates.

5. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor D Smith declared a non pecuniary interest in relation to item 8 on the agenda as his wife was a member of the Parish Council which had made the application for a town/village green which was under consideration.

6. Minutes of the last Meeting

Resolved: That the Minutes of the meeting held on the 1st July, 2013 are agreed as an accurate record and signed by the Chair.

7. Guidance

The Sub Committee was presented with revised Guidance in relation to the law regarding applications to register land as a town/village green (received after April 2007 under Section 15 of the Commons Act 2006) and also in connection with applications in respect of Common Land under the Commons Act 2006.

Resolved: That the Guidance set out in Annexes 'A' and 'B' as presented is noted.

8. Commons Act 2006 Commons Registration (England) Regulations 2008

Application VG106 under section 15(8) of the Commons Act 2006 for registration of land at Cumeragh Village Square, Whittingham, Preston City, as a town or village green

It was reported that an application had been received from Whittingham Parish Council under S15(8) of the Commons Act 2006 for three areas of open land at Cumeragh Village, Whittingham, Preston City, to be registered as a town or village green.

Details of the application and supporting information received from the Applicant, including evidence of the freehold land ownership under Land Registry number title LAN90912, maps and aerial photographs was presented together with a summary of the law relating to applications to register land as a town/village green under S15 of the Commons Act 2006 (in the form of Annex 'A') both as part of the report and at the meeting.

When considering the report the Sub Committee was aware that the Applicant owned the three areas of land concerned which had no tenant/mortgagee or occupiers and was not crossed by any recorded public rights of way.

Resolved: That Application VG106 be accepted and the land shown on the plan submitted with the application and referred to in the report presented as Appendix

'B' be added to the Register of Town Greens and that appropriate Notice be given pursuant to the Statutory Regulations.

**9. Commons Registration Act 1965
Commons Registration (General) Regulations 1966 (as amended)**

Application for the Amendment of the Register in relation to Rights of Common on Common Land registered as Entry 4 in the Rights Section of Register Unit CL23

A report was presented in relation to an application from John Stephen Brown of The Green, Ireby, to register a transfer of rights of common not attached to land.

It was reported that an application had been received under Section 13 of The Commons Registration Act, 1965, for 37 of the rights registered under Rights Entry 4 as being attached to Ireby Green to graze 101 sheep gaits over the unit of common land CL23 to be shown as now held by the Applicant in gross and no longer attached to the land.

Details of the application and supporting evidence received from the Applicant, together with a summary of the law relating to applications in respect of common land made under S13 of the Commons Registration Act 1965 were presented both as part of the report and at the meeting.

The Sub Committee was advised that the register be amended to show that 37 of the sheep gaits registered at Rights Entry 4 had been severed from the land and having become a right in gross had transferred to the Applicant. It was also noted that the remaining rights were attached to the land owned by the Applicant and shown as the hatched area on the plan attached at Appendix 'C' to the report presented and that the supplemental map would be amended as appropriate to reflect this.

It was reported that the Applicant's brother, as the owner of a small part of the remaining land which used to carry grazing rights, had responded to the Notice to confirm that the Applicant did have the sheep rights transferred and that he understood some may now be severed away from his land. It was also noted that the Applicant was in the process of selling his land and it was expected that an application would be made in due course to record entitlements to rights and possibly transfer rights in gross to the new owners.

Resolved: That, having considered all of the circumstances, the application be accepted and the Register and supplementary map be amended according to Regulations to show:

1. That the rights to graze 37 sheep gaits on CL23 belong to John Stephen Brown in gross and are no longer attached to the land known in the Register as Ireby Green, Ireby.

2. That the remaining 64 sheep gaits remain attached to the land at Ireby Green, Ireby, being the land shown on a new supplemental map for entry 4 showing the hatched area on the plan set out at Appendix 'C' of the report presented.

**10. Commons Act 2006
Commons Registration (England) Regulations 2008**

Requirement to Amend a Register following the Registration of Ownership of part of CL37 Stanley Common, Bowland-with-Leagram, Clitheroe Rural District under Land Registration Act 2002.

It was reported that notification had been received from the Land Registrar that certain land had been registered under the Land Registration Act 2002. The Sub Committee was informed that the land in question was registered under title number LAN118265 as shown on the plan set out at Appendix 'A' to the report presented and included part of CL37 as shown on the plan at Appendix 'B'.

It was further reported that as there was no ownership noted the amendment would be by noting the Ownership Section of the Register in accordance with Model Entry 23 that a specified part of the land had been registered under the Land Registration Act 2002.

Resolved: That the Ownership Section of the Common Land Register relating to Common land unit CL37 be amended in accordance with the notification from the Land Registrar as specified in the report presented.

**11. Commons Act 2006
Commons Registration (England) Regulations 2008
Regulation 44**

Application for a Declaration of Entitlement to be recorded in respect of the Rights of Common being grazing rights and the right to take bracken and bedding registered as attached to land at Bambers Farm, Bolton by Bowland, Clitheroe, being entry 4 in the Rights section of Register Unit CL65Y.

A report was presented regarding an application from Mr Philip Stephen Woods for a declaration of entitlement to record his rights to graze sheep and take bracken and bedding over land contained in Common Land Register unit CL65Y.

The Sub Committee was informed that rights to graze 36 sheep and take bracken and bedding over that part of the land in the register unit shown edged red on the register map were attached to Bambers Farm, Bolton by Bowland, Clitheroe.

It was reported that Land Registry title number LAN62570 indicated that part of the land holding at Bambers Farm, as shown on the supplemental map, was

owned by Mr Philip Stephen Woods and Mr John Ashworth and it had been calculated that this land was 0.6% of the total land holding of the farm. 0.6% of the grazing rights equates to the rights to graze 0.2 sheep and the Applicant had been informed that, in accordance with guidance from DEFRA, the right to graze a fractional animal had been rounded down.

With regard to the right to take bracken and bedding over the CL65Y the Sub Committee was informed that the right was unquantified and DEFRA guidance stated that 'where an unquantified right is for the benefit of the holding as a whole, rather than attached to a particular dwelling-house or building, it may be reasonable to permit apportionment if the effect would not increase the overall burden on the common'.

It was considered that it could be argued that as the Applicant would not be entitled to any rights to graze sheep over CL65Y there would also be no requirement for him to take bracken and bedding from the common land. However, as the right was not attached to any particular dwelling-house or property it was felt that the right was not exclusive to the sheep and the applicant may have other types of livestock on his land holding for which he would require the bracken and bedding. In the circumstances, it was agreed that the Applicant would be entitled to the right to take bracken and bedding

Resolved: That a declaration of entitlement for the Applicant be recorded in accordance with the Regulations in respect of the Rights of Common attached to land at Bambers Farm, Bolton by Bowland, Clitheroe, being entry 4 in the Rights Section of Register Unit CL65Y in respect of grazing rights showing 0 sheep and in respect of the right to take bracken and bedding being shown as attached to the Applicant's land at Bambers Farm, Bolton-by-Bowland, Clitheroe on Unit CL65Y.

12. Deletion of Common Land Units not having the County Council as Registration Authority from the Register Map and completion of the General Part of the Register

The Sub Committee was informed that under the statutory regulations the County Council as Registration Authority was required to maintain an up to date register showing all the land recorded in its Registers.

It was reported that due to boundary changes in the past some common land units were no longer within the administrative boundary of the County Council and as a result the information from the Register had been passed to the relevant Registration Authorities. However on some map sheets of the Register Map these areas of common land continue to be shown. As a result it was proposed to amend individual map sheets to remove these areas of common land as and when a fresh edition of the sheet was required as a result of other alterations.

The Sub Committee was also informed that in some cases the County Council acted as the Commons Registration Authority for areas of land outside its

administrative area. It was reported that common units CL162, CL166, C1168, CL173 in Rochdale, CL172 in Calderdale and CL254 in Bury were covered by an Agreement under S101 of the Local Government Act 1972 and dated 1975 and units CL42 and CL165 were covered by a straddling agreement which was also dated 1975.

The Sub Committee acknowledged that both Agreements were not currently recorded properly on the Register and agreed that in accordance with the regulations the General Part of the Register should be updated to show details of both Agreements.

Resolved:

1. That any common land units recorded on the Register map sheets for which Lancashire County Council is not the registration authority be removed from the sheets on or before each sheet is amended with a fresh edition of said sheet.
2. That the Agreement under S101 of the Local Government Act 1972 in respect of common units CL162, CL166, C1168, CL173 in Rochdale, CL172 in Calderdale and CL254 in Bury, together with the straddling agreement in relation to units CL42 and CL165, both made in 1975 be recorded in the General Part of the Register.

13. Urgent Business

There were no items of urgent business for discussion at the meeting.

14. Date of Next Meeting

It was noted that the next scheduled meeting would be held at 10am on the 11th November 2014 in Cabinet Room 'C' – The Duke of Lancaster Room at County Hall, Preston.

I Young
County Secretary and Solicitor

County Hall
Preston