

Lancashire County Council

Commons and Town Greens Sub-Committee

Tuesday, 23rd September, 2014 at 10.00 am in Cabinet Room 'C' - County Hall, Preston

Agenda

Part 1 (Open to Press and Public)

No. Item

1. Appointment of Chair.

The Sub Committee is asked to note the appointment of County Councillor J Oakes by the full County Council on 15th May 2014 as the Chair for the remainder of the 2014/15 municipal year

2. Appointment of Deputy Chair.

The Sub Committee is asked to note 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.

3. Constitution, Membership and Terms of Reference. (Pages 1 - 4)

4. Apologies

5. Disclosure of Pecuniary and Non-Pecuniary Interests

Members are asked to consider any Pecuniary and Non-Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

6. Minutes of the last Meeting (Pages 5 - 12)

7. Guidance (Pages 13 - 26)

8. Commons Act 2006 (Pages 27 - 44)
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

- | No. | Item | |
|------------|---|-----------------|
| 9. | Commons Registration Act 1965
Commons Registration (General) Regulations 1966
(as amended) | (Pages 45 - 54) |
| | 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 | |
| 10. | Commons Act 2006
Commons Registration (England) Regulations 2008 | (Pages 55 - 62) |
| | 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. | |
| 11. | Commons Act 2006
Commons Registration (England) Regulations 2008
Regulation 44 | (Pages 63 - 70) |
| | 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. | |
| 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. | (Pages 71 - 72) |
| 13. | Urgent Business | |
| | An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading. | |

No. Item

14. Date of Next Meeting

The next scheduled meeting will be held at 10.00am 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

Agenda Item 3

Commons and Town Greens Sub Committee

Meeting to be held on 23rd September 2014

Electoral Division affected: All

Constitution, Membership, Terms of Reference and Programme of Meetings.

Contact for further information: Mike Neville, 01772 533431, Office of the Chief Executive, mike.neville@lancashire.gov.uk

Executive Summary

This report sets out the constitution, membership, and Terms of Reference of the Commons and Town Greens Sub Committee together with the programme of meetings for 2014/15.

Recommendation

The Sub Committee is asked to note:

1. The constitution of the Sub Committee as agreed by the full County Council on the 15th May 2014.
2. The current membership and Terms of Reference of the Sub Committee.
3. The 2014/15 programme of meetings for the Sub Committee.

Background and Advice

At the annual meeting on the 15th May 2014 the full County Council agreed the constitution of the Commons and Town Greens Sub Committee as being 11 members on the basis of 5 Labour, 5 Conservative and 1 Liberal Democrat and the County Secretary and Solicitor subsequently received the following nominations from each of the respective political groups in relation to the membership of the Sub Committee.

County Councillors (11)

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

Under the current Terms of Reference the Sub Committee shall carry out the following functions:

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

The following programme of meetings for the Sub Committee was approved by the full Council at the meeting in December, 2013, with all meetings to be held at County Hall, unless otherwise specified, and to commence at 10.00am.

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

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

There are no risk management implications arising from this item

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
Full Council agenda and Proceedings	December 2013 15 th May 2014	Janet Mulligan, Office of the Chief Executive, 01772 533361
County Council Constitution	May 2014	

Reason for inclusion in Part II, if appropriate
N/A

Agenda Item 6

Lancashire County Council

Commons and Town Greens Sub-Committee

Minutes of the Meeting held on Monday, 1st July, 2013 at 10.00 am in The Duke of Lancaster Room (Formerly Cabinet Room 'C') - County Hall, Preston

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

M Barron	R Shewan
I Brown	K Snape
N Hennessy	V Taylor
S Prynne	D Whipp
P Rigby	

Also in attendance

Mrs L Campy, Solicitor, Legal Services, Office of the Chief Executive
Mr M Neville, Senior Committee Support Officer, Democratic Services, Office of the Chief Executive.

1. Appointment of Chair

Resolved: The appointment by full Council on the 23rd May 2013 of County Councillor J Oakes as the Chair for the remainder of the 2013/14 municipal year is noted.

Before moving on to the next item of business the Chair informed the meeting of the recent death of former County Councillor Albert Thornton who had been the Chair of the Sub Committee between 2008 and 2012.

Members of the Sub Committee stood in silent tribute.

2. Appointment of Deputy Chair

Resolved: The appointment by full Council on the 23rd May 2013 of County Councillor Miss K Snape as the Deputy Chair for the remainder of the 2013/14 municipal year is noted.

3. Constitution, Membership; Terms of Reference and programme of Meetings of the Commons and Town Greens Sub-Committee

It was reported that at the annual meeting of the full Council on the 23rd May 2013 the constitution of the Sub Committee had been agreed as 11 members on the basis of 5 Labour, 5 Conservative and 1 Liberal Democrat and the following nominations had been made by each of the respective political groups.

M Barron	S Pryn
I F Brown	P Rigby
N Hennessy	R Shewan
A Kay	Miss K Snape
J Oakes	C Wakeford
D Whipp	

The Chair informed the meeting that County Councillor V Taylor had subsequently replaced County Councillor A Kay on the Sub Committee.

It was further reported that that current Terms of Reference for the Sub Committee were as follows:

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.

Details of the programme of meetings for 2013/14, as agreed by the full Council in December 2012, were also presented for information. In response to a query Mr Neville informed the meeting that a programme of two day meetings had been agreed in order to determine any applications for village/town greens which may be received. However, if no such applications were ready for consideration in time for a meeting then, with the agreement of the Chair, the Sub Committee would either be cancelled or one of the dates used for a meeting to consider other business, such as applications relating to common land.

It was also noted that a programme of half day meetings would be explored for 2014/15 with any town/village green applications being dealt with via ad hoc Special Sub Committees.

Resolved:

1. That the constitution of the Sub Committee as agreed by full Council on the 23rd May 2013, together with the current membership and Terms of Reference is noted.
2. That, the dates for future meetings of the Sub Committee, as agreed by full Council in December 2012 and set out below, are noted and that the Chair determine whether in light of the available business individual meetings should be held.

30th September/1st October 2013
21st/22nd January 2014
29th/30th April 2014

4. Disclosure of Pecuniary and Non-Pecuniary Interests

There were no declarations of interest relating to any of the matters on the agenda.

5. Minutes of the last meeting

It was noted that the meetings which had previously been arranged for 28th/29th January and the 13th/14th March 2013 had been cancelled due to lack of business.

Resolved: That the Minutes of the meeting held on the 2nd October, 2012 be confirmed as an accurate record and signed by the Chair.

6. Annex A - Guidance on the law relating to applications to register land as town or village green

Guidance on the law relating to applications to register land as a town or village green was presented for the information and future reference of the Sub Committee.

The Chair reported that on the 12th June 2013 the Regulatory Committee had appointed a Special Sub Committee to consider application VG102 concerning land at Simonstone in Ribble Valley and that she, County Councillor Shewan and County Councillor Brown had subsequently been appointed to serve on the Sub Committee.

Resolved: That the guidance as presented be noted and that similar guidance in relation to common land applications be provided in the future for the information of the Sub Committee.

**7. Commons Act 2006
Commons Registration (England) (Amendment) Regulations 2009 as amended
Regulation 44**

Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Gawcar House, Newton-in-Bowland, being entry 5 in the Rights section of Register Unit CL 66 YR

A report was presented regarding an application from Mr Anthony Moores for a Declaration of Entitlement to record his rights to graze 8 Sheep on CL66 YR

In considering the application the Sub Committee was aware that rights to graze 50 sheep over CL66 YR were attached to Gawcar House and that Land Registry title LA699436 indicated that 16.039% of the farmland was owned by Mr Moores, which equated to the right to graze 8 Sheep. In response to a query regarding the calculation Mrs Campy informed the meeting that the right to graze a fractional animal was not recognised in law and so any fractional rights would be rounded down in accordance with advice from DEFRA and the applicant had been advised of this.

It was also reported that Notice of the application had been duly given according to the regulations and no response had been received.

After considering all of the information presented that Sub Committee felt that it was appropriate to amend the Commons Register as set out below.

Resolved: That the application be accepted in full and a Declaration of Entitlement be recorded in the Commons Register in accordance with the Commons Registration (England) (Amendment) Regulations, 2009, that Mr Anthony Moores is entitled to exercise part of the right attached to Gawcar House, namely the right to graze 8 Sheep over the whole of CL66 YR.

**8. Commons Act 2006
Commons Registration (England) (Amendment) Regulations 2009 as amended
Regulation 44**

Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Abbot Barn Farm and Nickens Field, Chipping, being entry 43 in the Rights Section of Register Unit CL12

A report was presented regarding an application from Mr Paul Smith on behalf of the trustees of St Bartholomew's Church in Chipping for a Declaration of Entitlement to record the rights to graze 12 Sheep on CL12.

The Sub Committee was informed that rights to graze 45 sheep over CL12 were attached to Abbot Barn Farm and Nickens Field and the Church had been bequeathed the farmstead and land at Abbot Barn Farm by the late Thomas Ellison. It was further reported that the land was held on trust in the name of the two Churchwardens, Paul William Smith (the named Applicant) and Barbara Butters, together with the vicar, John Vickers Scott.

In considering the application the Sub Committee noted that Land Registry title number LAN90266 indicated that 27.040% of the land was owned by the three trustees, which equated to the right to graze 12 Sheep. Notice of the application had been duly given according to the regulations and no responses received.

Having considered all of the information presented the Sub Committee felt that the register should be amended to reflect the entitlement to graze 12 Sheep over the whole of CL12.

Resolved: That the application be accepted in full and a Declaration of Entitlement be recorded in the Commons Register in accordance with the Commons Registration (England) (Amendment) Regulations 2009 that Mr Paul Smith (and the other two trustees of St Bartholomew's Church – Barbara Butters and John Vickers Scott) are entitled to exercise part of the right attached to Abbot Barn Farm and Nickens Field, namely the right to graze 12 Sheep over the whole of CL12

**9. Commons Act 2006
Commons Registration (England) (Amendment) Regulations 2009 as amended
Regulation 44**

Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Abbot Barn Farm and Nickens Field, Chipping, being entry 43 in the Rights Section of Register Unit CL12

A report was presented regarding an application from Mr Richard John Seed and Mrs Elizabeth Seed for a Declaration of Entitlement to record their rights to graze 24 Sheep on CL12

When considering the application the Sub Committee was aware that rights to graze 45 sheep over CL12 were attached to Abbot Barn Farm and Nickens Field and that Land Registry title number LAN78981 indicated that 32.9% of the farm land was owned by the applicants, which equated to the right to graze 14 Sheep.

The Applicant had been informed of this and Notice of the application had been duly given according to the regulations and no responses received.

Whilst the application had been for rights to graze 24 Sheep the Sub Committee agreed that, having considered all the circumstances, it was appropriate to amend the Commons Register to show the correct entitlement as the rounded down figure of 14 Sheep.

Resolved: That the application be accepted in part and a Declaration of Entitlement be recorded in the Commons Register in accordance with the Commons Registration (England) (Amendment) Regulations 2009 that Mr Richard John Seed and Mrs Elizabeth Seed are entitled to exercise part of the right attached to Abbot Barn Farm and Nickens Field, namely the right to graze 14 Sheep over the whole of CL12.

**10. Commons Act 2006
Commons Registration (England) (Amendment) Regulations 2009 as amended
Regulation 44**

Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Out Head Lane Farm, Chipping, being entry 4 in the Rights Section of Register Unit CL12

The Sub Committee was informed that rights to graze 70 sheep over CL12 were attached to Out Lane Head Farm at Chipping and an application had been received from Mr Peter Joseph Rogerson and Mrs Elizabeth Susan Rogerson for a Declaration of Entitlement to record the rights to graze 35 Sheep on CL12.

Mrs Campy reported that after the agenda had been circulated it had come to light that not all of the land in question was in the ownership of the applicants which would impact on the calculation of grazing rights and would most likely result in the applicant being eligible to graze fewer sheep than set out in the report.

In view of the circumstances there was general agreement amongst the members of the Sub Committee that a decision on the application should be deferred to allow further investigations to take place regarding land ownership and to establish the applicant's correct entitlement of grazing rights.

Resolved: That a decision in connection with the application by Mr Peter Joseph Rogerson and Mrs Elizabeth Susan Rogerson for a Declaration of Entitlement to be recorded in the Commons Register in accordance with the Commons Registration (England) (Amendment) Regulations 2009 regarding the entitlement to exercise part of the right attached to Out Lane Head Farm at Chipping, be deferred to the next meeting to allow further investigations to take place

regarding land ownership and to establish the applicant's correct entitlement of grazing rights.

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

**Requirement to Amend a Register following the Registration of
Ownership of CL2 Stanley Common, Bowland-with-Leagram 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 Acts. The Sub Committee noted that the land in question was registered under title number LAN118265 and related to the whole of the registered Common Land unit CL2 at Stanley Common, Bowland-with-Leagram.

It was further reported that as there was an ownership noted the amendment would involve deleting the registration of ownership as required by paragraph 8(2) of Schedule 3 of the Commons Act 2006 and noting in accordance with Model Entry 23 that 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 CL2 be amended in accordance with the notification from the Land Registrar as specified in the report presented.

**12. Commons Act 2006
Section 19
Commons Registration (England) (Amendment) Regulations 2009**

**Proposal to correct the Commons Register in relation to Common
Land Unit CL65YR, known as Harrop Fell including Harrop Common
and Harrop Fold, Grindleton in the Rural District of Bowland**

The Sub Committee considered a report regarding a proposal to amend the Register of Common Land in order to correct a mistake which had been made when an entry in the register had been amended.

It was reported that in January 1968 a right to graze 95 sheep over common land parcel CL65YR had been recorded at entry No.3 in the rights section of the Register of Common Land. At that time the applicant was Mr Henry Robinson and the right was recorded as being attached to land at Higher Harrop Fold Farm, Bolton-by-Bowland.

In September 1995 an application to amend the register had been received and as the County Council was satisfied with the documentation supplied Notices

were served on all interested parties and, as no objections were received, an amendment was duly recorded in the Register. However, the rights were recorded incorrectly in that the entry referred to the rights being attached to the land rather than being held in gross.

In considering the report the Sub Committee acknowledged that a mistake had been made by the Registration Authority in amending the Register of Common Land and agreed that an amendment should be made to the entry in the Register to show the apportionment of the rights as set out below as being held in gross.

Resolved: That the Proposal be approved and the Rights Section of the Common Land Register relating to CL65YR be amended in accordance with the Commons Registration (England) Regulations, 2008, as amended, to show that the rights set out below are held in gross.

- a) The right of Neville Harrison of Harrop Hall, Slaidburn to graze 8 sheep over the whole of the land comprised in this Register Unit.
- b) The right of David Harrison of Harrop Hall, Slaidburn to graze 8 sheep over the whole of the land comprised in this Register Unit.
- c) The right of Daniel Wood of Harrop Fold, Bolton by Bowland to graze 16 sheep over the whole of the land comprised in this Register Unit.
- d) The right of Mark Blakey of Spencers Farm, Bolton by Bowland to graze 16 sheep over the whole of the land comprised in this Register Unit.

13. Urgent Business

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

14. Date of Next Meeting

It was noted that, subject to the agreement of the Chair, the next meeting of the Sub Committee would be held at 10am on the 30th September/1st October 2013 in the Duke of Lancaster Room (formerly Cabinet Room 'C') at County Hall, Preston.

I M Fisher
County Secretary and Solicitor

County Hall
Preston

Annex “A”

Commons and Town Greens Sub-Committee

Guidance on the law relating to applications to register land as a Town or Village Green (received after April 2007 under S15 Commons Act 2006)

The Commons Act 2006 (“the Act”) makes provision for the registration of common land and of town or village greens. Registration Authorities were created under 1965 legislation to maintain two registers, namely one for common land and the other for town and village greens. The County Council is the Registration Authority for the County of Lancashire.

Section 15 of the Commons Act 2006 sets out new criteria for registering greens and came into force on 6 April 2007. It supersedes the criteria laid down in Section 22 of the 1965 Act, and applies to applications made on or after 6 April 2007. (The law under the 1965 Act continues to apply to all applications made prior to that date.)

Applications under S15 (1)(2)(3)(4)

The wording of Section 15 is –

(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

(2) This subsection applies where–

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
- (b) they continue to do so at the time of the application.

(3) This subsection applies where–

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
- (b) they ceased to do so before the time of the application but after the commencement of this section; and
- (c) the application is made within the period of two years beginning with the cessation referred to in paragraph (b).

(4) This subsection applies (subject to subsection (5)) where–

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
- (b) they ceased to do so before the commencement of this section; and
- (c) the application is made within the period of five years beginning with the cessation referred to in paragraph (b).

(5) Subsection (4) does not apply in relation to any land where—
(a) planning permission was granted before 23 June 2006 in respect of the land;
(b) construction works were commenced before that date in accordance with that planning permission on the land or any other land in respect of which the permission was granted; and
(c) the land—
(i) has by reason of any works carried out in accordance with that planning permission become permanently unusable by members of the public for the purposes of lawful sports and pastimes; or
(ii) will by reason of any works proposed to be carried out in accordance with that planning permission become permanently unusable by members of the public for those purposes.

(6) In determining the period of 20 years referred to in subsections (2)(a), (3)(a) and (4)(a), there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment.

(7) For the purposes of subsection (2)(b) in a case where the condition in subsection (2)(a) is satisfied—
(a) where persons indulge as of right in lawful sports and pastimes immediately before access to the land is prohibited as specified in subsection (6), those persons are to be regarded as continuing so to indulge; and
(b) where permission is granted in respect of use of the land for the purposes of lawful sports and pastimes, the permission is to be disregarded in determining whether persons continue to indulge in lawful sports and pastimes on the land “as of right”.

Each of the elements of the definition must be satisfied by the Applicants on a balance of probabilities and guidance below deals with each element in turn.

Land

In order that it is clear what is sought to be registered, the Land must be clearly identified and the extent of the land must be shown on a plan submitted with the Application form.

There are no restrictions on the kind of land which may qualify for registration. It need not have any particular physical characteristics. Moreover, it is apparent from case law that overgrown or otherwise inaccessible areas may still be part of the land capable of registration as a whole as they may still be used for recreational purposes, such as flower beds and shrubberies in a public garden admired by walkers through the garden, or areas of land which is habitat for birds and wildlife and is part of a recreational experience in using the land.

It is advised that land may also include land covered by water, e.g. a pond or stream.

It is advised that the evidence may justify the registration of only part of the Application land by the Registration Authority.

It is advised that the Registration Authority must decide on a common sense approach as to whether the land or part of it has been used for at least twenty years with use having continued and for the required recreational purposes. For this purpose, it is required to take into account where appropriate the physical condition of the land during the relevant time period, bearing in mind that the physical condition may have changed during that period.

If any substantial part of the land by reason of its physical character has not been used for the twenty year period for the required recreational purposes, then that part may not have become a Green and may also affect whether the rest of the area of the land has satisfied the statutory tests. A registration authority would not expect to see evidence of use of every square metre but evidence does have to persuade that for all practical purposes it could sensibly be said that the whole of the site has been used.

Use for Twenty Years and continuing

It is advised that the 20 year period of use can be made up of several lesser periods of use by individuals using the application land so long as those lesser periods overlap and form a continuous unbroken period of use of twenty years. That use must not be interrupted over the twenty year period.

If the application seeks to satisfy S15 (2), the use must "continue" to the date of the application and therefore not only must the use be sufficient during the twenty year period claimed, but also for the period of time afterwards until the application is made.

In effect, for at least the twenty year period immediately before the application there must have been sufficient as of right user.

If the use of the land has already ceased and the application seeks to satisfy S15 (3) the use will have ended on or after 6th April 2007 but not longer than 2 years before the application.

Significant Number

"Significant" is not defined in the Act and must be given its ordinary meaning in each individual case. The judicial guidance in case law is that a "significant number" should not be quantified in terms of a percentage of the neighbourhood or locality in question. Moreover, it need not be a substantial number nor the majority of those inhabitants. Instead "a significant number" means a number that is sufficient to indicate that the land is in general use by the local community for recreational purposes rather than being used occasionally by individuals as trespassers.

In the McAlpine case in 2002, there were six witnesses able to give evidence of use over the entire twenty year period and they gave evidence not merely about what they did themselves, but also about what they saw others doing. That evidence was supported by many other witnesses who were able to talk about their use during parts of the twenty year period. The court found that written evidence was to be

treated with caution, but looking at the totality of evidence, the conclusion that it was consistent with and supportive of the oral evidence was one which one was entitled to reach. The conclusion reached as to whether use has been by a significant number has to be supported by an analysis of all the evidence and not based upon speculation.

Evidence of public footpaths or other highways leading to the land, the ease or difficulty of getting onto the land and the existence of any signs are all relevant circumstances to be considered.

It is for the applicant to prove use over the full 20 years and the continuing period. It is advised that such use would have to be by a significant number of inhabitants throughout those 20 years and the continuing period.

There may be concern if there is a concentration of usage from only part of the locality but recently the court was unimpressed with the argument that the supporters were inadequately spread over the claimed localities. Mr Justice Vos was on the particular facts of the case was not surprised that the majority of users lived closest to the application land but there is a strong argument that the view of Vos J was obiter anyway and the Court of Appeal in considering the matter did not address the issue. Also recently three independent inspectors have found that spread of user was important and it seems probable that spread is still relevant and evidence is required to show that user is sufficiently distributed to be sufficient to give the impression of the use of the application land by the inhabitants of the locality or neighbourhood

Inhabitants

The requirement that the use of an application site must have been by inhabitants is an aspect that has not been clarified to any great extent by case law.

There is no recent judicial guidance as to whether inhabitants would have to own a property or actually live there, or live there for the whole year or maybe even just work in the neighbourhood. In one very old case of 1797, which related to the inhabitants of a parish being entitled to make use of a particular village close for lawful games and pastimes, Mr Justice Heath ruled that renting a shop and working there twice a week was sufficient to establish inhabitancy in that matter.

It is advised that children are capable of being inhabitants.

Locality or Neighbourhood within a Locality

It is settled law that if an application is advanced solely on the basis of a locality there must be a single locality and it must be identified as having legally significant boundaries

A locality still needs to be shown even though use may have been evidenced as being by a neighbourhood within that locality.

An area with legally significant boundaries is generally understood to include a borough, parish, or ward . Whether that identity be a civil or ecclesiastical parish, a district or unitary authority would seem to be immaterial, provided it is a recognised locality known to law.

Mr Justice Sullivan further stated that the term neighbourhood, although not required to be a unit recognisable at law, must nevertheless be a cohesive entity. It is not any area of land that an applicant chooses to delineate upon a plan and he felt that the registration authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness.

The locality or neighbourhood itself ought to be identified in the application form.

It does not matter that many or even most users come from elsewhere so long as a significant number come from the locality or neighbourhood.

A neighbourhood is a cohesive area and capable of meaningful description in some way.

Where an application is advanced on the basis of use by a neighbourhood it is settled law that the reliance can be placed by an applicant on a neighbourhood or neighbourhoods within a locality and or localities. In a recent case two areas each qualified as a neighbourhood.

Use of the Land for Lawful Sports and Pastimes

For land to be registered as a town or village green, it must be shown that it has been used for lawful sports and pastimes. They need not be the traditional activities that took place on greens, but can be present day and informal activities. Lord Hoffmann in the Sunningwell case which reached the House of Lords in 1999 said that dog walking and playing with children were, in modern life, the kind of informal recreational activities which may be the main use of a village green. However, the use must be a recreational one to qualify.

It was also stated in the Sunningwell case that “sports and pastimes” is a single composite class and not two separate classes of activity. It is sufficient if an activity is either a lawful sport or pastime for it to fall within that composite class.

The use of the land for lawful sports and pastimes must be distinguished from the use of a right of way over the land or walking along an identified track. In the Oxfordshire case at the High Court hearing in 2004, the Judge considered the scenario where there are tracks across the land and whether their use may be a qualifying use for either a claim for a public footpath or for a green or both. The critical question in his view was how it would have appeared to a reasonable landowner as to whether the use of tracks would have appeared referable to the use of a public footpath or the use of the green for recreational activities or both. He considered that where the track has two distinct access points and the track leads from one to the other and the users merely use the track to get from one point to the other, then use confined to the track may readily be regarded as referable to use as a public highway alone. He considered that it would be different if users of the track

veer off the track and play or meander leisurely over and enjoy the land on either side. Such use is more particularly referable to use as a green.

Where a track which is already a public footpath crosses the land, the starting point must be to view the use as referable to the exercise of the established right of way.

It is suggested that lawful sports and pastimes have to be established as regular uses over the whole of the site. In the Cheltenham Builders case, the site had been so overgrown in places that it could not have been so used, and in the Laing Home case in 2003, there had been established footpaths around the edge of the site which had been used, but less evidence as to the use of the remainder of it.

The Courts have held that a common sense approach should be adopted to consider whether for all practical purposes the whole of the site has been used to such an extent as to indicate the assertion of a continuous right. The question in all cases should be how a reasonable landowner would have interpreted the use made of his land. The Court of Appeal in the Oxfordshire case confirmed that the question is how a reasonable landowner would have interpreted the use made of the land.

It is considered that extensive activity around the edge of an application site or on parts of an application site only would possibly not be sufficient to confer green status on the interior of the application site or on other parts of it.

There is an element of fact and degree when considering what parts have been used. It may not be essential to show that lawful sports and pastimes have taken place within an overgrown thicket, provided they have taken place all round it.

The recreational use must be continuous and not have suffered a material interruption throughout the twenty year period, although no-one expects the local inhabitants to indulge in lawful sports and pastimes every day for 24 hours throughout the twenty year period. There will be days when no lawful sports and pastimes take place at all, but it is advised that an intermission is not the same as an interruption.

It is suggested that the use must be sufficiently frequent and not merely sporadic in nature. It must give the landowner the appearance that rights of a continuous nature are being asserted. Moreover, at times when the lawful sports and pastimes were not being carried out, there must have been nothing else taking place on the land which would have prevented them taking place.

Use can be continuous even if there are periods when in practice the land is inaccessible, for instance if there was flooding. However, it is a different matter if the land is inaccessible because of physical activities carried out by the landowner, e.g. engineering works, which are inconsistent with the use of the land for lawful sports and pastimes.

Use of tracks across the land will possibly only be referable to building up a public right of way and each application will need to be considered carefully with careful cross examination of users to determine where they go on the land and for what purpose.

Use must be “As of Right”

For a use to be “as of right”, it must be exercised without force, without secrecy and without permission. User must also be such as to give the outward appearance that the user is being asserted and claimed as of right – openly and in the manner that a person rightfully entitled would have used it.

Use by force would possibly be use which is carried out by climbing a locked gate or where fences and prohibitory signage are torn down or ignored. It would probably be use by force. Whenever it is contentious or allowed under protest. User may be contentious when the landowner is doing everything consistent with his means and proportionately to the user to contest and endeavour to interrupt the user. What the users understood from the signage or notice is relevant. The actions of the landowner in previous applications about the land may also be relevant.

Use by secrecy could occur if the land was used at times and in a manner that a landowner could not expect to be aware of it, such as during hours of darkness when landowner was away.

Use by permission can be as a result of either express or implied consent from the landowner.

Express consent, whether oral or in writing to go on the land, would cause the use to be with permission and therefore not as of right. Since the Beresford case heard by the House of Lords in 2003, it is likely that such express consent would have to have been actually communicated to the user and be revocable or time limited. Permission which is unlimited may not preclude as of right use.

An implied permission to use land can arise where a landowner’s conduct is such that it makes it clear to users that the use of his land is pursuant to his permission. However, it was made clear in Beresford that permission could not be implied from mere inaction on the part of the landowner with knowledge of the use to which his land was being put. An owner who knows of the ongoing use but cannot be bothered to do anything about it or knows there is little he could realistically do about it and turns a blind eye would be tolerating the use, but this would not be consenting to nor permitting the use which would then likely to be as of right.

Instead, for permission to be implied, a landowner needs to take some positive acts to make users aware that their use of his land is with his permission. It appears that what is required is overt conduct by the landowner such as making a charge for admission or asserting his title by the occasional closure of land to allcomers or erecting appropriate signs demonstrating that access to the land depends upon his permission. In contrast, conduct merely amounting to positive encouragement to use the land is not sufficient to amount to implied permission, such as grass cutting or the provision of pitches.

It is advised that use by permission for even a short period might be sufficient to stop a twenty year period of use “as of right” from running, although a new twenty year period of lawful sports and pastimes can recommence as soon as the period of

permitted use ceases. Hence, to prevent the accrual of the right, it would not be necessary for a notice prohibiting entry or granting permission by the owner to remain in place throughout the twenty year period. Local inhabitants excluded from parts of the land when ticketed festivals or a cordoned off funfair was held on only a few occasions meant that the application failed. The landowner had permitted the land to be used for his private purposes and by his conduct had demonstrated to the public that their use was permissive.

User as of right cannot be established if the use is actually "by right" under a statutory right to do so. Land held expressly as open space under the Open Spaces Act 1906 is held under a recreation trust and not able to be registered. If land is held under a statute for recreation, playing field, gardens etc careful consideration as to whether use is "by right" will be required. The Open Spaces Act is one Act to consider but also the Physical training and recreation Act 1937 and Public Health Act 1875 and possibly others and byelaws or church measures.

Effect of Registration

One of the most important effects of registration in practice is that it impedes development.

Under the Enclosure Act 1857, it is an offence to do any act whatsoever to interrupt the use or enjoyment of a town or village green as a place for exercise or recreation. Secondly, the Commons Act 1876 provides that any enclosure or encroachment of a town or village green is a public nuisance and thus a criminal offence actionable by any claimant who can show special damage.

Lord Justice Pill in the Steed case stated that it was no trivial matter for a landowner to have land registered as a Green.

It was the view of the Court in the Oxfordshire case that the registration of a green coming into existence since 1970 does establish "rights" for the local inhabitants to use the land for recreational purposes and the nineteenth century statutory provisions do still apply to such new greens.

Applications under S15(8)(9)(10)

The provision S15(8) enables owners to "dedicate " their land as a town or village green.

There does not have to be use etc proved as above.

The statutory provisions relating to this says

S15(8) The owner of any land may apply to the commons registration authority to register the land as a town or village green.

S15(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.

S15(10) In subsection (9)–

“relevant charge” means–

(a) in relation to land which is registered in the register of title, a registered charge within the meaning of the [Land Registration Act 2002 \(c. 9\)](#);

(b) in relation to land which is not so registered–

(i) a charge registered under the [Land Charges Act 1972 \(c. 61\)](#); or

(ii) a legal mortgage, within the meaning of the [Law of Property Act 1925 \(c. 20\)](#), which is not registered under the [Land Charges Act 1972](#);

“relevant leaseholder” means a leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.

It will be noted that consents may need to be evidenced.

It is advised that the registration authority may not reject an application because it considers the land to be unsuited to registration but may reject it if it reaches a conclusion that the applicant is not owner or the necessary consents not obtained

Sept 2014

Commons and Town Greens Sub-Committee

Guidance on the law relating to applications in respect of Common Land under the Commons Act 2006

The Commons Act 2006 (“the Act”) makes provision for the registration of common land and of town or village greens. Registration Authorities were created under 1965 legislation to maintain two registers, namely one for common land and the other for town and village greens. The County Council is the Registration Authority for the County of Lancashire.

This guidance relates to the various applications able to be made in respect of the Register for Common Land.

The Sub Committee will recall that the register is made up of the a general Part, the register map (made up of many sheets showing the units of common land), the pages relating to each common land unit showing the "farms" or people holding rights on each unit and the maps of each of the "farms" being the land to which rights attach pro rata across the area of land.

Where rights are held by persons they are referred to as rights in gross.

The 2006 Act updates the registration system.

Notification from the Chief Land Registrar or Orders from the Secretary of State may be received which results in a change to the Register.

There are also several types of applications which can be made to change the Register. Many require payment of a fee. Some may end up determined by the Planning inspectorate rather than the Registration authority.

Some applications can be made to adjust information presently shown on the register because of new events happening to the land

Some applications can be made until 2020 to rectify certain mistakes and omissions in the past

Some applications can be made to record events which have happened since the Registers were first made in 1970 but have not yet been recorded.

There is no statutory provision dealing with withdrawal of applications. The circumstances in which the authority may accept a withdrawal will vary and advice will be given on a case by case basis.

A Registration authority may conclude that an application should be granted only in part because criteria are met only to that part.

There may be no formal objections to an application but it is advised that the sub Committee consider the application on its merits

Applications may take the form of proposals by the registration Authority – in effect an application to itself

Some applications may involve decisions made looking at evidence in paper form but if an oral hearing of evidence re thought to be appropriate the Sub Committee will be advised.

Types of Application

Regulation 44

Applications can be made for a declaration of entitlement to be recorded on the Register. A fee is payable. The application is made by the owner or tenant of the land or part of the land to which rights are attached (usually a farm).

The declarant will be readily identifiable as claiming to be entitled to exercise particular rights

If the applicant owns only part of the land to which rights are attached a calculation needs to be done to pro rata calculate the rights recorded in the declaration. The Registration authority needs to ensure that it is content with the evidence supplied.

S 6 Creation of a right

Guidance yet to be finalised

S7 Variation of a existing Right

Guidance yet to be finalised

S8 Apportionment of an existing right

Guidance yet to be finalised

S10 Attachment of rights in gross back onto land

Guidance yet to be finalised

S11 reallocation of attached rights

Guidance yet to be finalised

S12 Transfer of rights in gross

Guidance yet to be finalised

S13 surrender and extinguishment of rights

Guidance yet to be finalised

S14 a disposition arising under statute

Guidance yet to be finalised

S19 Rectification of an error

Guidance yet to be finalised

Mistakes may not be corrected under S19 if the authority considers that by reason of reliance reasonably placed on the register by any person or for any other reason it would in all the circumstances be unfair to do so

Schedule 2

Guidance yet to be finalised

Applications must be made before 2020

Schedule 3 Historic events to be recorded

Guidance yet to be finalised

Following applications under paragraphs 2 or 4 of Schedule 3 made after September 2010 to remove land from the register, the authority may consider that by reason of reliance reasonably placed on the register by any person since September 2010 it would in all the circumstances be unfair to alter the register

Sept 2014

Commons and Town Greens Sub Committee

Meeting to be held on 23 September 2014

Electoral Division affected: Preston Rural

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

(Appendices 'A', 'B', 'C', 'D' refer)

Contact for further information: Saleha Khalid, 01772 536098, Office of the Chief Executive Saleha.khalid@lancashire.gov.uk

Executive Summary

An application by the owner of land at The Square, Cumeragh Village, Whittingham, Preston City for it to be registered as a town/village green.

Recommendation

That the Application be accepted and the land shown on the plan with the application (attached at Appendix 'B' to this report) added to the Register of Town Greens and that appropriate Notice be given pursuant to the Statutory Regulations.

Background and Advice

Section 15 of The Commons Act 2006 (the 2006 Act) came into force in April 2007 with most of the remaining sections of the 2006 Act coming into force in Lancashire in October 2008. The 2006 Act makes provision for the registration of common land and of town or village greens and the maintenance of the registers of common land and town and village greens by Registration Authorities. The County Council is the Registration Authority for the County of Lancashire and determination of applications to alter the registers including the determination of applications to register town greens has been delegated to the Commons and Town Greens Sub-Committee.

Section 15 provides for applications to be made to register town greens. Some applications seek to add new town greens claimed against the wishes of owners with the need to prove 20 years relevant use, as of right, but also, under S15(8), the application can be for registration of land as a town green because the owner wants it to be recorded as such. This second type of application was not able to be made under the old 1965 legislation but was introduced in the Commons Act 2006.

In June 2014 an application was accepted as being duly made by Whittingham Parish Council under S15 (8) to register land at Cumeragh Village Square, Whittingham, Preston City as a town or village green. A copy of the application is set out at Appendix 'A'. A plan of the area sought to be registered was provided by the applicant (Appendix 'B') and evidence of their freehold land ownership under land registry title number LAN90912 (Appendix 'C').

The Commons Registration (England) Regulations 2008 (the 2008 Regulations) were made under the 2006 Act and now apply to this application.

It is advised that where an applicant is to register land voluntarily he does not have to prove the criteria in S15 (2) (3) and (4) of the 2006 Act – e.g. 20 years use, use by sufficient amount of local residents. Instead it is an application by a landowner with written consent from any tenant or mortgagee. In this matter the application land has no tenant nor mortgagee. It is the case however that the application must be advertised and any representations received have to be taken into account on making the decision. It is advised that the determination of applications by a registration authority is a quasi-judicial function and there is a duty to act reasonably. If ownership is clearly proved but registration of the land would be incompatible with some other rights or status of the land it is suggested that consideration would need to be had to such information.

It is advised that once a village/town green has been registered voluntarily it will be subject to the same statutory protections as all other registered greens and local people will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis. In general terms, causing damage to village greens is a criminal offence.

Greens are protected under S12 Inclosure Act 1857 against injury or damage and interruption to their use or enjoyment and under s29 of the Commons Act 1876 against encroachment or inclosure. Registration is irrevocable and the land will need to be kept free from development or similar. The right to apply for Secretary of State's approval to carry out works on Common Land does not apply to Greens.

In this matter the application land is three areas of open ground in Whittingham as shown on the plan at Appendix B. The Applicant has included a map showing the area of land sought to be registered as a green. There are no recorded public rights of way across the land subject to this application. Aerial photographs and photographs from Google Street maps are attached as Appendix 'D'.

The criteria in the 2006 Act is that an application may be made by an owner of the land. It is advised that Whittingham Parish Council have evidenced their land ownership in respect of the land subject to this application by providing land registry title documentation as detailed above. The land is owned by the Parish Council. The Regulations provide for the Applicant to serve Notice of the Application on all occupiers of the land and the Parish Council has confirmed there are no occupiers on the land concerned.

The Sub-Committee is advised that S.15 (8) of the 2006 Act states the owner of any land may apply to the commons registration authority to register the land as a town or village green. Whittingham Parish Council is an owner (defined by S61 Commons

Act 2006) who wishes to register their land and has complied with the Regulations. The County Council has received no objections to the application and having considered the Regulations, the 2006 Act and DEFRA's guidance to commons registration authorities..' dated January 2014 it is recommended that the application be accepted and the land is added to the Register of Town Greens.

Consultations

The Application was published in accordance with Regulation 21 by publishing a notice of the application on Lancashire County Council's website and by serving a notice of the application by email on those who have previously asked to be kept informed of all applications and proposals and have provided an email address for this purpose. Notices were also posted on the site subject to this application and on Whittingham Parish Council's notice board and were available to view at Preston City Councils offices. No objections have been received to the application.

Implications:

Legal:

There are legal implications as referred to in the report. Whittingham Parish Council's interest will be overlaid by the legal protection for town greens if the application is accepted. If the application is accepted by the Sub Committee the residents of Whittingham will enjoy rights on the and for sports and pastimes.

Risk management

The decision to be made by the Sub-Committee could be subject to judicial challenge. It is advised that all the relevant matters outlined in the report and attached documentation are to be taken into account.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
File 3.644	Various	Saleha Khalid, Office of the Chief Executive, 01772 536098

Reason for inclusion in Part II, if appropriate
N/A

Form CA9

Commons Act 2006: section 15

Application for the registration of a town or village green

This section is for office use only

Official stamp

<p>COMMONS ACT 2006 LANCASHIRE COUNTY COUNCIL COMMONS REGISTRATION AUTHORITY DATE: <u>3 June 2014</u></p>

Application number

<p>VG106</p>

VG number allocated at registration

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Applicants are advised to read the 'Part 1 of the Commons Act 2006 (changes to the commons registers): Guidance to applicants in the pilot implementation areas'* and to note the following:

- All applicants should complete parts 1–6 and 10–12.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete parts 7 and 8. Any person can apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete part 9. Only the owner of the land can apply under section 15(8).
- There is no fee for applications under section 15.

Note	Part
<p>Note 1</p> <p>Insert name of commons registration authority</p>	<p>1. Commons Registration Authority</p> <p>To the LANCASHIRE COUNTY COUNCIL</p>

[http://www.defra.gov.uk/wildlife-countryside/pdf/protected-areas/common land/pilot-appguide.pdf](http://www.defra.gov.uk/wildlife-countryside/pdf/protected-areas/common%20land/pilot-appguide.pdf)

<p>Note 2</p> <p>If there is more than one applicant, list all names. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or unincorporate. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via email. If part 3 is not completed all correspondence and notices will be sent to the first named applicant.</p>	<p>2. Name and address of the applicant</p> <p>Name WHITTINGHAM PARISH COUNCIL</p> <p>Full postal address: 16 MINSTER PARK COTTAM PRESTON PR4 0BY</p> <p>Telephone number (incl. national dialling code): 01772 761637</p> <p>Fax number (incl. national dialling code): -</p> <p>E-mail address: Jbuttle @ tiscali. co.uk</p>
<p>Note 3</p> <p>This part should be completed if a representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, they may receive communications from the registration authority or other persons (e.g. objectors) via email.</p>	<p>3. Name and address of representative, if any</p> <p>Name /</p> <p>Firm /</p> <p>Full postal address:</p> <p>Telephone number (incl. national dialling code):</p> <p>Fax number (incl. national dialling code):</p> <p>E-mail address:</p>
<p>Note 4</p> <p>For further details of the requirements of an application refer to Schedule 4, paragraph 9 to the Commons Registration (England) Regulations 2008. Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.</p>	<p>4. Basis of application for registration and qualifying criteria</p> <p>If you are the landowner and are seeking voluntarily to register your land tick this box and move to question 5. Application made under section 15(8): <input checked="" type="checkbox"/></p> <p>If the application is made under section 15(1) of the Act, tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case:</p> <p>Section 15(2) applies <input type="checkbox"/></p> <p>Section 15(3) applies <input type="checkbox"/></p> <p>Section 15(4) applies <input type="checkbox"/></p> <p>If section 15(3) or (4) applies indicate the date on which you consider that use as of right ended:</p> <p>If section 15(6)* is being relied upon in determining the period of 20 years, indicate the period of statutory closure (if any) which needs to be disregarded:</p>

<p>Note 5</p> <p>This part is to identify the new green. The accompanying map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland, and shows the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where known.</p>	<p>5. Description and particulars of the area of land in respect of which application for registration is made</p> <p>Name by which usually known:</p> <p style="text-align: center;">CUMERAGH VILLAGE SQUARE EDGED GREEN X 3 AREAS</p> <p>Location:</p> <p style="text-align: center;">CUMERAGH VILLAGE OFF CUMERAGH LANE WHITTINGHAM</p> <p>Common land register unit number (only if the land is registered common land):</p> <p>Tick the box to confirm that you have attached a map of the land: <input checked="" type="checkbox"/></p>
<p>Note 6</p> <p>It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,560.</p>	<p>6. Locality or neighbourhood within a locality in respect of which the application is made</p> <p>Show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:</p> <p style="text-align: center;">The Green belongs to the locality of Cumeragh within the Parish of Whittingham.</p> <p>Tick here if map attached. <input checked="" type="checkbox"/></p>
<p>Note 7</p> <p>Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application. This information is not needed if a landowner is applying to register the land as a green under section 15(8).</p>	<p>7. Justification for application to register the land as a town or village green</p> <p style="text-align: center;">Applying under S15 (8)</p>

<p>Note 8</p> <p>Use a separate sheet if necessary This information is not needed if a landowner is applying to register the land as a green under section 15(8).</p>	<p>B. Name and address of every person whom the applicant believes to be an owner, lessee, proprietor of any "relevant charge", tenant or occupier of any part of the land claimed to be a town or village green</p> <p style="text-align: center;">WHITTINGHAM PARISH COUNCIL</p>
<p>Note 9</p> <p>List or enter in the form all such declarations that accompany the application. This can include any written declarations sent to the applicant (i.e. a letter), and also any such declarations made on the form itself</p>	<p>9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land</p> <p style="text-align: center;">N/A</p>
<p>Note 10</p> <p>List all supporting consents, documents and maps accompanying the application. Evidence of ownership of the land must be included for voluntarily registration applications. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary</p>	<p>10 Supporting documentation</p> <p style="text-align: center;">Evidence of land ownership attached</p>

<p>Note 11</p> <p>List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.</p>	<p>11. Any other information relating to the application</p> <p style="text-align: center;">NONE</p>
<p>Note 12</p> <p>The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.</p>	<p>12. Signature</p> <p>Date:</p> <p>Signatures: <i>Julie Buttle</i></p>

The completed application form must be sent to:

**Commons Registration Authority,
 County Secretary and Solicitor's Group (Ref: LSG4),
 Lancashire County Council,
 P.O. Box 78,
 County Hall,
 Preston,
 PR1 8XJ**

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

Data Protection Act 1998

The application and any representations made will be used for the purposes of determining your application and cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

The data controller in respect of any personal data submitted as part of the application process is Lancashire County Council; and the relevant contact for data protection matters is:

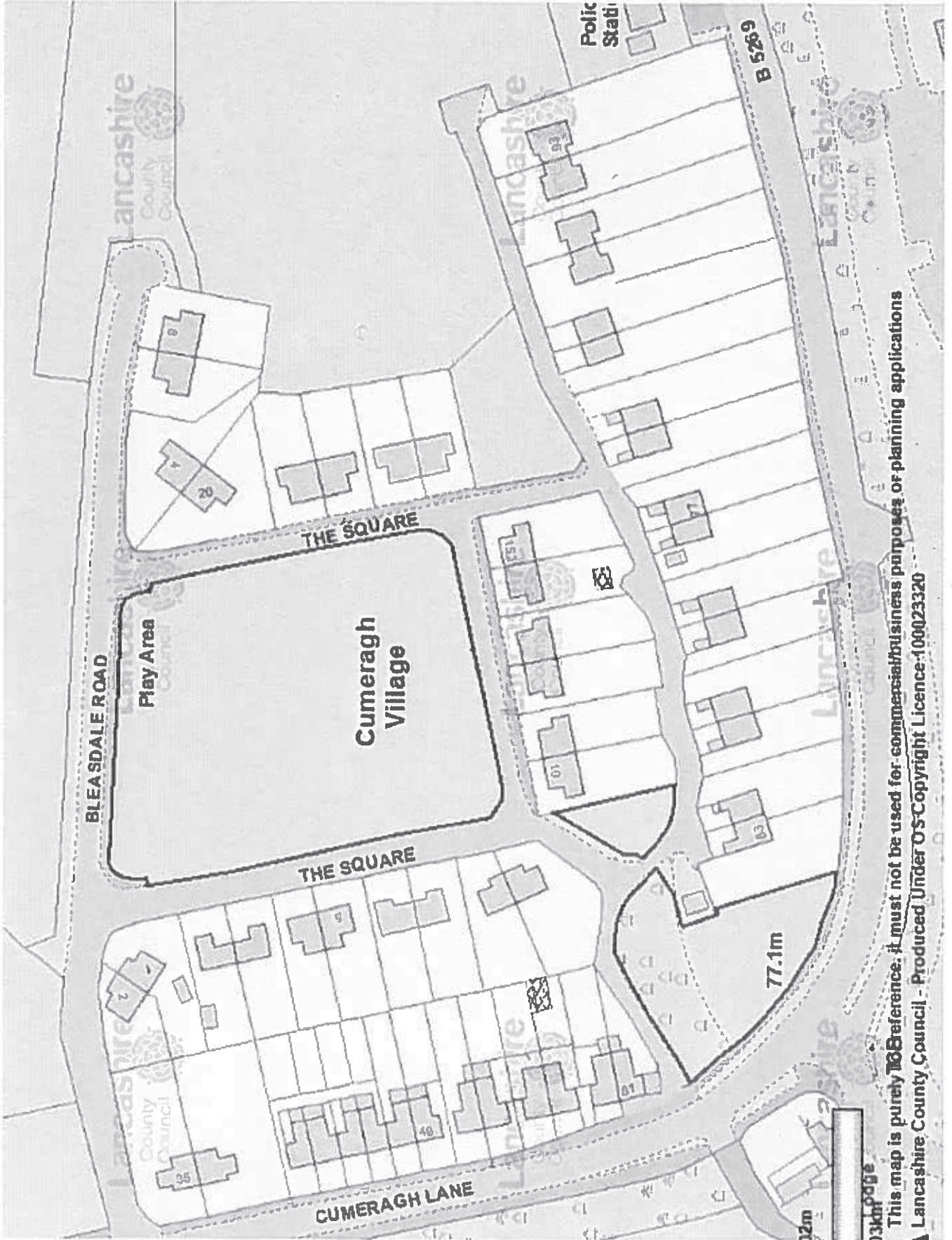
**The Data Protection Officer
Lancashire County Council
P.O. Box 78
County Hall
Preston
PR1 8XJ**

Email: dataprotection@lancashire.gov.uk

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000

Local Government Offices
 County Council
 Borough or City Council

Appendix 'B'



This map is purely for reference; it must not be used for commercial/business purposes or planning applications
 Lancashire County Council - Produced Under OS-Copyright Licence-100023320

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 11 FEB 2013 AT 15:07:55. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE SUFFERS A LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, FYLDE OFFICE.

TITLE NUMBER: LAN90912

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

LANCASHIRE : PRESTON

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land on the east side of The Square, Whittingham.
- 2 (14.09.2000) The land has the benefit of the following rights granted by the Deed of Grant dated 30 April 1991 made between (1) The Lancashire County Council (the Council) and (2) The Secretary Of State For Health (the Secretary Of State):-

"The rights granted by clause 4.1 are the right for the Secretary of State its successors in title the owners and occupiers for the time being of the Second Property to lay construct use inspect maintain repair replace or remove a surface water outfall drain in and over a strip of land shown coloured blue on the plan and amounting in total to some one hundred and twenty square yards or thereabouts"

NOTE: The Second Property referred to includes the land in this title.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

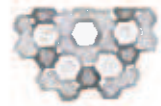
Title absolute

- 1 (15.07.2009) PROPRIETOR: THE PARISH COUNCIL OF WHITTINGHAM of 53 Cumeragh Lane, Whittingham, Preston PR3 2AN.

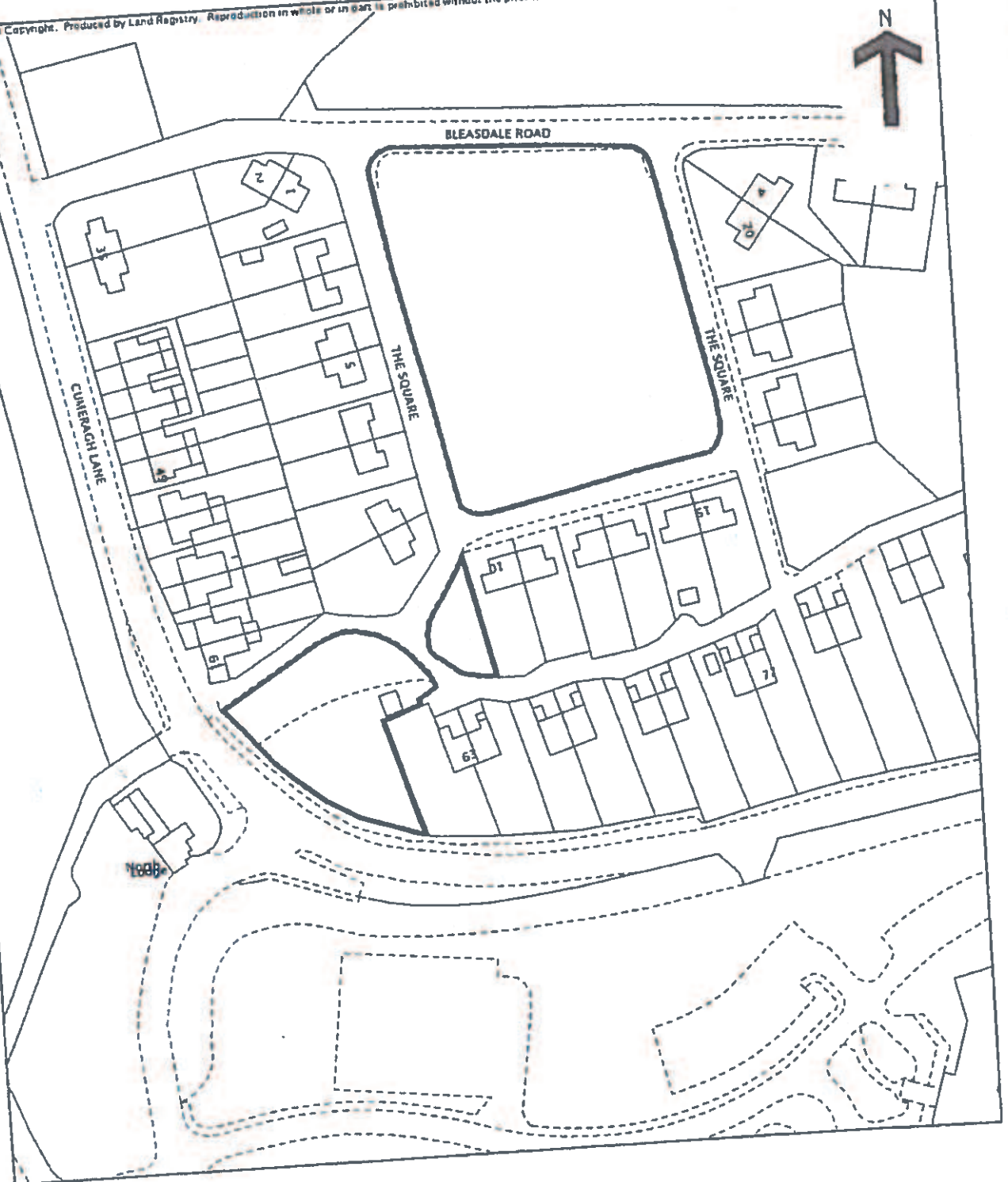
End of register

Land Registry
Current title plan

Title number LAN90912
Ordnance Survey map reference SD5636SE
Scale 1:1250 enlarged from 1:2500
Administrative area Lancashire : Preston



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This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 11 February 2013 at 15:08:57. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title plans and boundaries.

This title is dealt with by Land Registry, Fylde Office.

Appendix 'D'

- Selected Features
- Districts
 - Other District/Unitary Authority
 - Lancashire Districts



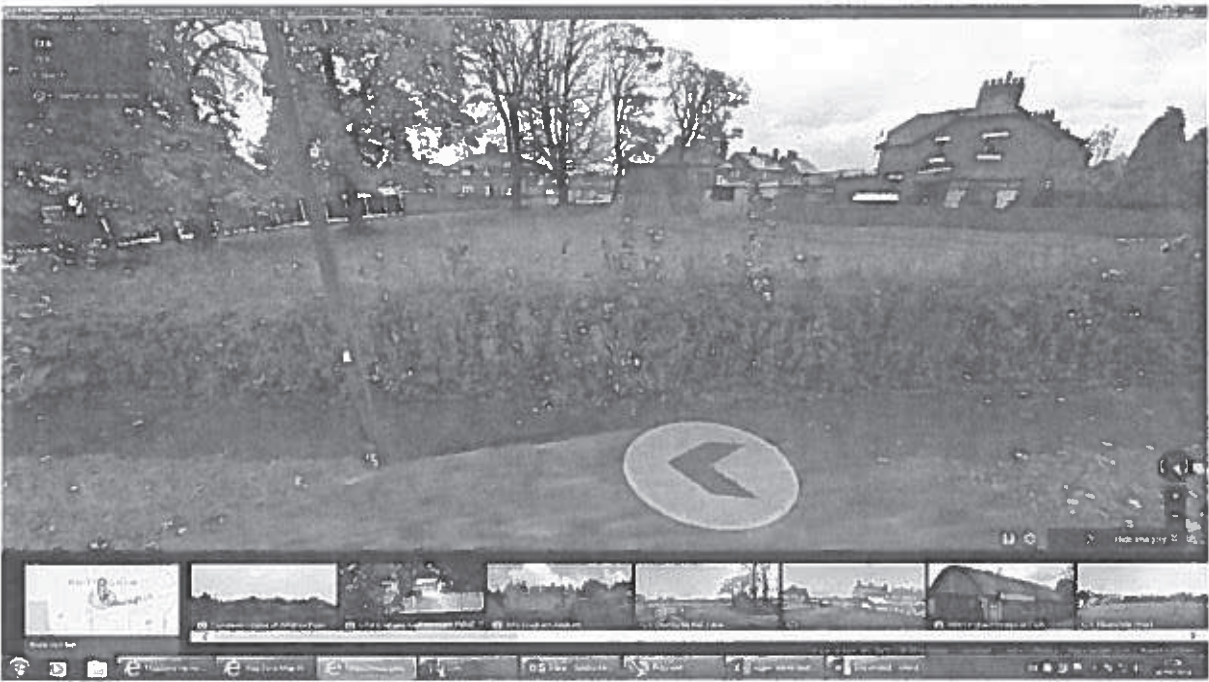
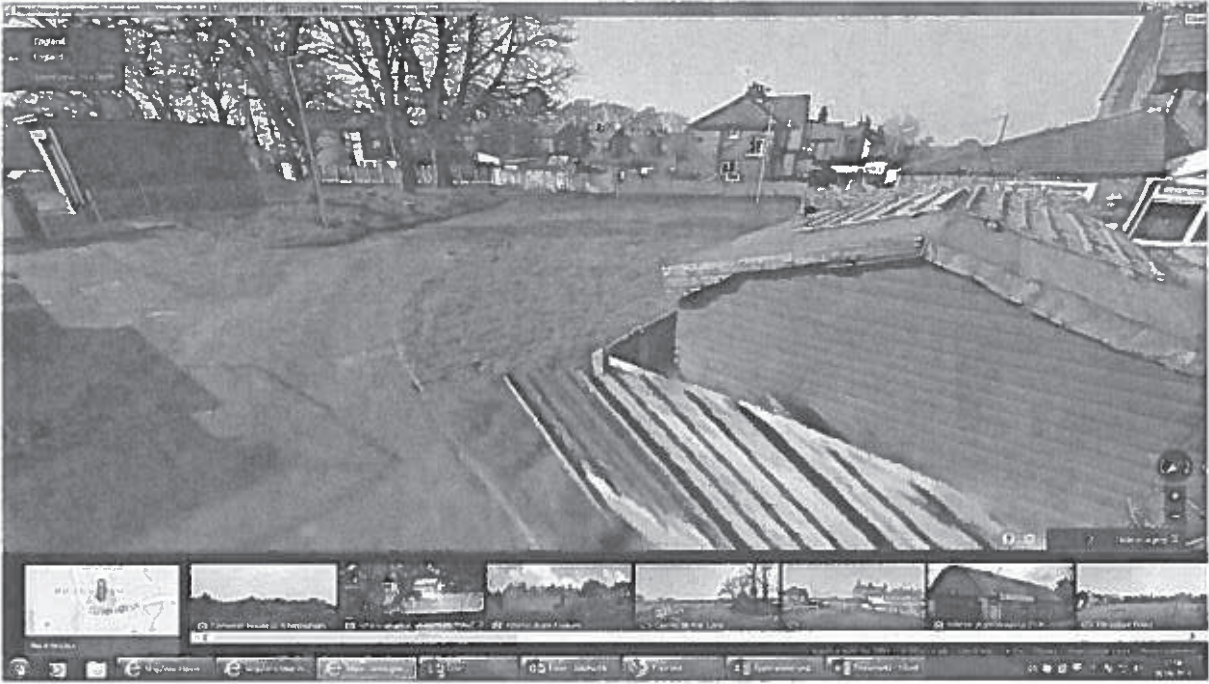
Aerial photograph

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 Centre of map: 356888 436427

Date: 08/09/2014







Commons and Greens Sub-Committee
Meeting to be held on 23rd September 2014

Electoral Division affected: Lancaster Rural East
--

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.

(Appendices 'A', 'B' and 'C' refer)

Contact for further information: Jane Turner, 01772 532 813, Office of the Chief Executive. jane.turner@lancashire.gov.uk

Executive Summary

An application from John Stephen Brown of The Green, Ireby, to register a transfer of rights of common not attached to land.

Recommendation

That 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 attached hereto at Appendix 'C'.

Background and Advice

The Commons Registration Act 1965 (the 1965 Act) made provision for the registration of common land and of town or village greens. Registration Authorities were created to maintain two registers, one for common land and the other for town and village greens. This Act has been repealed in Lancashire however legislators provided that applications which had already been received in respect of transfers of grazing rights may continue to be dealt with as if section 13(c) of the 1965 Act had not been repealed. The County Council is the Registration Authority for the County of Lancashire and has previously delegated the function concerning amending the register of rights of common to the Commons and Town Greens Sub Committee.

The Commons Registration Act 1965 makes provision in Section 13 for Regulations to provide for the amendment of the registers where in Section 13(c) "any rights registered under this Act are apportioned, extinguished or released or are varied or transferred". One set of Regulations made are the Commons Registration (General) Regulations 1966 as amended in 1968. Regulation 29 provides that where a right of common "being or having become a right in gross, has been transferred" an application may be made by the transferee for the amendment of the register.

The Registration Authority has received an application under Section 13 of the 1965 Act for 37 of the rights registered under entry number 4 as attached to Ireby Green to graze 101 sheep gaits (where such a sheep gait represents a right to graze 1 sheep or four lambs; 10 sheep gaits represents a right to graze one horse) 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. The present entry information is attached as Appendix 'A' and the supplemental map at Appendix 'B'

The Applicant seeks to show that these rights were severed from the land and held by him.

The documentary evidence supplied shows that the land to which grazing rights were attached was held a Mr and Mrs S H Brown jointly.

The Joint tenancy was severed and Mr Brown then died. The land was split but continued to pass with sheep rights attached (one small section sold was too small to carry any of the rights) until 1990 when the Applicant became owner of part of the land. It is advised that the transfer to him was by those who held control of the sheepgaits at Ireby Green and they passed the land to him together with all the 101 sheep gaits. It is advised that this transfer of more sheep gaits than were attached to the land severed (pro rata) 37 gaits from the rest of the land and it is advised that they on balance passed to J S Brown as rights in gross. The other 64 rights remain attached to the land which became owned by JS Brown as shown by the hatched area on the plan attached as Appendix 'C'.

It is advised that if the application is well founded the appropriate amendments to the register should be made. The Statutory provisions specifically provide for amendment of the register in cases of severance of rights and transfer of them in gross.

It is advised that a grazing right for a fixed number of animals is a right in gross and the law recognised that such a right can be sold separately from the land, i.e. severed from the farm to which they were attached so long as severance predated 28th June 2005. The new Commons Act 2006 (section 9) makes severance after that date ineffective save under certain conditions.

In this matter there is evidence that some of the sheep gaits recorded at Rights Entry Number 4 were severed from the land in 1990 when transferred with only some of the land.

Therefore it is advised that the register be amended to show that 37 of the sheep gaits registered at Rights Entry Number 4 have been severed from the land and

having become a right in gross were transferred to the applicant in this matter. The remaining rights attach to the land which became owned by the Applicant shown hatched green on the plan attached at Appendix 'C' and it is advised that the supplemental map be amended as appropriate to reflect this.

Consultations

Notices were given to persons appearing from the register to be interested in the rights of common as above.

The applicant's brother as owner of a small part of the remaining land which used to carry grazing rights responded to the Notice to confirm that the applicant did have the sheep rights transferred and understood that some may now be severed away from his land.

Information was also received that the Applicant was selling his land and in due course it is considered that an application will be made to record entitlements to rights and possibly transfer of rights in gross to the new owners.

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this proposal. The Sub-Committee is advised that, provided the decision is taken in accordance with the advice and guidance given, and is based upon relevant information contained in the report, there are no significant risks associated with the decision-making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
Files 3.460	various	Jane Turner Office of Chief Executive Ext. 32813

Reason for inclusion in Part II, if appropriate
N/A

every right of common registered under the Act as exercisable over the whole or any part of the land described in the base section of this register unit.

REGISTERED

LANCASHIRE COUNTY COUNCIL

Register Unit No. CL 23
Edition No.

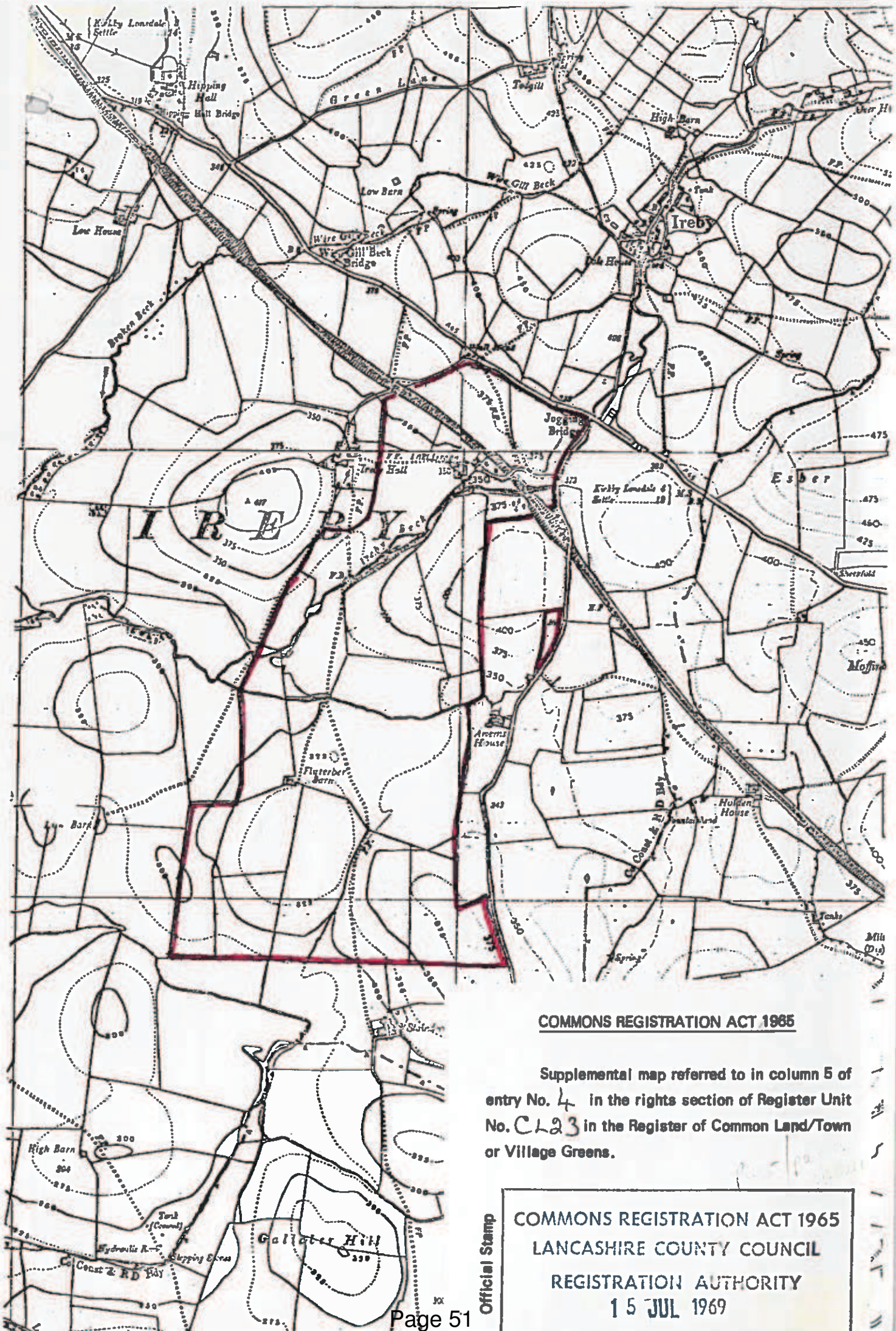
Register of COMMON LAND

See Ordinal for Notes

RIGHTS SECTION—Sheet No.

1 No. and date of entry	2 No. and date of application	3 Name and address of every applicant for registration, and the capacity in which he applied	4 Particulars of the right of common, and of the land over which it is exercisable	5 Particulars of the land (if any) to which the right is attached
4 15th July, 1969	336 24th June, 1968	Stephen Harold Brown and Mary Eleanor Brown, The Green, Ireby, Lancashire.	To graze 101 sheep gait over the whole of the land comprised in this register unit; 1 sheep gait representing a right to graze 1 sheep or 4 lambs; 10 sheep units representing a right to graze 3 horses. (Registration provisional)	Ireby Green, Ireby, Lancashire as shown edged red on the supplemental map bearing the number of this registration.
(See entry No. 11 below		Owners.		

Appendix 'A'

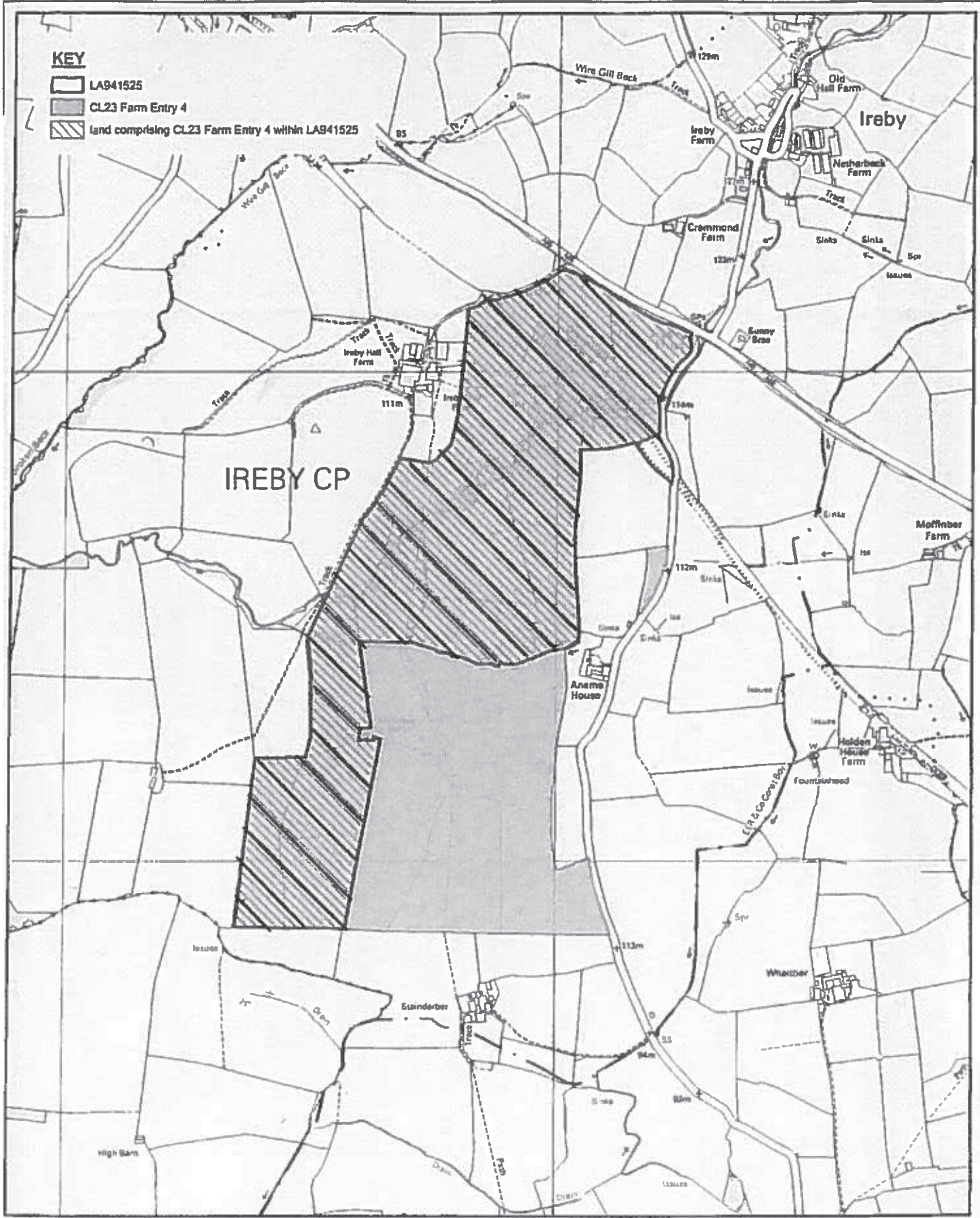


COMMONS REGISTRATION ACT 1965




Supplemental map referred to in column 5 of entry No. 4 in the rights section of Register Unit No. CL23 in the Register of Common Land/Town or Village Greens.

COMMONS REGISTRATION ACT 1965
LANCASHIRE COUNTY COUNCIL
REGISTRATION AUTHORITY
15 JUL 1969

Official Stamp



KEY

-  LA941525
-  CL23 Farm Entry 4
-  land comprising CL23 Farm Entry 4 within LA941525



CL IREBY
The Green

Original scale: 1 10,000 @ A4

Scale should always be verified in case of an intentional distortion during reproduction

Grid Ref: SD6474	Plan Ref: v1.0
File Ref: PG/LEGAL/JT	Date: 10.09.12

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Commons and Town Greens Sub-Committee

Meeting to be held on 23 September 2014

Electoral Division affected: Longridge with Bowland
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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.

(Appendices 'A' and 'B' and 'C' refer)

Contact for further information: Lindsay Campy, (01772) 533439, Office of the Chief Executive lindsay.campy@lancashire.gov.uk

Executive Summary

Notification from the Land Registrar that certain land has been registered under the Land Registration Act 2002 which said land is registered Common Land comprising part of Common Land Unit CL37

Recommendation

That the Ownership Section of the Common Land Register relating to Common land unit CL37 be amended. As there is no ownership noted the amendment shall be by noting the Ownership Section of the Register in accordance with Model Entry 23 - that a specified part of the land has been registered under the Land Registration Act 2002.

Background and Advice

The Commons Act 2006 (the 2006 Act) makes provision for the registration of common land and of town and village greens. Registration Authorities were created to maintain two registers, one for common land and the other for village greens. The County Council is the Registration Authority for the County of Lancashire and has previously delegated powers and functions concerning alteration of the registers to the Commons and Town Greens Sub-Committee.

The 2006 Act makes provision in Schedule 3 for Registration Authorities to amend the ownership section when notified by the Land Registrar that land registered as common land has been registered in the register of title at the Land Registry.

The 2006 Act provides at paragraph 8(3) Schedule 3 for Regulations to provide for the amendment of the ownership section of the registers. The Commons Registration (England) Regulations 2008 provide at Regulation 48(2) that 'if the

ownership of the land is not registered in the ownership section of the register unit, the registration authority must insert a note in the ownership section.' The Regulations provide that the note in the ownership section shall be made in accordance with Model Entry 23.

In this matter no owner is registered for CL37.

The Registration Authority has received a Notification from the Land Registrar of the registration of land under title number LAN118265 shown on the plan attached as Appendix 'A' under the Land Registration Act 2002. The said land includes part of CL37 (see Appendix 'B') lying directly to the south of the line A-B-C on the plan attached at Appendix 'C'.

Registration of land as common land is conclusive as to the land and rights registered, but the 2006 Act provided for amendment of the register in certain cases. One such case is the notification of registration of ownership by the Land Registrar.

A notification has been received and it is advised that the Register should be altered as prescribed to reflect that ownership of part of CL37 is now registered at the Land Registry.

Consultations

None

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this proposal. The Sub-Committee is advised that, provided the decision is taken in accordance with the advice and guidance given, and is based upon relevant information contained in the report, there are no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
File 3.693	Various	Lindsay Campy Office of the Chief Executive Ext 33439

Reason for inclusion in Part II, if appropriate – N/A



Title number LAH115285
 Ordnance Survey map reference SDK348NW
 Scale 1:2500 enlarged from 1:10000
 Administrative area Lancashire, Ribbles Valley

Land Registry
 Official copy of
 title plan

This document is an official copy of the title plan. It is not a substitute for a site visit. The accuracy of the plan is not guaranteed. The accuracy of the plan is not guaranteed to any degree.



This official copy issued on 14 March 2013 shows the state of this title plan on 14 March 2013 at 09:02:48. It is admissible in evidence to the same extent as the original (s.61 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 10 - Title Plans and Boundaries. This title is dealt with by Land Registry, Fylde Office.



PROVISIONAL REGISTER MAP OF COMMON LAND/
~~STREET BR VILLAGE GREENS~~ (SHEET NO. 2)
 THIS IS THE 1st EDITION OF THIS SHEET.
 Signed on behalf of the Lancashire County
 Council *[Signature]*
 Deputy Clerk of the County Council

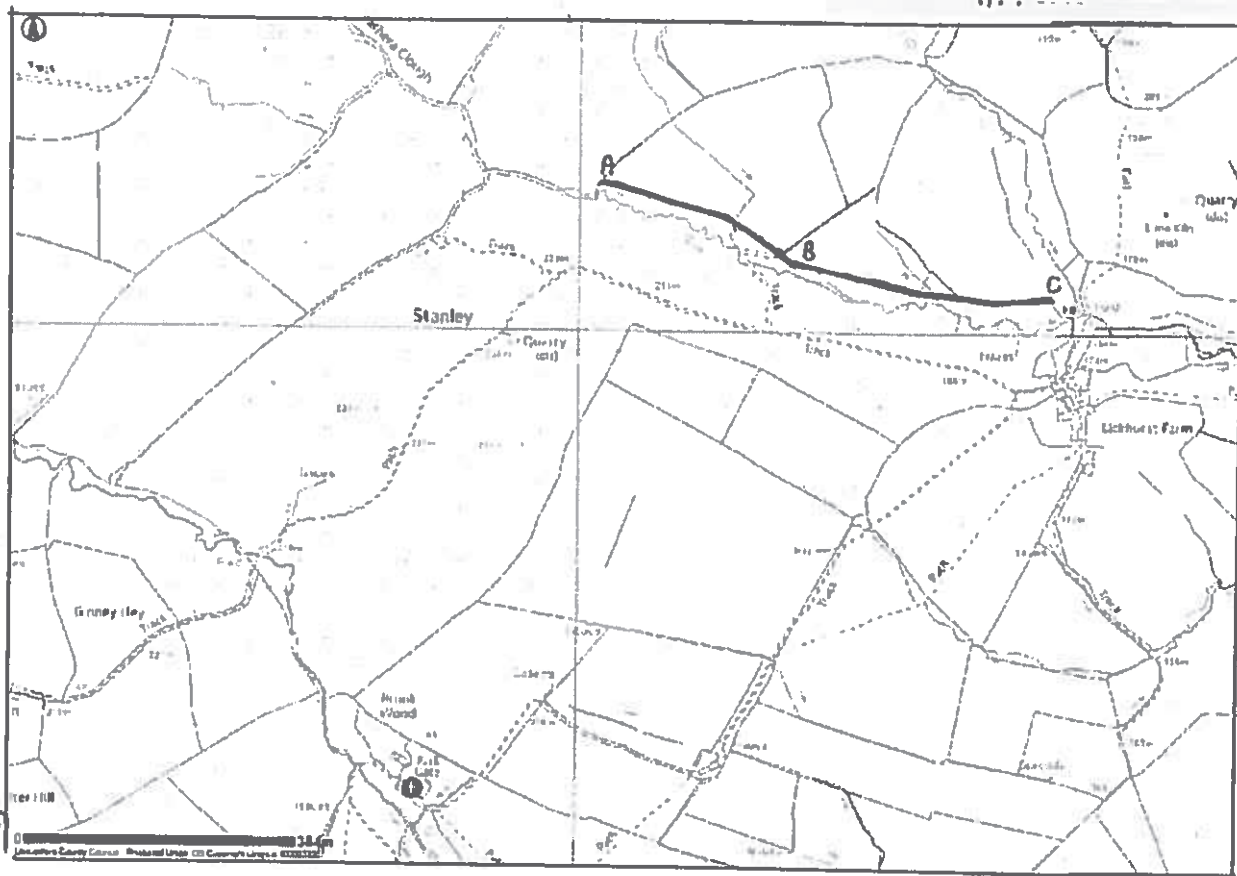
COMMONS REGISTRATION ACT 1965
 LANCASHIRE COUNTY COUNCIL
 REGISTRATION AUTHORITY
 27 JUN 1967



COMMONS REGISTRATION ACT, 1965
 Provisional Register Map of Common Land/Town or Village Greens
KEY TO COLOURING AND SYMBOLS

Colouring and/or Symbol	Meaning
Black line (except where it follows the boundary and the word "Exempted")	Boundary of land to which, by virtue of an order under Section 11 of the Act, the provisions of Sections 1 to 10 thereof do not apply.
Black line (except where it follows the boundary and the appropriate register unit number)	Boundary of land comprised in the register unit shown.
Red line suitably lettered, or lettering alone	Limit of land over which a registered right of common is exercisable or to which a registration of common applies, so far as that limit does not coincide with the boundary of land comprised in a register unit, and cannot conveniently be described by reference to any feature appearing on the map.
Black hatching and where necessary, lettering as well	Land which has been removed from the register under Section 13 of the Act, or of which the registration has been cancelled.
Black interrupted line	Any boundary of the Registration Area falling within the map.
Other colourings and symbols	

Appendix 'C'



Commons and Town Greens Sub-Committee

Meeting to be held on 23 September 2014

Electoral Division affected: Ribble Valley North East
--

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.

(Appendices 'A' and 'B' refer)

Contact for further information: Saleha Khalid, (01772) 536098, Office of the Chief Executive saleha.khalid@lancashire.gov.uk

Executive Summary

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 that land contained in Common Land Register unit CL65Y

Recommendation

That a dedication of entitlement for the Applicant be recorded in accordance with the Regulations in respect of grazing rights showing 0 sheep and a declaration of entitlement be recorded for the right to take bracken and bedding as attached to land at Bambers Farm, Bolton-by-Bowland, Clitheroe on Unit CL65Y.

Background and Advice

The Commons Act 2006 (the 2006 Act) makes provision for the registration of common land and of town and village greens. Registration Authorities were created to maintain two registers, one for common land and the other for village greens. The County Council is the Registration Authority for the County of Lancashire and has previously delegated powers and functions concerning alteration of the registers to the Commons and Town Greens Sub-Committee.

The 2006 Act makes provisions by Regulations for commons registration authorities to record in their registers of common land that a person is entitled to exercise some or all of the rights attached to a particular piece of land. The rights remain attached to the land but can at the moment be exercised by the owner and the application in this matter is that this is the case and should now be registered.

Regulation 44 states that applications for a declaration of entitlement must be made by a freehold or leasehold owner of the land to which the rights are attached. In this matter the rights are attached to Bambers Farm, Bolton by Bowland, Clitheroe, as shown edged red on the supplemental map set out at Appendix 'A'.

The rights attached to this land are:

- 1) The right to graze 36 sheep
- 2) The right to take bracken and bedding; over that part of the land in this register unit shown edged red on the register map and set out at Appendix 'B'

A copy of the title number LAN62570 has been provided which indicates that part of Bambers Farm as shown on the supplemental map is owned by Mr Philip Stephen Woods and Mr John Ashworth and it has been calculated that this land is 0.6% of the total land holding of the farm. 0.6% of the grazing rights are calculated as the right to graze 0.2 sheep. Mathematically, it actually produces a fractional quantity but, following guidance from DEFRA it is advised that a right to graze a fractional animal is not recognised in law and the fractional right has been rounded down. The Applicant has been made aware of this.

With regard to the right to take bracken and bedding over the common CL65Y. The right is unquantified and the Defra guidance dated January 2014 to commons registration authorities and the Planning Inspectorate for the pioneer implementation states '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. For example, a right to take bracken as cattle bedding may be implied to be a right to take sufficient bedding to meet the needs of all the cattle which may be over-wintered on the dominant tenement; if the dominant tenement is divided into two or more holdings in separate ownerships, it may be reasonable to treat each of those holdings as entitled to the same right, impliedly limited by the number of cattle which may be over-wintered on that holding.

On balance, it could be argued the applicant would not be entitled to any grazing rights over the common CL65Y, bearing in mind he has no grazing rights in respect of the sheep, there would also be no requirement for him to take bracken and bedding from the common land. However; it seems that as the right is not attached to any particular dwelling-house or property. It could further be argued that the right is 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 is suggested to Committee that the applicant would be entitled to the right to take bracken and bedding

It is advised that if the application is well founded, the appropriate amendment to the register shall be made. Here it is advised that although the application was to record the right to graze sheep, the fractional quantity of 0.2 sheep is not recognised therefore, the entitlement to graze sheep would equate to zero and would mean there was no rights to graze sheep. With regards to the right to take bracken and

bedding it is suggested that this right is accepted as this right is not determined by the grazing rights.

In conclusion it is recommended that a dedication of entitlement for the Applicant be recorded in accordance with the Regulations in respect of grazing rights showing 0 sheep and a declaration of entitlement be recorded for the right to take bracken and bedding as attached to land at Bambers Farm, Bolton-by-Bowland, Clitheroe on Unit CL65Y.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Consideration has been given to the risk management implications associated with this proposal. The Sub-Committee is advised that provided the decision is taken in accordance with the advice and guidance given, and is based upon relevant information contained in the report there are no significant risks associated with the decision-making process.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Directorate/Tel
File 3.620	Various	Saleha Khalid, Office of the Chief Executive 01772 536098

Reason for inclusion in Part II, if appropriate
N/A

Appendix 'A'

NW

ORDNANCE SURVEY

Scale 1:10,560 or 6 Inches to 1 Mile

YORKSHIRE

74 NW

GRINDLETON

NEWTON FIELDS

BRADFORD HILL

ME MOOR

WADDINGTON HILL

WEST BRADFORD

Commons Registration Act 1965

Supplemental map referred to in column 5 of entry No. 4 in the eighth edition of Register Unit No. 64. 65, in the Register of Common Land/Towns or Village Green

Official Stamp

Official Stamp
Official in charge of Registration



COMMONS REGISTRATION ACT, 1965
 Provisional Register Map of Common Land/Town or Village Green
KEY TO COLOURING AND SYMBOLS

Colouring water flood
 Black line on yellow inside the boundary and the word "Flooded"
 Black line on green inside the boundary and the appropriate register unit number
 Red line suitably lettered, or lettering close.

Missing
 Boundary of land to which, by virtue of an order under Section 11 of the Act, the provisions of Sections 1 to 10 thereof do not apply.
 Boundary of land comprised in the register unit shows.

Limit of land over which a registered right of common is exercisable or to which a registration of easement applies, so far as that limit does not coincide with the boundary of land comprised in a register unit, and cannot conveniently be denoted by reference to any feature appearing on the map.
 Land which has been acquired from the register under Section 12 of the Act, or of which the registration has been cancelled.
 Any boundary of the Registration Area falling within the map.

Black boundary, and where necessary, lettering as well.
 Black interrupted line.
 Other colourings and symbols.

(Sheet No. 40) This is the 1/50,000 edition of this sheet

Commons and Town Greens Sub Committee

Meeting to be held on 23rd September 2014

Electoral Division affected:

All

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

Contact for further information: Jane Turner, 01772 532813, Office of the Chief Executive, jane.turner@lancashire.gov.uk

Executive Summary

Deletion of common land units which no longer have Lancashire County Council as Commons Registration Authority from the Register Map is suggested and a record of the 1975 straddling agreement and agreement under S101 be properly recorded in the General Part of the Register

Recommendation

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 agreements made in 1975 referred to in the report be recorded in the General Part of the Register

Background and Advice

On boundary changes at various times in the past, some common land units have fallen outside the Lancashire administrative boundary of Lancashire County Council. The relevant information from the Register passed to the authorities who were going to be the registration Authorities but on some of the map sheets of our Register Map these areas of common land are still shown. This has the potential to confuse. On inspection of the Register Map it looks as if such units will be land registered in the Lancashire County Council Register yet this is not the case as the land is registered in the register of a neighbouring authority

The requirements under the statutory regulations is that as a registration authority we must keep up to date a register showing all the land registered in its Registers. These units of Common Land are no longer in the Registers held by the County Council and so it is suggested that a decision be made to remove these common land units from the Register sheets.

This is not such a priority as to take resources away from other work and so it is suggested that these units be removed when a map sheet is altered in another way which requires a fresh edition of the sheet.

It is the case that some units of common land are outside the boundary of the Lancashire County Council administrative area but Lancashire County Council is still Commons Registration Authority for them under either a straddling agreement or an agreement made under S101 Local Government Act 1972 whereby Lancashire agreed to carry out the function of Registration authority for certain units on behalf of Rochdale or Calderdale or Bury. The units outside Lancashire but Lancashire is agreed to be Registration Authority are CL162, CL166, CL168, CL173 in Rochdale, CL172 in Calderdale and CL254 in Bury. The Agreement is dated 1975.

The straddling agreement in place is also from 1975 and under it Lancashire County Council is the Commons Registration Authority for CL42 and CL165 which straddle the boundary.

It is now realised that these two agreements of 1975 are not recorded properly on the Register and so a decision is sought to record them on the General Part of the Register. Under the regulations the General Part of the Register must contain details of any straddling agreement to which the county council is a party and any transfer to or from the authority of responsibility for maintaining any register and so it is advised that the 1975 agreements be recorded on the General Part.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

These changes to the Registers proposed resolve ambiguities and poor recording in the Register making it more fit for purpose.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
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N/A

Reason for inclusion in Part II, if appropriate

N/A