

Commons and Greens Sub-Committee

Meeting to be held on 2 October 2012

Electoral Division affected: Heysham

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 Colloway Farm, Overton, being Entry 3 in the Rights section of Register Unit CL193

(Appendices 'A' and 'B' refer)

Contact for further information:

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Executive Summary

An Application from AJ Bargh for a Declaration of Entitlement to record his rights to graze 21.57 cattle and 7.19 sheep on CL193.

Recommendation

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 Alan John Bargh and Mr John Jacob Bargh are entitled to exercise part of the right attached to Colloway Farm namely the right to graze 21 head of cattle and 7 sheep over the whole of CL193.

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 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 rights are attached.

In this matter rights are attached to Colloway Farm shown edged red on the supplemental map appendix 'A' refers. The rights attached to this land are to graze 150 head of cattle and 50 sheep over CL193.

Copies of various Deeds have been provided. These show that the farm as shown on the supplemental map, along with its grazing rights, was purchased in 1961 by Mr and Mrs Jackson. In 1981 part of the land was purchased by John Jacob Bargh and Alan John Bargh in partnership as J Bargh and Son. The part purchased was shown on the Conveyance plan (Appendix 'B' refers). It has been calculated that this land is 14.5% of the Colloway farm land on the supplemental map.

14.5 % of the grazing rights is calculated as the right to graze 21 head of cattle and 7 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 is aware of this.

Notice of the application has been duly given according to the Regulations and no response has been received.

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 21.57 cattle and 7.19 sheep the correct entitlement is the rounded down figures of 21 cattle and 7 sheep. It is advised that the Application be accepted in part.

There is a further difficulty in this matter as the evidence of ownership indicates that the applicant is a joint owner not a sole owner and it is therefore advised that the Declaration of entitlement be in both names of the owners.

Consultations

Notice of the application was given on the County Council web site and also to all parties who have requested to be notified of applications under the 2006 Act.

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 of papers denoted 3.613		Jane Turner Office of Chief Executive Ext 32813
Reason for inclusion in Part II, if appropriate		
N/A		