

Commons and Town Greens Sub-Committee

Meeting to be held on 1 July 2013

Electoral Division affected:
Ribble Valley North East

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
(Appendices 'A' and 'B' refer)

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Executive Summary

A proposal by the County Council as Registration Authority to correct a mistaken omission by the Commons Registration Authority in amending register CL65YR, Rights Entry 3.

Recommendation

That the proposal be approved and the Rights Section of the Common Land Register relating to common land unit CL65YR be amended in accordance with the Commons Registration (England) Regulations 2008 as amended to record the correct details in the register, showing the rights as being held in gross.

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.

Applications may be made by members of the public or in certain circumstances the Registration Authority may make an Application to itself which is called a proposal.

The 2006 Act makes provision in section 19(2)(a) and by Regulations for commons registration authorities to make a proposal to amend its register of common land or

town and village greens for the purpose of 'correcting a mistake made by the commons registration authority in making or amending an entry in the register.'

In this matter, on 1st January 1968 a right was recorded at entry No.3 in the rights section of the Register of Common Land to graze 95 sheep over common land parcel CL65YR known as Harrop Fell. The applicant was Mr Henry Robinson and the right was recorded as being attached to land at Higher Harrop Fold Farm, Bolton-by-Bowland. The entry was made final on 3rd May 1978.

On 21st September 1995 an application to amend the register was received from Mr Frank Robinson. Documentary evidence was provided with the application including a copy of an assent dated 5th April 1980 vesting lands in Norman Robinson and a copy of the transfer of land dated 20th September 1995 by Norman Robinson to Christopher John Norman and Jane Elizabeth Norman but retaining the grazing rights, thereby severing the rights from the land and holding them in gross. The County Council was satisfied with the documentation supplied and the Notice issued in relation to this application gave the following information:-

"Acts and events leading to amendment

On 5th April 1980 following the death of Henry Robinson, the land and grazing rights attached to the land were vested in Norman Robinson of Smalden House Farm, Bolton by Bowland, who acquired the land edged orange on Plan 'B' enclosed (Appendix 'A') and the right to graze 48 sheep over CL65WR – Harrop Fell, and Frank Robinson of Higher Harrop Fold Farm, Bolton in Bowland who acquired the land edged brown on Plan 'C' enclosed (Appendix 'B') and the right to graze 47 sheep over CL65WR – Harrop Fell.

By Deed of Transfer dated the 20th September 1995 the rights which had been passed to Norman Robinson were apportioned between Neville Harrison, David Harrison, Mark Blakey and David Wood. The Rights to be held in gross."

"Nature of proposed Amendment

- 1) The Right to graze 47 sheep over CL65WR Harrop Fell to be vested in Frank Robinson of Higher Harrop Fold Farm, Bolton in Bowland.
- 2) The Right to graze 48 sheep over CL65WR, formerly vested in Norman Robinson, as successor to Henry Robinson, to be apportioned as follows:-
 - 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.

The Rights to be held in Gross."

Notices were served on all interested parties and, no objections having been received, an amendment was duly recorded in the Register of Common Land.

The phrase "The Rights to be held in Gross" appears throughout the application. In a letter dated October 1996 Lancashire County Council confirms that "because the rights are registered as rights appurtenant the rights can be detached from the land and registered as rights to be held in gross."

Despite this, the register was amended to show the rights at a) b) c) and d) referred to above as being attached in each case to "Land part of Higher Harrop Fold Farm and Old Mary's Farm as shown edged blue on the supplemental map."

It is submitted that a mistake was made by the Registration Authority in amending the Register of Common Land as the amendment should have recorded the said rights of common as being held in gross by Neville Harrison, David Harrison, David Wood and Mark Blakey.

It is advised that if the Proposal is approved, this will enable the Registration Authority to correct the mistake made in amending the entry in the Register of Common Land.

Consultations

In accordance with Regulation 23 Notice of the Proposal was given on the County Council web site, to the owners of rights of common in gross which are exercisable over any land comprising the whole or any part of the register unit to which the Proposal relates and to all parties who have requested to be notified of applications under the 2006 Act. In addition, although not currently a requirement of the Regulations, Notice of the Proposal was given to other local authorities within the registration authority's area together with other persons considered by the Registration Authority to have an interest in the Proposal following guidance from DEFRA.

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 3.609		Lindsay Campy Office of the Chief Executive Ext 30541
Reason for inclusion in Part II, if appropriate N/A		