

Lancashire County Council

Commons and Town Greens Sub-Committee

Minutes of the Meeting held on Monday, 7th February, 2011 at 10.00 am in Cabinet Room 'C' - County Hall, Preston

Present:

County Councillor Albert Thornton (Chair)

County Councillors

T Brown	S Leadbetter
J Jackson	P Rigby
A Jones	

1. Apologies

Apologies were received from County Councillors C Coates, B Mutch and J Sumner.

2. Disclosure of Personal and Prejudicial Interests

There were no disclosures of personal or prejudicial interests.

3. Minutes of the Meeting held on 24 September 2010

Resolved: That, the Minutes of the meeting held on the 24 September 2010 be confirmed and signed by the Chairman.

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

Requirement to Amend a Register following the Registration of Ownership of part of CL184 Salt Marsh at Hambleton, under Land Registration Act 2002

It was reported that a Notification from the Land Registrar that certain land had been registered under the Land Registration Acts which said land was registered Common Land being part of Common Land unit CL184.

It was reported that the Registration Authority had received Notification from the Land Registrar of the registration of land under the title number LAN71315 shown on the plan referred to in the report as Appendix 'A' under the Land Registration Act 2002. The said land was part of CL184 as shown on the plan referred to as Appendix 'B'.

The Sub-Committee was advised that the Register should be altered as prescribed to reflect that ownership of a further part of CL184 was now registered at the Land Registry.

Resolved: That the Ownership Section of the Common Land Register relating to common land unit CL184 be amended. There was an ownership of part noted as being registered at the Land Registry; therefore the amendment should be by noting in accordance with Model Entry 23 that another part of the land had been registered under the Land Registration Act 2002.

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

Application VG101 under section 15(8) of the Commons Act 2006 for registration of land at Barnoldswick, Pendle Borough, as a town or village green

A report was presented on an Application by the owner of land at Barnoldswick, to be registered as a town or village green.

The Sub-Committee was informed that in June 2010 an application to register two areas of open ground at Barnoldswick, Pendle Borough as a town or village green was accepted and duly made under S15(8) of the Commons Act 2006. In this case the Applicant was Pendle Borough Council and they had provided a plan of the area sought to be registered referred to in the report as Appendix 'B' along with evidence of them being freehold owners of the land under title LAN84048 at the Land Registry (Appendix 'C' to the report).

The Sub-Committee was advised that the determination of applications by a registration authority was a quasi-judicial function and that there was a duty to act reasonably. If ownership was clearly proved but registration of the land would be incompatible with some other rights or status of the land it was suggested that consideration would need to be had to such information.

The Sub-Committee was advised that Pendle Borough Council had registered freehold title of the application land. However, in respect of the north western section of the application land abutting Skipton Road, the mines and minerals and powers to work them were excepted from the freehold title and belonged to an unknown owner.

The Sub-Committee was also advised that the applicant was the owner of a legal estate in fee simple in the application land although the unknown owner had some right to the minerals under the surface and also some right to working to extract those minerals.

The Sub-Committee was informed that the procedure under the 2008 Regulations required the Applicant to serve owners (Schedule 6) but the requirement to serve notice on an owner would not apply if that person could not reasonably be identified (Reg 22 (3)). The rights to mines and minerals were not registered as a separate title.

It was reported that there was no recorded public rights of way across the land. However, there was a surfaced path across it. It was also reported that in respect

of the land South East of Cravenside, a Mr Bracewell and his heirs and assigns had the right of way from his land over so much of the land used to be the part of the Station yard laid open to Fernlea Avenue. The line of this right of way was not now clear and might be across the application land. The location of the old station yard and Mr Bracewell's original land was not known.

The Sub-Committee was informed that Notices about the application to register the land as a town green were placed on site and at other locations but no representations had been received by the owner of neither the mineral rights nor the successors to Mr Bracewell.

The Sub-Committee was also informed that the title also referred to the land in the Registered title being subject to wayleaves for utilities and a private right of way from Fernlea Avenue to the County Council land where Cravenside was built but the areas of land affected were not part of the application land.

The Regulations provide for the Applicant to serve Notice of the Application on all occupiers of the land. However, Pendle Borough Council was not aware of anyone to serve as occupier.

It was reported that the County Council had received one representation from a Mr Fielding. His objection letter was dated 4th November and was followed by two further letters dated 11th and 19th November referred to in the report as Appendix 'D'. The Sub-Committee was advised that the representation be taken into account and also the response to same from the Applicant referred to as Appendix 'E' in the report. However, it was suggested that the land would be better protected as a town green than not and that use would likely remain as it has done in the past and for the foreseeable future.

The Sub-Committee was advised that the existence of the mines and minerals rights did not prevent Pendle Borough Council from being sufficient owner to apply for registration of the land as a town green and further that having no evidence as to how incompatible the rights would be if the land was a town green the Sub-Committee was advised that the excepted rights were not sufficient on balance for the application not to be accepted. The only objection received might be considered not sufficient to defeat the application.

It was then moved and seconded that the Sub-Committee, having considered all the guidance and the information, agreed on balance that the application be accepted and the application land be added to the Register of Town Greens.

Resolved: That the Application be accepted and the land shown on the plan with the application referred to in the report as Appendix 'B' be added to the Register of Town Greens and that appropriate Notice be given pursuant to the Statutory Regulations.

6. Date of Next Meeting

The Sub-Committee was informed that it had been necessary to cancel the next scheduled meeting which was due to take place on Wednesday and Thursday, 27 and 28 April 2011.

The Chairman had agreed that the next meeting would now take place on Tuesday 19 April 2011 at 10am for a half day only.

I M Fisher
County Secretary and Solicitor

County Hall
Preston