

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)

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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 This Act has been repealed in Lancashire however legislators provided that applications which had already been received in respect of transfers of grazing rights may continue to be dealt with as if section 13(c) of the 1965 Act had not been repealed.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