

Annex “B”

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

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