

Regulatory Committee

Meeting to be held on 1st July 2015

Electoral Division affected: Rochdale
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Commons Act 2006

The Commons Registration (England) Regulations 2014 Regulation 43

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 Watergrove Gathering Grounds, Wardle, being entry 18 in the Rights Section of Register Unit CL166

(Appendices 'A', 'B' and 'C' refer)

Contact for further information:

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Executive Summary

An application from Mr Terrance James Mitchell for a Declaration of Entitlement to record the rights to graze 6 sheep on Common Land Register Unit CL166.

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) Regulations 2014 and that Mr Terrance James Mitchell is entitled to exercise part of the right attached to Watergrove Gathering Grounds, Wardle, namely the right to graze 5 Sheep on unit CL166.

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. These powers are now with the Regulatory Committee.

The 2006 Act makes provisions 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.

On the 15th December 2014 The Commons Registration (England) Regulations 2014 were brought into force to replace The Commons Registration (England) Regulations 2008. Although this application was submitted under Regulation 44 of the 2008 Regulations, the updated DEFRA Guidance of December 2014 states at paragraph 1.1.7 'All applications made to, and proposals made by, pioneer authorities under the 2008 Regulations automatically switch to the equivalent stage in the 2014 Regulations...'. Therefore from the 15th December 2014, this application automatically became an application under Regulation 43 of The Commons Registration (England) Regulations 2014.

Regulation 43(1) states that applications for a declaration of entitlement to exercise a right of common must be made by an owner of a freehold estate in land to which a right of common is attached or leasehold owner in any such land.

In this matter the rights are attached to Watergrove Gathering Grounds, shown edged red on the supplemental map in Appendix 'A', is the right to graze 400 Sheep over the whole of the land comprised in register unit CL166.

The Applicant has provided a copy of the title number GM200107. This shows that part of the land, as shown on the supplemental map, is owned by Terence James Mitchell and Mavis Mitchell, as shown on the plan marked Appendix 'B'. It has been calculated that this land is 1.37% of the Watergrove Gathering Grounds land on the supplemental map. It is acknowledged that the title is owned by both Mr and Mrs Mitchell but the application is in name of Mr Mitchell only. Mrs Mitchell has provided written confirmation that she is aware of the application being made and is in full agreement with this application.

1.37% of the grazing rights is calculated as the right to graze 5 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.

At the Commons and Town Greens Sub-Committee meeting held on 23rd September 2014, the minutes of which are attached as Appendix 'C', the Sub-Committee was informed that in some cases the County Council acted as the Commons Registration Authority for areas of land outside its administrative area. It was reported that Common Land Unit CL166, located in Rochdale, was covered by an Agreement made in 1975 under s.101 Local Government Act 1972. It was resolved that the Agreement made under s.101 Local Government Act 1972, in respect of Common Land Unit CL166, be recorded in the General Part of the Register. Therefore Lancashire County Council is able to deal with this application as the Commons Registration Authority.

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 6 sheep the correct entitlement is the rounded down figure of 5 Sheep. It is advised that the Application be accepted in part.

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 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 3.607		Danielle Jay Legal and Democratic Services Ext 535526

Reason for inclusion in Part II, if appropriate

N/A