

Commons and Greens Sub-Committee

Meeting to be held on 31 January 2012

Electoral Division affected: Lancaster Rural East
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Commons Act 2006

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 9 in the Rights Section of Register Unit CL23

(Appendix 'A' refers)

Contact for further information:

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Executive Summary

Application from John Mark Lawson and Doreen Lawson trading as 'J & A Lawson & Son' of High Threaber Farm, Westhouse, to register a transfer of rights of common away from the land.

Recommendation

That the Application be not accepted and the register be not amended.

Background and Advice

A report was presented in September 2010 (see Appendix 'A') and the Sub-Committee expressed concern that a mistake had perhaps been made by the Solicitors acting on behalf of Mrs Bracken in 1995 and agreed to defer the Application for a period of 3 months on the grounds that a deed could perhaps be found in relation to the severance of 33 sheep gaits on Ireby Fell. The Sub-Committee requested that Jane Turner write to the Solicitors acting on behalf of the Applicant detailing the Sub-Committee's decision.

It was resolved that -

- i. That the application to register a transfer of rights of common away from common land unit CL23 be deferred to give the Applicant's solicitors the opportunity to locate a deed of severance between Mr Diggle and Mr Bracken.

- ii. That the Applicants be given at least 3 months to submit further evidence said deed of severance and a future report be presented to the Sub-Committee in due course.

The Solicitors for the applicant were informed and they said they were instructed to contact Mr Haslam's Solicitors to see if he would assist by providing the copy of the 1970 Conveyance. Despite reminders nothing further has been submitted and it is therefore thought appropriate that the matter return to the sub committee for determination.

As previously stated the sale of the rights without the land is evidenced only by the receipt from Mr Diggle in 1971. This appears to be after at least some of the land passed to Mr Haslam and no Deed has been found.

Therefore it is advised that there is still not sufficient evidence of legal severance and although purchased by the Applicants there is not sufficient evidence that Mrs Bracken held the rights in gross to sell them.

It is advised that a decision now be made.

Consultations

Notices were given to persons appearing from the register to be interested in the rights of common as above.

An owner of part of the land on the supplemental map contacted the authority. She had not thought that she had any sheep rights and did not think that Mr Bracken had owned the Nether Beck sheep rights. She did not think that the Brackens had owned Nether Beck but was aware that the Diggles had been owners.

Solicitors for another owner of part of the land refers to their client, Mr Haslam, owning Nether Beck since 1970 and the farm being in the ownership of family members since 1956. He nor his predecessor had no knowledge of how the Lawson's could claim grazing rights but he also did not claim that the rights still attached to his land.

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 of papers denoted 3.462		Jane Turner Office of Chief Executive 01772 532 813

Reason for inclusion in Part II, if appropriate

N/A