

Regulatory Committee

Meeting to be held on 27th July 2016

Electoral Division affected: Lancaster Rural East
--

Commons Act 2006

The Commons Registration (England) Regulations 2014

Regulation 43

(Appendices 'A' and 'B') refer

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 Ireby Green, Ireby, being entry 4 in the Rights Section of Register

Contact for further information:

Danielle Jay, (01772) 535526, Legal and Democratic Services
danielle.jay@lancashire.gov.uk

Executive Summary

An application from John Douglas James Welbank and Sylvia Margaret Welbank for a Declaration of Entitlement to record the rights to graze 45 Sheep on CL23, rights entry 4.

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 John Douglas James Welbank and Mrs Sylvia Margaret Welbank are entitled to exercise the part of the right attached to Ireby Green, Ireby, namely the right to graze 45 sheep gaits over CL23.

Background and Advice

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.

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 Ireby Green, Ireby, shown edged red on the supplemental map in Appendix 'A', the rights attached to this land are to graze 101 sheep gait over register unit CL23, 1 sheep gait representing a right to graze 1 sheep or 4 lambs, 10 sheep gait representing a right to graze 1 horse.

The Applicants have provided a copy of title number LA941525. This shows that part of the farm, as shown on the supplemental map is owned by John Douglas James Welbank and Sylvia Margaret Welbank, as shown on the plan marked Appendix 'B'. It has been calculated that this land is approximately 44.7% of the Ireby Green land on the supplemental map.

44.7% of the grazing rights is calculated as the right to graze 45 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 Applicants are aware of this.

Notice of the application has been duly given according to the regulations and no response has been received.

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 44 sheep the correct entitlement is the rounded down figure of 45 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/Tel
File of papers denoted 3.750		Danielle Jay Legal and Democratic Services Ext 535526

Reason for inclusion in Part II, if appropriate

N/A