Lancashire County Council

Commons and Town Greens Sub-Committee

Meeting held on Friday 24 September 2010 at 10am, in Room B15, County Hall, Preston.

Minutes

Present:-

County Councillor A Thornton (Chairman)

County Councillors

T Brown  B Mutch
H Henshaw* P Rigby
J Jackson  T Sharratt
T Jones  C Wells*

*County Councillors H Henshaw and C Wells replaced County Councillors J Sumner and M Parkinson respectively.

Apologies were received from County Councillor S Leadbetter.

Appointment of Chairman and Deputy Chairman

1. Resolved: That the appointments made by the Full Council at its meeting on 20 May 2010 of County Councillor A Thornton as Chairman and County Councillor S Leadbetter as Deputy Chairman of the Sub-Committee for 2010/11 be noted.

Constitution, Membership and Terms of Reference of the Sub-Committee

A report was presented on the Constitution, Membership and Terms of Reference of the Commons and Town Greens Sub-Committee.

2. Resolved: That the Constitution, Membership and Terms of Reference of the Commons and Town Greens Sub-Committee for 2010/11 be noted.

Disclosure of Personal and Prejudicial Interests

There were no disclosures of personal or prejudicial interests.
Minutes of the Meeting held on 26 February 2010

It was pointed out that on page 3 of the minutes resolution number 25(ii) had "; and" at the end of the sentence and should therefore be removed.

3. Resolved: That, subject to the above amendment the Minutes of the meeting held on the 26 February 2010 be confirmed and signed by the Chair.

Commons Act 2006
Commons Registration (England) Regulations 2008

Requirement to Amend a Register following the Registration of Ownership of part of CL135 Salt Marsh, Thurnham under Land Registration Act 2002

It was reported that a Notification from the Land Registrar that certain land had been registered under the Land Registration Acts to which said land was registered as Common Land comprising part of Common Land Unit CL135.

It was reported that the Registration Authority had received a Notification from the Land Registrar of the registration of land under the title number LAN102098 shown on the plan referred to in the report as Appendix 'A' under the Land Registration Act 2002. The said land was part of CL135 Salt Marsh, Thurnham as shown on the plan referred to as Appendix 'B'.

The Sub-Committee was advised that the Register should be altered as prescribed to reflect that ownership of part of CL135 was now registered at the Land Registry.

3. Resolved: That the Ownership Section of the Common Land Register relating to common land unit CL135 be amended. An ownership of the land was noted; therefore the amendment should be by deleting the registration of ownership as required by paragraph 8(2) of Schedule 3 of the Commons Act 2006 and noting in accordance with Model Entry 23 that a specified part of the land had been registered under the Land Registration Act 2002.

Commons Act 2006
Commons Registration (England) Regulations 2008

Requirement to Amend a Register following the Registration of Ownership of part of CL165 Whitworth & Trough Common, Wardle & Whitworth, under Land Registration Act 2002

It was reported that a Notification from the Land Registrar that certain land had been registered under the Land Registration Acts which said land was registered Common Land being part of Common Land unit CL165.
It was reported that the Registration Authority had received Notification from the Land Registrar of the registration of land under the title numbers LAN96581, LAN92942 and LAN76018 shown on the plans referred to as Appendices ‘A1’, ‘A2’ and ‘A3’ in the report under the Land Registration Act 2002. The said land was part of CL165 as shown on the plan referred to as Appendix 'B' in the report.

The Sub-Committee was advised that the Register should be altered as prescribed to reflect that ownership of parts of CL165 were now registered at the Land Registry.

4. **Resolved:** That the Ownership Section of the Common Land Register relating to common land unit CL165 be amended. An ownership of the land was noted, therefore the amendment should be by deleting the registration of ownership as required by paragraph 8(2) of Schedule 3 of the Commons Act 2006 and noting in accordance with Model Entry 23 that part of the land had been registered under the Land Registration Act 2002.

**Commons Act 2006**
**Commons Registration (England) Regulations 2008**

**Requirement to Amend a Register following the Registration of Ownership of part of CL279 Bentley Moss, Haslingden under Land Registration Act 2002**

It was reported that a Notification from the Land Registrar that certain land had been registered under the Land Registration Acts which said land was registered Common Land comprising part of Common Land Unit CL279.

The Sub-Committee was informed that North West Water Authority was registered as the owner of the western part of CL279. The remainder of CL279 remained subject to protection under section 9 of the Commons Registration Act 1965.

It was reported that the Registration Authority had received a Notification from the Land Registrar of the registration of land under the title number LAN84499 shown on the plan referred to as Appendix ‘B’ in the report under the Land Registration Act 2002. The said land was part of CL279 and comprised most of the eastern section for which no owner was previously recorded.

The Sub-Committee was advised that the Register should be altered as prescribed to reflect that ownership of part of CL279 was now registered at the Land Registry.

5. **Resolved:** That the Ownership Section of the Common Land Register relating to common land unit CL279 be amended. There was no ownership noted, therefore the amendment should be by noting the Ownership Section of the Register in accordance with Model Entry 23 that part of the land in the case of CL279 had been registered under the Land Registration Act 2002.
Commons Act 2006  
Commons Registration (England) Regulations 2008  

Requirement to Amend a Register following the Registration of  
Ownership of VG69 Newburgh Village Green, Ormskirk under Land  
Registration Act 2002  

It was reported that a Notification from the Land Registrar that certain land  
had been registered under the Land Registration Acts which said land was  
registered Village Green being Village Green unit VG69.  

It was reported that the Registration Authority had received a Notification from  
the Land Registrar of the registration of land under the title number LAN98176  
shown on the plan referred to as Appendix 'A' in the report under the Land  
Registration Act 2002. The said land was the whole of the registered Village  
Green at Newburgh, Ormskirk shown on the plan referred to as Appendix 'B'  
in the report.  

The Sub-Committee was advised that the Register should be altered as  
prescribed to reflect that ownership of the registered village green was now  
registered at the Land Registry.  

6. Resolved: That the Ownership Section of the Register of Town or  
Village Greens relating to village green number VG69 be amended. An  
ownership was noted, therefore the amendment should be by deleting the  
registration of ownership as required by paragraph 8(2) of Schedule 3 of the  
Commons Act 2006 and noting in accordance with Model Entry 23 that the  
land in had been registered under the Land Registration Act 2002.  

Commons Registration Act 1965  
Commons Registration (General) Regulations 1966  
(as amended)  
Commons Act 2006  

Application for the Amendment of the Register in relation to Rights of  
Common on Common Land registered as Entry 1 and Entry 2 in the  
Rights Section of Register Unit CL23  

A report was presented on an Application from Robert Lawson and Joan Mary  
Lawson trading as 'W & D Lawson & Sons' of Parr Bank Farm, Masongill,  
Westhouse to register a transfer of rights of common not attached to land.  

It was reported that the Registration Authority had already received an  
application under Section 13 of the 1965 Act for the rights registered under  
entry number 1 as attached to Holden House Farm to graze 14 sheep and  
followers over the unit of common land CL23 and 8 of the rights registered  
under entry number 2 as attached to Anems Farm to graze 24 sheep and
followers over the unit of common land CL23 to be shown as now held by the Applicants and no longer attached to land.

Information was presented in the report on the documentation received by the Registration Authority from the Applicants.

The Sub-Committee was advised that the register be amended to show that 13 of the sheep gaits registered at Rights Entry Number 1 had been severed from the land and were held as rights in gross by the applicants in this matter, and that the 24 sheep gaits registered at Rights Entry Number 2 had been severed from the land and that 8 of these 24 sheep gaits were held by the applicants as rights in gross. This was not quite the result sought by the applicants but without further evidence it appeared that the one sheep gait might still remain attached to land north of the railway at Holden House Farm.

For clarity, the Sub-Committee requested that if the application was accepted it be recorded that the remaining 16 sheep gaits were held by Mr Thomas Fawcett. Where upon it was:

7. Resolved: That the Application be accepted in part and the register be amended in a manner prescribed by the relevant regulations to show:

i. That of the right to graze 14 sheep and followers on CL23 originally attached to Holden House Farm Westhouse 13 rights had been severed from the land (some in 1968 and the remainder in 1976) and now belonged to Robert Lawson and Joan Mary Lawson trading as 'W & D Lawson & Sons'

ii. That the right to graze 24 sheep and followers on CL23 originally registered as attached to Anems Farm Ireby, had been severed from the land by Deed in 1981 and 8 of the said rights now belonged to Robert Lawson and Joan Mary Lawson trading as 'W & D Lawson & Sons'.

iii. That the remaining 16 rights registered under entry No. 2 attached to Anems Farm belonged to Mr Thomas Fawcett in 1981.

Commons Registration Act 1965
Commons Registration (General) Regulations 1966 (as amended)

Applications for the Amendment of a Register in relation to Rights of Common being grazing rights registered as Entry 2 in the Rights section of Register Unit CL23

The Sub-Committee received a report which sought clarification on a previous decision taken by it in October 2008 on an application from Mr John Stephen Brown of The Green, Ireby, Carnforth to register a transfer of rights which were rights in gross.
It was reported that the Registration Authority had received an Application from Mr J S Brown under Section 13 of the Act for part of the right registered under entry number 2 to graze 24 sheep and followers over the unit of common land CL23 to be shown as transferred to him.

The Sub-Committee considered this application in October 2008 (Appendix 'B' refers) and agreed that the application be accepted and the appropriate amendment to the register be made. The Statutory provisions specifically provide for amendment of the register in cases of transfer of rights which are rights in gross. Unfortunately the report was not sufficiently clear that only 8 of the severed rights had passed to the Applicant. The minutes also referred to all 24 rights. This was noticed and no amendment made to the register. The matter now comes back to the Sub-Committee to clarify that the rights to graze 24 sheep and followers were severed from Anems Farm and 8 of these severed rights were now held by Mr John Stephen Brown.

The Sub-Committee was advised that there was sufficient evidence that in 1981 the rights had been severed from the land to which they were attached when registered and had been further transferred to the Applicant and it was advised that these important changes to the rights should be registered.

For clarity the Sub-Committee requested that the Recommendation also include that with regard to Resolution 7 above the remaining 8 sheep gaits were held by Mr Thomas Fawcett. Where upon it was:

8. **Resolved:** That the decision made by the Sub-Committee in October 2008 be clarified such that the Register of Common Land be amended to show that -
   i. Rights entry 2 in respect of CL23 be amended to show the severence of the rights to graze 24 sheep and followers away from the land and held by Mr Thomas Fawcett and that the Application from Mr JS Brown be accepted and the Register now be amended to record the transfer of 8 of those rights to the said John Stephen Brown. Such alterations to the Register to be done in accordance with relevant Regulations.
   ii. That in view of Resolution 7 above, the remaining 8 rights belonged to Mr Thomas Fawcett in 1981.

**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**

A report was presented on an 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.
It was reported that the Registration Authority had received an application under Section 13 of the 1965 Act prior to October 2008 for the all rights registered under entry number 9 as attached to Nether Beck Farm to graze 33 sheep over the unit of common land CL23 to be shown as now held by the Applicants and no longer attached to land.

The Applicants had sought to show that these rights were severed from the land and eventually bought by them in 1995.

The Sub-Committee was informed that the rights at present were shown as registered as attached to land known as Nether Beck Farm, West House as shown on the plans referred to in the report. The rights were registered by a Mr and Mrs Diggle as being attached to the land.

Information was presented in the report on the documentation received by the Registration Authority from the Applicants.

The Sub-Committee was advised that the severance of common rights should be by Deed. Rights in Gross were separate incorporeal hereditaments. In this matter the sale of the rights without the land was evidenced only by the receipt from Mr Diggle in 1971. This appeared to be after at least some of the land passed to Mr Haslam and no Deed had been found.

Therefore the Sub-Committee was advised that there was not sufficient evidence of legal severance and although purchased by the Applicants there was not sufficient evidence that Mrs Bracken held the rights in gross to sell them.

It was suggested that the Sub-Committee should either determine the Application or defer it.

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.

9. **Resolved:**

   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.
Application for the Amendment of a Register in relation to Rights of Common being grazing rights registered as Entry 3 in the Rights section of Register Unit CL100, Longton Out Marsh

A report was presented on an Application from Messrs Nicholas Henry Slinger, Timothy John Slinger, Andrew Slinger, Michael Slinger and Noel Slinger, C/o Marsh Farm, Hall Carr Lane, Longton, to register a transfer of rights which were rights in gross.

It was reported that the Registration Authority had received an Application from Messrs NH Slinger, TJ Slinger, A Slinger, M Slinger and N Slinger under Schedule 3 of the Act for the right registered under entry number 3 to graze 97 head of cattle from 1st May to 25th December inclusive over the unit of common land CL100 shown on the plan referred to as Appendix ‘A’ in the report to be shown as transferred to them. The application was subsequently agreed to be in respect of registering a transfer of 96 13/32 of the said cattlegates.

Notice of the application had been duly served according to the Regulations and no response had been received.

The Sub-Committee was advised that the application was well founded and that the appropriate amendment to the register should be made.

10. **Resolved:** That the application to register the transfer to the applicants of most of the right in gross registered in Entry 3 of the Rights Section of CL100 namely the right to graze 96 13/32 cattle on CL100 be accepted and the register be amended in accordance with the Commons Registration (England) (Amendment) Regulations 2009 to register said transfer.

Commons Registration Act 1965 Commons Act 2006 Applications already made to the Registration Authority to register land as having become a town or village green since 1970 yet to be determined

The Sub-Committee received a report which set out details of duly made Applications made to the Registration Authority to register land as having become a town or village green since 1970 which were yet to be determined. These were:

1. VG89 Land off Liverpool Road, Lowerhouse, Burnley
2. VG95 Land at Waterbarn, Stacksteads
3. VG98 Land off Long Row, Mellor
4. VG101 Land at Skipton Road Barnoldswick
5. VG102 Land at Trapp Lane Simonstone
6. VG103 Land at Moorside Fields Lancaster
In addition to the Applications duly made as listed above there were forms received by the authority in respect of the following areas of land but the applications were not yet deemed duly made. Further information was awaited. These were:

- Land in Ireby
- Woodplumpton Playing Fields
- Vicarage Park, Poulton le Fylde

11. **Resolved:** That the current schedule of Applications yet to be determined as set out in the report be noted.

**Commons Act 2006 – Schedule 3**

Jane Turner, Senior Solicitor gave a verbal update to the Sub-Committee on how the transitional period in Lancashire along with the review of the Registers under the Commons Act 2006 had gone.

The Sub-Committee was reminded that on 1st October 2008, the Commons Registration Act 1965 had been repealed. However, applications already received by that date would still be determined under the 1965 Act.

It was reported that the Sub-Committee had already determined two applications under the new statute and that the review of the County Council's registers had prompted few applications to alter the Register and presumably the Registers were accurate.

The Registration Authority had written to all 850 Farmers who held grazing rights in Lancashire informing them of the review and the time limit imposed in order for them to record certain events which had taken place after 2nd January 1970 but before 1st October 2008.

To date; the Registration Authority under the review had received the following types and number of applications for determination:

- 2 applications for the removal of Common Land from the map and register;
- 8 applications to show that certain events had occurred; and
- 2 applications on mistakes made by the Registration Authority in recording rights on the map and register.

12. **Resolved:** That the verbal update on how the transitional period in Lancashire along with the review of the Registers under the Commons Act 2006 had gone be noted.
Date of Next Meeting

The Chairman thanked all Members for their questioning and contribution to the Sub-Committee's deliberations.

The next meeting of the Commons and Town Greens Sub-Committee will take place on Monday and Tuesday, 8 and 9 November 2010, from 10am at County Hall, Preston.

Ian Fisher
County Secretary and Solicitor

County Hall
Preston