

Appendix 5

From: Hugh Craddock <[REDACTED]>
Sent: 12 September 2022 10:41
To: Registration, Commons <Commons.Registration@cumbria.gov.uk>
Subject: CA13/39

Dear commons registration team

The society is responding to notice of application under para.7 of Sch.2 to the Commons Act 2006 to deregister CL456 Cockley Moss and CL457 Chapel Moss. The society has no legal interest in the application land.

We note that:

- The original provisional registration was made by trustees of the manorial estate.
- The trustees provisionally also registered other land as common land, but withdrew several provisional registrations where there were objections (CL448–CL453, CL454–CL457 remain registered as common land, although CL452 is subject to registered rights of common).
- Much (but not all) of the application land was inclosed under the [Holme Cultram Inclosure Act 1806](#) and the Holme Cultram Inclosure Award 1814, whereas part is shown as if it were old inclosures, rather than unenclosed.
- All of the land is recorded in the Holme Cultram tithe apportionment as arable, pasture or plantation, owned and occupied in the way usual with farmland.
- Some of the land is not subject to rent charge, but this appears to be because the land devolves from ownership by the Church.
- The land is enclosed in practice, and was at the time of provisional registration.

However, in order to further satisfy ourselves, it would be helpful to see all relevant extracts of the inclosure map made under the 1814 award (there is a partial extract at p.20 of the 'additional information' pdf). It would also be helpful if it could be explained what part of the parish was comprised in The Marshes, which was to be converted into a stinted pasture under s.XXII of the 1806 Act.

The application must show, in relation to para.(d) of para.7(2), that:

immediately before its provisional registration the land was not any of the following—

- (i) land subject to rights of common;
- (ii) waste land of a manor;
- (iii) a town or village green within the meaning of the 1965 Act as originally enacted; or
- (iv) land of a description specified in section 11 of the Inclosure Act 1845... .

As to sub-para.(i), we provisionally are satisfied that none of the application land was subject to rights of common at the date of provisional registration, owing (generally) to inclosure under the 1806 Act, and to the absence of any registration of rights of common under the 1965 Act.

As to sub-para.(ii), we provisionally are satisfied owing (generally) to inclosure under the 1806 Act, and the absence of any suggestion of waste in the tithe assessment.

As to sub-para.(iii), there is no evidence in the application that the land was not being used as a town or village green. In the circumstances of the isolated nature of the land, and the

witness statements as to use, we are prepared to infer an absence of such use. However, we note that Mr Barry Strick, in his statement dated 10 January 2022, observes (para.5.5) of field 1615 that:

...all the hired lands on the farms in the area — lads in their late teens — played football there every Sunday.

It would be helpful to have further evidence as to the use of field 1615, as this raises the possibility that there was use as a town or village green.

As to sub-para.(iv), we provisionally are satisfied (in the generality of the land) that inclosure under the 1806 Act would have extinguished any subsisting commonable rights, but will wish to rely on sight of further information about the inclosure award.

regards

Hugh

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Please note that I work mornings only
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Registered charity number 1144840)*

Support our Grant a Green Appeal
*and help fund our campaign to protect open space
through voluntary registration as town or village green*



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