

CARHAM PARISH COUNCIL

Minutes of Extraordinary Meeting held on Tuesday 11 August 2020 in St Cuthbert's Church, Carham at 6.30pm

Present: Cllrs. P Feerick (Chair), J Court, W Potts. Ms. V Poland, Mrs L Allan and Mrs A Changleng (Clerk). Seven members of the public were also present.

The chairman welcomed those present and introduced councillors and the Parish Clerk.

Declaration of Interest: Cllr. Allan signed a Dispensation Form under the Localism Act 2011 which allowed her to participate in the debate and vote on a significant matter to the village.

He explained that the meeting had been called to discuss the ownership and use of Goat Common and Allotment Gardens. Councillor Allan had made the Parish Council aware of concerns from a number of Wark residents, some of whom have allotments specified in their title deeds. The Parish Council had also received an email from the owner of Wayside Cottage.

In preparing for the meeting the chairman had been in touch with Stephen Rickitt, the Chief Officer of the Northumberland Association of Local Councils (NALC). Mr Rickitt is a lawyer and worked for Northumberland County Council for a number of years. The chairman had also looked at documents that are in the public domain as well as the minutes of previous Parish Council meetings.

The chairman explained that allowing comments and questions from the general public at council meetings is at the discretion of the chairman. Mr Rickitt had advised that he should not allow comments and questions at this meeting because of possible legal implications. Minutes would be taken and posted on the Parish Council website and on the parish notice board, as usual.

The chairman said that he was going to make a statement about what was known to the Parish Council, and asked councillors to ask for clarification if he was not clear. He would then propose a course of action for discussion by councillors. This would be followed by a vote.

In his statement, the chairman said that there were several questions to be answered to do with Goat Common and the Allotment Gardens, who owns the land, and who has rights. He would cover those questions as far as he was able, but it was possible he might not have everything correct.

He began by explaining that the legal situation of common land is governed by the Commons Registration Act 1965, the Countryside and Rights of Way Act 2000, and the Commons Act 2006. The latter does not apply in Northumberland. The Land Registration Act 2002 complicates the situation, and the law is tangled and complex and seemingly contradictory at times.

An important point to note is that the Register of Common Land is not the same as the Land Registry. The Land Registry essentially deals with who owns the land. The Register of Common Land is a conclusive record of commons throughout the UK that records the location of the commons, who owns the land, who has rights over it, and what those rights are. Individuals who have rights on common land cannot have their rights taken away by the owner.

The chairman explained that the area being discussed was the land south of the B6350 in Wark village, which is generally known as Goat Common. The key document to the matter was the Register of Common Land held by the County, which gives Goat Common the reference CL73. This is the most definitive document, according to Mr Rickitt. According to the Register of Common Land, Goat Common is defined as the small triangle of land to the south west of the area that is generally thought of as Goat Common. The chairman showed the meeting the map that formed part of the record for CL73. This map describes the rest of the area as Goat Common Allotment Gardens.

The chairman explained that the Commons Registration Act 1965 required the registration of all common land. Where ownership of the land could not be established, hearings were held. There was a hearing for Goat Common in June 1975. Nobody claimed ownership of the common so it was put under the protection of the County Council under Section 9 of the Act. The Register of Common Land names no owner of Goat Common, and no rights are listed.

Parish Council minutes show that between 1985 and 1999 the grazing rights over Goat Common were subject to an annual application by interested parishioners. In the main one parishioner was awarded grazing rights over the common. In 1992 there was a dispute about fences being changed and about machinery being stored on the common. However, the minutes do not make it clear whether they refer to Goat Common as defined by the Register of Common Land, or whether they refer to Goat Common Allotment Gardens.

With regard to the latter, the chairman described the history of its ownership as he understood it from Land Registry documents that are available to the general public. This was that in 2003 title number ND129969, which included part of the Allotment Gardens, was sold. The Parish Council did not know how the vendor's claim to the land was presented to the Land Registry. The land was sold with title absolute and subject to certain restrictive covenants. Again, the Parish Council did not know what these were.

In 2010 the owner of title number ND129969 made application to the Land Registry for Possessory Title of much of the rest of the Allotment Gardens. This was noted in a Parish Council minute. Mr Rickitt had told the chairman that the applicant would have had to give some supporting evidence, such as showing they were in some sort of control of the land, in order to claim Possessory Title. In November 2022 the applicant will have the opportunity to convert the Possessory Title to Absolute Title, if there are no objections.

Mr Rickitt had advised the Parish Council that it is not in a position to object, as it has no direct material interest in the matter.

The Chairman summarised the position with regard to the definition of Goat Common as it appears in the Register of Common Land. This places Goat Common south west of the land covered by title number ND129969. The area as registered is small (0.77 acres), the owner is not known, and nobody has claimed any rights over this piece of land. He then invited councillors to vote on the Resolution: "No action needs to be taken by Carham Parish Council in respect of CL73 Goat Common." Councillors voted unanimously in favour.

He then turned to the question of Goat Common Allotment Gardens. The Parish Council had no record of or involvement in the allocation of allotments on this land. It has a statutory duty to provide allotments if residents request them, providing it has land to allocate, but it owns no land south of the B6350 so it cannot allocate allotments. Goat Common Allotment Gardens are not the responsibility of Carham Parish Council.

Mr Rickitt had told the chairman that if residents of Wark believe they are entitled to allotments because it is specified on their deeds, these are individual rights and so they will need to claim them through negotiation with the landowner, or if that fails by taking legal action. The same applies to any grievance about access to land. Either way it is not a matter for the Parish Council.

The chairman then invited councillors to vote on the Resolution: "That Carham Parish Council not become involved in the matter of disputes between residents regarding the land that is generally known as Goat Common Allotment Gardens." Councillors voted unanimously in favour.

The chairman thanked everyone for attending and closed the meeting.