



Broxhead Common CL147

Hampshire County Council have involved themselves in criminally removing registered land from the Register of Common Land which is an injustice that needs correcting.

In doing this they have caused at least eight public inquiries to be heard over the years and given misleading and incorrect evidence to those inquiries as well as misusing public funds.

They have also not answered a letter addressed to the CEO Mr Andrew I Smith sent to them by Maureen Comber on 14th February 2012 through the Head of Information Compliance, Judith Downing.

Read the full ONE SIDED correspondence

From: [Cowper, Ferris](#)

Date: 09/03/12 17:21:15

To: m.comber@btinternet.com

Subject: RE: Broxhead Common CL147

Thanks Maureen,

I have no knowledge of this. If my division is affected I will be engaged. I have asked officers to confirm my division is affected in the first instance. If I need more from you I will ask; right now I am totally overloaded, so best to leave me to it for a while.

Ferris.

From: m.comber@btinternet.com [<mailto:m.comber@btinternet.com>]

Sent: Fri 31/08/2012 13:16

To: Cowper, Ferris

Subject: Re: Broxhead Common CL147

Ok here goes:

* Broxhead Common east of the B3004 OS grid reference: SU83 480200, 137400. Ordnance Survey sheet 186

* Parish of Whitehill and Headley

* Common land ref. CL147

* 80 acres of which have been excluded from the Register of Common Land for which HCC are the registration authority

* The same 80 acres has been fenced without authority or application to the Secretary of State.

* Please explain

* Officers over the years who are still at HCC, Colin Piper, Andrew T. Smith, Andy Gratton-Kane (registration office).

Thanks

Maureen

-----Original Message-----

From: Ferris Cowper <<mailto:fcowper@aol.com>>

Date: 31/08/2012 12:50:23

To: m.comber@btinternet.com; andrew_joy@btinternet.com

Cc: adamcarew@talktalk.net; ferris.cowper@hants.gov.uk

Subject: Re: Broxhead Common CL147

Dear Maureen,

I'm a bit unclear about what is happening here. Is there an issue in my division about which you want to complain?

If there is, rather than plough through this slightly disjointed email thread, can you express the problem concisely for me so I can work out what to do, please? I'll need the exact location as it seems to affect an area of land, a summary of your complaint and the names of any HCC officers that you have involved to date.

It would help me if you could reply to my HCC email address as shown above.

Thank you.
Best wishes,
Ferris Cowper

-----Original Message-----

From: m.comber <m.comber@btinternet.com>
To: AndrewJoy <andrew_joy@btinternet.com>
CC: Ferris Cowper <fcowper@aol.com>; Adam Carew <adamcarew@talktalk.net>
Sent: Fri, 31 Aug 2012 11:55
Subject: Fw: RE: Broxhead Common CL147

Dear Andrew,

Thank you for your reply to yesterdays email. I note your advice about informing myself further, but as you can see from the email correspondence below, I am already well acquainted with the issue and have even taken Counsel's opinion on the matter of the registration or indeed lack of it concerning Broxhead Common (East).
As you will also see, my questions are not to inform myself but to give Hampshire County Council one last chance to give a satisfactory explanation of the questions I have asked you to put to them in my email of yesterday, and which have also been put to Hugh Craddock at the beginning of this email correspondence below.
I am forwarding this set of emails as they will hopefully explain my concerns, and the length of time it has taken to unravel what seems to be a most lamentable situation.
The LG Ombudsman, Parliamentary Ombudsman, Audit Commission and Defra, have all advised that it is a matter for the Courts. However that could be a long and expensive course to take which I am reluctant to do given the economic situation. Nevertheless it seems to me that Hampshire County Council have involved themselves in criminally removing registered land from the Register of Common Land which is an injustice that needs correcting.
In doing this they have caused at least eight public inquiries to be heard over the years and given misleading and incorrect evidence to those inquiries as well as misusing public funds.
I have not involved Adam before as it is not his patch. Probably these days it is covered by Ferris Cowper who I shall copy in also. However I believe it will be better if you work together with Adam as I do not see this as a political issue but as a considerable injustice which needs to be resolved.
I realize that there is much you will be curious to know and am happy to have a meeting with you all to help you understand this complicated set of affairs. However it would help if first of all you could elicit a clear explanation from Hampshire County Council with regard to the removal of the land from the Register and the failure to see application was made to the Secretary of State for the fencing which is still unauthorized and therefore illegal. It is a shame that they have not been able to bring themselves to engage and answer my correspondence which was addressed to the CEO Mr Andrew I Smith on 14th February 2012 through the Head of Information Compliance, Judith Downing.
As Ever
Maureen

-----Original Message-----

From: Craddock, Hugh (ERG-LOR)
| head of Commons and Access Implementation Team
Landscape & Outdoor Recreation Programme | Department for Environment, Food and Rural Affairs
Area 3B | Nobel House | 17 Smith Square | London SW1P 3JR
Tel 0207 238 5663 | Fax 020 7238 4929 | GTN 238 5663<<mailto:Hugh.Craddock@defra.gsi.gov.uk>>
Date: 08/22/12 09:46:51
To: m.comber@btinternet.com
Cc: McPhee, Grant (ERG-LOR) <<mailto:grant.mcphee@DEFRA.GSI.GOV.UK>>
Subject: RE: Broxhead Common CL147
Local ombudsman, courts?
From: m.comber@btinternet.com [<mailto:m.comber@btinternet.com> <<mailto:m.comber@btinternet.com>>]
Sent: 22 August 2012 09:11
To: Craddock, Hugh (ERG-LOR)
Cc: McPhee, Grant (ERG-LOR)
Subject: RE: Broxhead Common CL147
Ok Hugh, thanks for that.
Have you any idea which body might be able to hold them to account? There must be someone.
Fraud Squad perhaps?
I won't bother you again but if you have any suggestions they would be welcome.
Thanks again. I am aware you have tried to be helpful.
All best
Maureen

-----Original Message-----

From: Craddock, Hugh \ (ERG-LOR) <<mailto:Hugh.Craddock@defra.gsi.gov.uk>>

Date: 22/08/2012 08:34:48

To: m.comber@btinternet.com

Cc: McPhee, Grant \ (ERG-LOR) <<mailto:grant.mcphee@DEFRA.GSI.GOV.UK>>

Subject: RE: Broxhead Common CL147

Hi Maureen

Not through intervening in individual cases. We simply do not have the capacity to interrogate registration authorities on any possible deficiency in their registers.

Sorry.

Hugh

From: m.comber@btinternet.com [<mailto:m.comber@btinternet.com> <<mailto:m.comber@btinternet.com>>]

Sent: 21 August 2012 20:14

To: Craddock, Hugh (ERG-LOR)

Subject: RE: Broxhead Common CL147

Dear Hugh,

Thank you, but how can Defra carry out the following if they do not have a role?

I do not wish to be a nuisance but am trying to understand who or what controls the Registration Authority since they cannot be autonomous?

Protecting commons - our policy objectives

3.1 Defra's desire to protect commons contributes to two of its strategic objectives:

- A healthy natural environment
- Strong rural communities

3.2 Within its intermediary objectives Defra wishes to see:

- Soil and land managed sustainably
- Common land consents policy guidance 3 Version 1.2, July 2009

- Biodiversity valued, safeguarded and enhanced
- People enjoy, understand and care for the natural environment
- Improved local environment quality
- Sustainable, living landscapes with best features conserved

3.3 The 2006 Act, along with a suite of earlier legislation on common land, enables government to:

- Safeguard commons for current and future generations to use and enjoy
- Ensure that the special qualities of common land, including its open and unen-closed nature, are properly protected
- Increase the number of SSSIs in favourable condition

3.4 To achieve this we have a consent/approval process in place to ensure the following outcomes are achieved:

- our stock of common land and greens is not diminished - that, on balance, any deregistration of registered land is balanced by the registration of other land of at least equal benefit
- works take place on common land only when they maintain or improve the condition of the common or, exceptionally, where they confer some wider public benefit and are either temporary in duration or have no lasting impact

As Ever

Maureen

-----Original Message-----

From: Craddock, Hugh \ (ERG-LOR) <<mailto:Hugh.Craddock@defra.gsi.gov.uk>>

Date: 21/08/2012 16:02:30

To: m.comber@btinternet.com

Cc: McPhee, Grant \ (ERG-LOR) <<mailto:grant.mcphee@DEFRA.GSI.GOV.UK>>

Subject: RE: Broxhead Common CL147

Dear Maureen

I'm sorry, but this is a matter between you and the commons registration authority. We have no role nor capacity to be involved in the dispute.

regards

Hugh

Hugh Craddock | head of Commons and Access Implementation Team

Landscape & Outdoor Recreation Programme | Department for Environment, Food and Rural Affairs

Area 3B | Nobel House | 17 Smith Square | London SW1P 3JR

Tel 0207 238 5663 | Fax 020 7238 4929 | GTN 238 5663

E-mail: hugh.craddock@defra.gsi.gov.uk

www.defra.gov.uk/rural/protected/commons/

From: m.comber@btinternet.com [<mailto:m.comber@btinternet.com> <<mailto:m.comber@btinternet.com>>]

Sent: 21 August 2012 14:53

To: Craddock, Hugh (ERG-LOR)
Cc: McPhee, Grant (ERG-LOR)
Subject: RE: Broxhead Common CL147

Dear Hugh,

Thank you for your prompt reply and reliable advice.

I can say that I have already done exactly as you suggested with regard to EIR/FOI. All the evidence which I have accumulated leaves no room for reasonable doubt that the land in question was excluded from the register both deliberately and illegally.

My two questions to Hampshire County Council about the unauthorized fencing and the absence of the 80 acres of land from the register, were meant to give them one last chance to reasonably explain this lamentable situation. The fact that they seem unwilling or unable to do so, to my mind confirms the malfeasance.

Needless to say their actions have caused very many local people the loss of access to this valuable open space for far too long; not just horse riders but walkers also. Unfortunately the matter did not come to light under the terms of CROW 2000, although it is obvious that questions were asked and the usual misleading answers given.

When enquiries were made, initially by the Commoners of Broxhead after 1978, which is when the matter became finalised, as to why the enclosure of the 80 acres remained fenced, Hampshire County Council told them and other local people, that it was because the High Court or Appeal Court had ordered it, or that it was a decision of the Chief Commons Commissioner, and then eventually that horse riders were not included in the 'incidental use by the public' under the terms of HCC's lease of the rest of the common. The latter irrelevance was used to, and I suspect succeeded, in confusing many Planning Inspectors over the intervening years.

You will know that my last claim for a bridleway to connect BW54 Headley to Cradle Lane, occasioned written representations via Government Office for the North East, in which the Inspector, Susan Doran instructed HCC to make the Order for the bridleway. Their immediate objection, which was made by the officers without returning to the HCC Regulatory Committee for decision - they do not have delegated powers - led to two further Public Inquiries at which both Inspectors refused to look at the associated issues surrounding the claim. The claimed bridleway ran for the most part over Broxhead common and indeed an old highway, so I remain puzzled as to why they refused, unless they were colluding with HCC to cover up their unforgivable lapse of adherence to the law! There can be no doubt that HCC have tried to do that.

However returning to the 1980's; the Commoners of Broxhead and local people, although ultimately still puzzled as to why all their efforts of fund raising, time etc., had not succeeded in the removal of the unauthorised fencing, had little option other than to believe HCC's misleading explanations. As far as I was concerned the only way to secure the access rights for horse riders was to actually claim certain tracks as bridleways.

After the last PI at the end of June/July 2011, Edwin advised me not to Judicially Review again but to concentrate on researching the anomaly of Broxhead Common itself, hence my EIR inquiries.

I don't know whether you would like me to give you chapter and verse in regard to the malfeasance that happened, or whether you wish to make your own inquiries, but I am quite sure that Defra will not wish to be found wanting in its ultimate duties to protect our common lands, not only because they are historically part of our heritage but also because the laws of the land need to be seen to be upheld even if the miscreant is somewhat embarrassingly the Registration Authority itself.

My aim of course is to have the situation rectified and the land in question returned to the 'rare and valuable heathland' it was estimated to be from the ecologists reports at the time, so that it can be freely enjoyed by horse riders and walkers. It is sad that even the path around the enclosed acres was allowed to overgrow and become impenetrable for horse riders despite requests for it to be kept clear.

It is a pity that Hampshire County Council have felt the need to constantly defer to the landowner whose claims to ownership were tenuous to say the least, and whose apparent autocracy does not appear to comply with the commons legislation itself. The Land Registry advise that the common land status overrides all else including ownership.

I do hope Defra will feel able to help rectify this lamentable situation?

Sincerely,
Maureen

-----Original Message-----

From: Craddock, Hugh (ERG-LOR) <<mailto:Hugh.Craddock@defra.gsi.gov.uk>>

Date: 08/20/12 09:40:37

To: m.comber@btinternet.com

Cc: McPhee, Grant (ERG-LOR) <<mailto:grant.mcphee@DEFRA.GSI.GOV.UK>>

Subject: RE: Broxhead Common CL147

Dear Maureen

Thank you for your email, and your kind comments: I will pass these on.

I am afraid we cannot help with the missing plan: you have seen the files which we have available - if it is not there, we do not have it.

As regards the land voided or deleted from the register unit CL147, the land section of the commons register will explain when, and for what reason, the land was removed. This will enable you to better understand the cause of the removal, and to trace the supporting documentation (which may be requested, if necessary, under the Environmental Information Regulations 2004).

regards

Hugh Craddock

Hugh Craddock | head of Commons and Access Implementation Team

Landscape & Outdoor Recreation Programme | Department for Environment, Food and Rural Affairs

Area 3B | Nobel House | 17 Smith Square | London SW1P 3JR

From: m.comber@btinternet.com [<mailto:m.comber@btinternet.com> <<mailto:m.comber@btinternet.com>>]

Sent: 17 August 2012 13:14

To: Craddock, Hugh (ERG-LOR)

Subject: Broxhead Common CL147

Dear Hugh,

First of all may I thank you for arranging for me to look at the files for Broxhead Common. Michael Alexander was most helpful.

I had not expected such a vast quantity of documents but there was much of interest which is not available in the offices of the

Registration Department of Hampshire County Council (HCC).

The documents show that the final determination by the Chief Commons Commissioner, Mr G. Squibb considered that the status of the whole of CL147

Broxhead Common, is common land save for a few small pockets which he clearly deals with in his report. According to the CCC, these are outlined in red on the plan

Marked GDS1 and GDS2.

I also noted that individual Broxhead Commoners at the time, requested a sight of this plan marked GDS1 and GDS2. There is a handwritten note to say that

a map was forwarded to them on 17th May 1979, almost a year after the appeal had been dismissed out of that Court.

I also made the same request a year ago at the instigation of my barrister, Edwin Simpson, before the last Public Inquiry into my claim for a bridleway on Broxhead Common.

HCC told me that GDS2 referred to Plan C attached to map 89 of the registration. That plan depicts the 80 acres of common land excluded from the register by HCC.

However there is still no sign of the original document either in the Hampshire Registration Office or the box of documents available yesterday. I would please like to see a copy of that plan if it is still available.

I say that the plan GDS2 cannot refer to the excluded 80 acres. This is because there is no sign of either the High Court, the Court of Appeal, or the Chief Commons

Commissioner (CCC) ever having sanctioned the removal of this common land from the register. On the contrary there is written evidence in the files in the CCC's own hand

in a memo dated 4.11.74. He is asked to look at a letter on file in which "the writer seems to be asking you to put something in your decision about the future use and management

of the land." To which he replies, "Mrs Fletcher, I have no jurisdiction to 'outline what may or may not be done on this common land" !!

Under FOI/EIR I wrote to the Chief Executive of HCC on the 14th February this year asking relevant questions concerning Broxhead Common. As you will see from the attachment I have still not received a response.

As clarity and transparency are essential in the way councils' deal with their affairs, please may I ask that Defra as the ultimate body responsible for seeing that the

laws for the protection of our common lands are being upheld, write and ask the CEO of HCC, Andrew I. Smith,- not to be confused with Andrew T. Smith who is

Head of Countryside, - and ask the questions:

1. Why and by whose authority 80 acres of registered common land CL147 Broxhead Common, have been excluded/removed from the Register?

2. Why no application has ever been made to the Secretary of State for the fencing in of that 80 acres?

3. Why they have apparently not ensured an application for the fencing was made as part of their duties concerning the protection of our common lands?

These are of course questions that have been asked since the illegal fencing of the common took place back in the 1960's and have continued to be asked ever since.

Local people as well as myself deserve and expect an explanation.

Thank you again for your helpfulness.

Maureen