

Claire Lewis (CSP - Countryside Services)

From: Hugh Craddock [REDACTED]
Sent: 15 January 2018 11:27
To: Commons Registration (CSP - Generic)
Subject: RE: Notice of application received under the Commons Act 2006

Hi Claire

Thank you for your email, and the copy of the land section of the register. We are happy with your assurance that the provisional registration of MCL076 was not referred to the Commons Commissioner.

Under r.5(3) of the 2017 Regulations, the applicant is not required to enclose with an application a copy of a document which is issued by the commons registration authority, or which is deposited with it. This will certainly exclude any requirement to submit a copy of the register itself, or of many of the documents contained in the authority's historic records archive. I do not know whether a tithe map and apportionment were specifically required to be deposited with the county council, and it may be that the council's copies were acquired by agreement from individual parish councils, rather than on statutory deposit.

Even if the applicant is, under r.5(3), not required to submit a copy, the application must cite the document and explain why it is relevant, else the document cannot be part of the application. In this case, I do not think that the applicant has demonstrated why the extract from the tithe map is relevant and how it helps the applicant's case, even if the relevant documents fall within the scope of r.5(3). The tithe apportionment does not appear in the list of supporting documents (item B among the scanned attachments), so it cannot form part of the application (as originally made).

If an applicant does rely on r.5(3), and does not submit a copy of document, but lists it, and explains its relevance, the implication must be that the commons registration authority will make a copy of the document available for inspection under r.13. Unfortunately, this is not quite the effect of r.13(1)(a), which requires the authority to make available 'copies of the application *and any accompanying documents*' (whereas a document omitted under r.5(3) will not 'accompany' the application as such). But we think that must be the intention, and it is a matter of natural justice that other parties can see the applicant's case and the documents on which the applicant relies — and without having to make separate, and time-consuming, enquiries to another part of the council's services.

We have no objection if part of the applicant's evidence relies on a document which is freely available on the web. But if it is, we would expect the document either to be copied as part of the application, or at the very least, a URL provided which downloads the document without significant further interaction. In practice, a reference merely to places.library.wales can be quite unhelpful, particularly for someone who is not computer literate, as identifying the relevant part of the relevant apportionment will inevitably be quite time consuming. Perhaps it is possible to give a URL to the relevant part of the parish apportionment? But just to reiterate our original point, so far as we are aware, the applicant has not yet sought to rely on the apportionment.

You might like to raise these issues with your colleagues in the Association of Commons Registration Authorities: you are welcome to copy our exchange to Martin or other directors if you wish.

regards

Hugh

Hugh Craddock

Case Officer
Open Spaces Society
25a Bell Street
Henley-on-Thames
RG9 2BA
Email: [REDACTED]
www.oss.org.uk

Please note that I work Mondays, Wednesdays and Thursdays
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Lost commons: the rescue begins

Please support our effort to record them



The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

From: Claire Lewis (CSP - Countryside Services) [mailto:claire.lewis@powys.gov.uk] **On Behalf Of** Commons Registration (CSP - Generic)
Sent: 12 January 2018 11:10
To: Hugh Craddock
Subject: Notice of application received under the Commons Act 2006

Dear Hugh

I acknowledge receipt of your email. Your objection to the proposal is noted, and your email will be forwarded to the applicant for comment. One point I would like to make clear is that the area concerned and known as 'Y' on MCL076 was not subject to a Land Section Commons Commissioner enquiry. The doubt has arisen due to an error within our working commons registration database. This has been rectified but only since the date of issue of the register copies included with the application. I attach a copy of the Land Section of the official register as confirmation. All the objections to the CL76 registration as listed in the notes section sheet were conceded by The Ramblers Association by letter dated 26th July 1973.

Given the above, I would welcome your thoughts over the supply of copies of register information. The documents put on deposit and sent to you were solely information provided to us by the applicant (albeit some were copies issued by the Registration Authority in the past). Should we, as the registration authority, be providing a copy of the register documents with the application on deposit for members of the public to consider along with the application?

Similarly, what would be the OSS view about information that is held on a public website? I.e. in this case, would the OSS have expected the applicant to have provided an extract from the text of the Tithe Map, given that it can be found on <https://places.library.wales/> or is it acceptable for the applicant to simply refer to what it says and then expect that the CRA or wider public confirm that via the website?

I appreciate your consideration of this so that we can advise applicants appropriately going forward.

Kind Regards

Claire Lewis
Swyddog Cynorthwyol Cofrestru Tir Comin a Mapiau Diffiniol

Assistant Commons Registration and Definitive Map Officer
Ffon/Tel: 01597 827625 Ffacs/Fax: 01597 829062
Eboost/Email: claire.lewis@powys.gov.uk