

Registration of Drinkstone Parish Lands

At its meeting on 5th November the Parish Council agreed to undertake to register the Parish Lands (Rattlesden Road land, Gedding Road allotments and the Cricket) and obtain quotes from Solicitors for the registration of these lands (**Minute 18.11.15 refers**).

At its meeting on 4th February, the Parish Council agreed to instruct John Casson to undertake an appraisal of the value of the lands, and to instruct Greene and Greene to act on its behalf with respect to the registration of the lands with HM Land Registry (**Minutes 19.02.17.2 & 17.3 refer**).

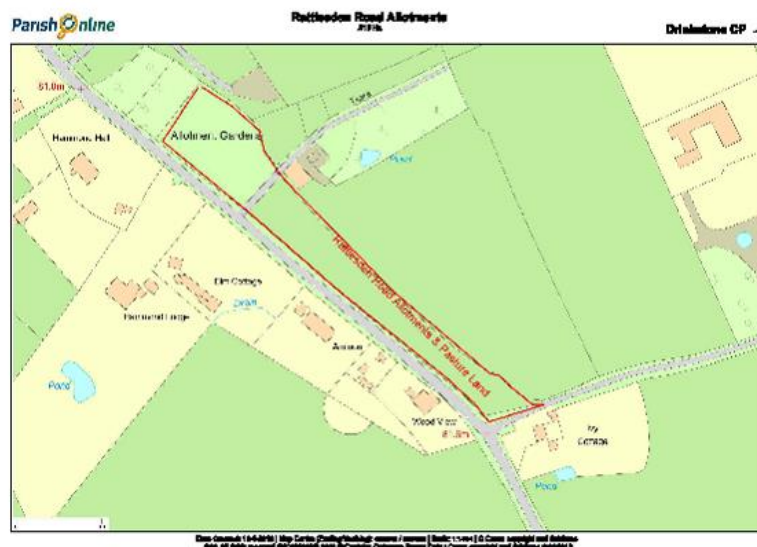
The Clerk instructed both John Casson and Greene and Green Solicitors. An agreement was signed and returned to Greene and Greene. The Solicitors indicated that there may be some small additional disbursements relating to HM Land Registry Fees which would be advised at the earliest opportunity.

Further plans were requested by Greene & Greene to meet the standards required by HM Land Registry in April and due to elections, year-end, audit and Annual meetings obligations, this work was not completed by the Clerk until recently.

In July an application (**DC/19/03109**) for prior approval for a proposed change of use of an agricultural building to a dwelling house was received in respect of Cambourne Farm, Rattlesden Road, Drinkstone. The matter was considered by the Parish Council at an extraordinary meeting on 5th August (Minute **19.08.E05** refers). The Parish Council resolved to object to the application. One of the reasons for reaching this decision was that the applicant would be unable to comply with proposed conditions by SCC Highways with respect to surfacing of the track and visibility splays at the access/egress point onto Rattlesden Road because the land is owned by Drinkstone Parish Council (Parish Lands held in Trust), and the applicant has only a right of access over the land for agricultural purposes (see plans attached:

A Babergh Mid Suffolk Decision Notice was issued on 22nd August granting prior approval to the applicant. The conditions recommended by Suffolk County Council in respect of visibility access and re-surfacing works to the track were attached. The Clerk was advised by BMSDC that if the applicant were to be unable to comply with the conditions attached to the approval, this would be a civil matter, and was not a relevant consideration in granting the approval for conversion.

The Clerk proceeded with work on revising the plans to meet the requirements of HM Land Registry using Parish On-line (revised plans for Gedding Road allotment gardens and the icket have been submitted).



In preparing the plan for Rattlesden Road, the Clerk noticed on the HM Land Registry layer that a title had been registered for land behind the Rattlesden Road Allotment Gardens, which included the track that runs through them (see below).



On the basis of this information the Clerk, with the agreement of the Chair of the Council, applied for copies of the Title Deeds and any conveyance documentation, both on-line and with the assistance of Greene and Greene Solicitors who are handling the Parish Land Registration.

Hilary Workman
Clerk & RFO
September 2019

The advice received from Greene and Greene has been as follows:

"As we discussed on the phone, the class of title which Ms Blake has is title absolute. This is the best class of title available. Therefore, on registration of the land in 2017 Ms Blake would have had to show HM Land Registry she had a good marketable title to the land.

There are two conveyances of note which I will deal with which show that Ms Blake has title to the land the first is a conveyance dated 27 October 1936¹ ("the 1936 Conveyance"). The 1936 Conveyance refers to the transfer of part of title SK378807 from the Trustees of the Charity of Thomas Camborne to Charles Gore Young. I have attached a copy of the 1936 Conveyance to this email. You will see on page 3 of this document that there is reference to the enclosures of land numbered 417 and 419 being sold. This is the land which is shaded blue and now is part of Ms Blake's title.¹

I have found on a more recent Conveyance from 23rd May 1972 ("the 1972 Conveyance") which contains a large plan showing the field boundaries in the area. You will see the location of enclosures 417 and 419 along with the track. The enclosures 420 and 418 which form the Parish Council's land. You will see on this plan some funny hook or "S" shapes over some of the boundaries. These show that the two parcels of land which they cross are meant to be treated as one. You can see that attached to the enclosure 419 are two small circles, which I am assuming are ponds, and also the track. This suggests that the track forms part of the land which is now owned by Ms Blake, and was transferred from the Charity of Thomas Camborne under the 1936 Conveyance.² In our telephone conversation you were concerned about the planning permission requiring a visibility splay for the track. Your primary concern was the visibility splay would require some of the Parish Council's land being used to accommodate this. I thought that the Parish Council would appreciate a short summary of their legal position regarding the disposal of land. The legal position is that the Parish Council cannot dispose of its land for a price which is less than the best that can reasonably be obtained in the market, without the express consent of the Secretary of State (section 127(1) of the Local Government Act 1972). This effectively means that the Parish Council would not be able to gift any of their land or sell it for a nominal sum for any visibility splay. If the land was sold for less than best market price and without the Secretary of State's permission, it is possible that this sale could be voided. Therefore, if the Parish Council is approached and asked if they will transfer some of their land to Ms Blake for this visibility splay, I would advise that they refer to the above legal position in any response. They should also ensure that any legal or professional costs which they incur in relation to selling the land is met by Ms Blake.

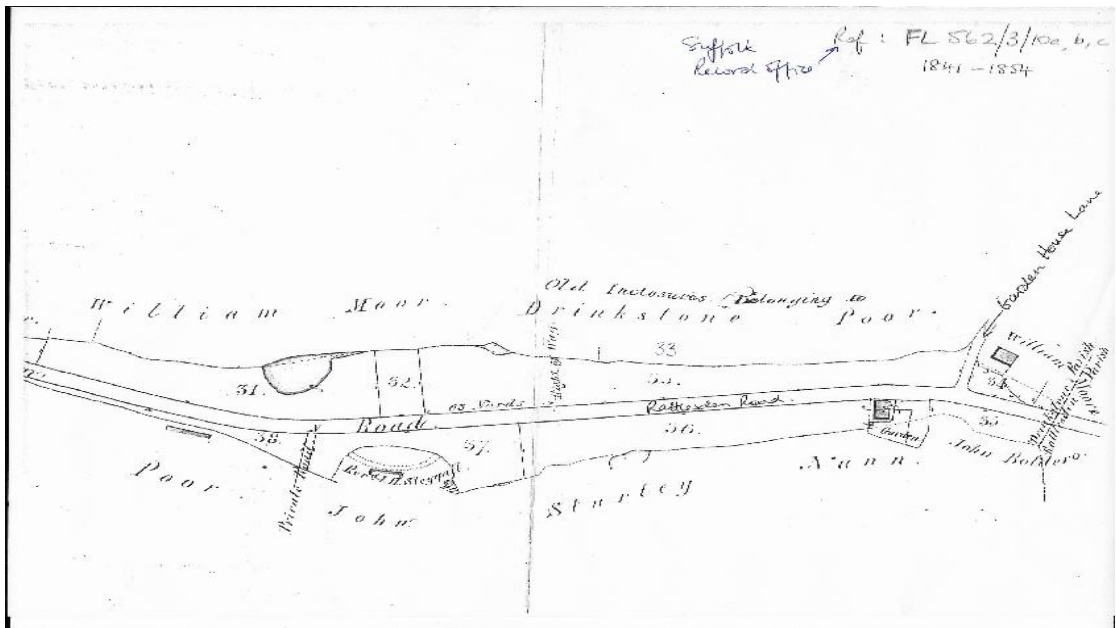
Establishing title to the right of way across Parish land

The documentary evidence the Parish Council currently has, (to establish its title and challenge the Title Absolute held by Mrs Blake) is as follows:

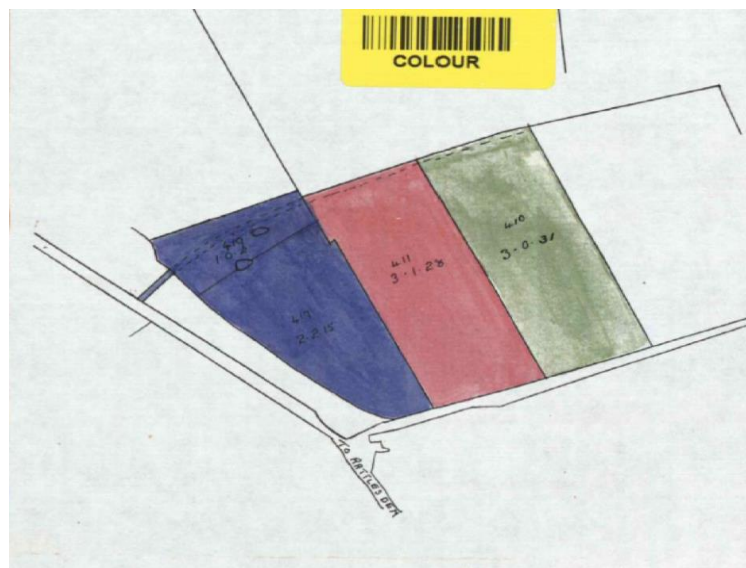
1. 1849-51 Inclosure Award of lands to Parish Council which shows our land as a single plot allotment 33, with the right of way marked across it "of the width of 8 feet commencing at the Rattlesden Road at a [distance of] about 63 yards south of the allotment marked 32 on the said map through and over the allotment to the Labouring Poor numbered 33 on the said map" (our land).

¹ See the sale documents for 1936, which seem to indicate that the 1936 conveyance is incorrect.

² If this is based on the 1936 conveyance, we have evidence to show that this too is incorrect, since the 1936 conveyance is incorrect



2. The land is administered as part of the Green Allotment Charity (Charity number 295860) whose governing instrument is the inclosure award 3 December 1851.
3. Parish Council Minutes from the period 1920-1936. These have been checked to ensure that there is no record of any agreement, formal or informal, to transfer title to the right of way across the parish land. The only mention is a Minute of 19 April 1932 "Cambourne Charity: The derelict condition of the land connected with the Charity was discussed, it was suggested that the property should be sold and the money invested would be more remunerative. [sic] Eventually Cllr Fowler proposed that the matter be deferred and could be brought up at the next meeting. In the meantime the trustees would consider the suggestion. Proposed and carried"
4. Original plan prepared for HM Land Registry based on 1 above).



5. Details of the 1936 sale of the land adjoining the parish lands. The salient lot in the auction is Lot 5 (419 and 417 on the OS map of the period). The sale details specify that lot 5 contains rights of way for the adjoining lots 6 and 7. Critically it does not include the section of the right of way which crosses our land.



It would therefore appear that the land registry entry is incorrect in stating that the track across our land was sold in 1936 as part of the sale of Lot 5. This would appear to render any subsequent conveyances based on this sale incorrect in this respect. Dave Woodward holds the original documents referring to this 1936 sale. They are very fragile.

The Clerk has also asked of Greene and Greene the following questions;

- 1 *Would it be possible to challenge the conveyance and therefore the boundary on Lucy Blake's Title Absolute in respect of the Track? What would be the procedure if it is possible and how much would this be likely to cost?*
- 2 *It appears that the track shown on the Title is already wider than the 8' established under the original inclosure award. If the 1936 conveyance stands, and the Parish Council able to establish that the track as it stands is wider than the 8' established in the inclosure award, would it be possible to either:*
 1. *insist that the track is re-established at the 8' width*
 2. *sell parish land to Lucy Blake to enable the title to correctly reflect the existing width of the track (e.g., if the track has been widened to 12', but the established track width (and therefore only that which could have been sold was 8'), can the Parish Council sell a strip 4' wide to correct the matter?*
 3. *If any land is sold to Lucy Blake to enable the track to be either established at its current width or made wider, would a residential development value attach, given that the track would be likely to be used for access to residential development?*

Councillors are asked to consider each of the questions below and reach a consensus if possible on preferred options.

- 1) If it is established that:
 - a. the Parish Council our evidence is sufficiently robust in law to establish its title to the section of track that runs across our land? and
 - b. it is possible to challenge the conveyance and therefore the boundary on Lucy Blake's Title Absolute in respect of the Track?Does the Parish Council wish to proceed with that course of action?
- 2) It appears that the track is already wider than the 8' established under the original inclosure award. Does the Council wish to
- 3) insist that the track is re-established at the 8' width (whether or not the Parish Council is able to established title over the track); or
 - a) If it not possible to challenge the Title Absolute held by Lucy Blake, sell parish land to Lucy Blake to enable the title to correctly reflect the existing width of the track; and/or
 - b) (at some point in the future) sell a further strip of land to Lucy Blake to enable her to meet the conditions imposed under the prior approval, in order to further widen the track and create splays

Recommendation:

To instruct the existing appointed solicitors (Greene & Greene) to investigate an apparent error on an existing HM Land Registry Title Deed which impacts on Parish Lands and authorise the cost of this work up to £500 plus VAT.

Relevant Minutes:

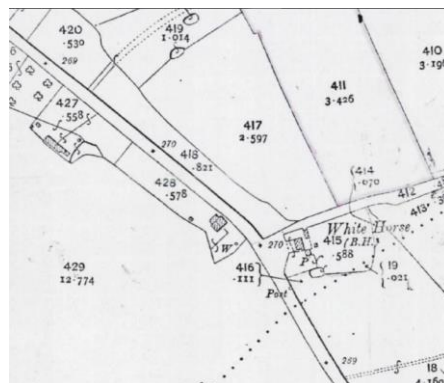
19.08.E05

19.04.17

19.02.17.2 & 17.3

18.11.15 Original Plan prepared based on 1848 Inclosure award

1972 Conveyance



Hilary Workman
Clerk & RFO
September 2019