

## Registration of Drinkstone Parish Lands

At its September meeting, Councillors considered progress on registration of Parish Lands, with particular reference to the issue of the track across Parish Lands at Rattlesden Road. A summary of the position to Sep'2019, report DPC19.09.05, is attached as Appendix 1.

Following the September meeting the Clerk instructed Greene & Greene to investigate an apparent error on an existing HM Land Registry Title Deed which impacted on Parish Lands (**Min. 19.09.15.2** refers)

Cllrs had also agreed at this meeting that the right of access track leading across Parish Lands at Rattlesden Road should be re-established at the 8' width (whether or not the Parish Council was able to establish its Title over the track) (Min. 19.09.15.3 refers).

The Clerk had asked the following questions of Greene & Greene, and responses are summarized below:

- 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?  
*"It would be incredibly difficult to establish that the parish council has a claim to the track, as it is registered with other property and there is evidence from the 1970's that it was in the same enclosure, and as Lucy Blake has absolute title. I think this would likely be an expensive and time consuming exercise."*

The Clerk asked Greene and Greene to clarify this in the light of the plan which was attached to the sale of Land by the Education Charity, and the Solicitor's view was that the Parish Council would be unlikely to succeed in the claim, and the cost of such work would be high.

- 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?  
*"If you are worried about the width of the track then the first point of call would be to ask Lucy Blake to ensure the width of the track is 8 foot, as the track would then be on the Parish Council's land. I would recommend this came from the Parish Council first as escalating to letters from a solicitor too early may seem like a litigious move from the Parish Council when something could be resolved amicably."*

*It would be possible for the Parish Council to sell additional land for the track, however the comments on my email dated 30 August regarding following the Local Government Act Procedures would apply.*

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?

*"I am unable to comment on what the value of the land would be as I am not a professional land valuer. However, if the Parish Council was minded to sell then as part of the procedure the land would need to have the land valued (arguably at Lucy Blake's cost) in order to ensure that they are not selling at below value, and the valuer undertaking that would be able to advise."*

The Clerk contacted John Casson, who had previously valued the land, and asked on what basis the land would be valued given that prior approval for (at present) limited development on the land behind the garden allotment land, his response below:

*"There are many precedents for this kind of situation where a party provides access for another party on land which otherwise cannot be developed. The most important Lands Tribunal case in 1962 Stokes v Cambridge was determined on the basis that the provider of the access in this case Cambridge City Council were entitled to a third of the development value thereby created.*

*From what you are saying your situation would seem to be similar" ....*

*"At this stage it is almost impossible to value them. With no development value their present value is nominal. You might want to include an overage agreement in any sale which would entitle you to a share of the development value behind. If you wanted me to produce a report for the charity commission I would be happy to do so for £400 + Vat."*

The Clerk sought to clarify this in her conversation with Greene and Greene on 30<sup>th</sup> September, and specifically asked whether, if a surveyor was unable to value the land at anything other than amenity value due to there not being any evidence of established development behind the Parish Lands, would this be sufficient to establish that the Parish was not seeking to sell the land at below value.

**Recommendation:**

**To instruct the John Casson Chartered Surveyor undertake a valuation of land at Rattlesden Road and authorise the cost of this work up to £400 plus VAT**

**Relevant Minutes:**

**19.09.15**

**19.08.E05**

**19.04.17**

**19.02.17.2 & 17.3**

**18.11.15 Original Plan prepared based on 1848 Inclosure award**

**Hilary Workman**

**Clerk & RFO**

**September 2019**