

COMMONS ACT 2006 section 19

The Commons Registration (England) Regulations 2014 No.3038

Application to correct the register on the basis of a mistake by the Commons Registration Authority in registering land and buildings at Goose Lane, Alby-with-Thwaite as common land – Thwaite Common, CL 50

NOTICE of DECISION

The application, dated 16 July 2015 was made to Norfolk County Council as the relevant Commons Registration Authority (CRA), on the prescribed form CA 10 under the Commons Act 2006, section 19, by Mr Steven Wade of Goose Lane Farmhouse, Thwaite Common, Erpingham, Norwich, NR11 7QG. The application was for the correction of the mistake made by the CRA when it registered land and buildings referred to in the application as 'Area A' as Common Land at Thwaite Common under Unit CL 50.

Section 19 of the Commons Act 2006 allows applications to correct certain errors in the registers. Section 19(2) sets out the purposes for which a correction can be made. Section 19 reads as follows:-

19. Correction

(1) A commons registration authority may amend its register of common land or town or village greens for any purpose referred to in subsection (2)

(2) Those purposes are -

(a) correcting a mistake made by the commons registration authority in making or amending an entry in the register;

(b) correcting any other mistake, where the amendment would not affect -

(i) the extent of any land registered as common land or as a town or village green: or

(ii) what can be done by virtue of a right of common

(c) removing a duplicate entry from the register;

(d) updating the details of any name or address referred to in an entry

(e) updating any entry in the register relating to land registered as common land or as a town or village green to take account of accretion or diluvion

(3) References in this section to a mistake include -

(a) a mistaken omission, and

(b) an unclear or ambiguous description

and it is immaterial for the purposes of this section whether a mistake was made before or after the commencement of this section.

(4) An amendment may be made by a commons registration authority

(a) on its own initiative (NB this power is not yet in force in Norfolk)

(b) on the application of any person.

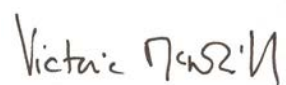
(5) A mistake in a register may not be corrected under this section if the authority considers that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so

Taking this test into account, was a mistake made by the Commons Registration Authority (CRA), as stated by Mr Wade in the application for the correction of the register under section 19?

The answer to that question is that such a mistake was made. The original plan which accompanied application numbered 133 received by the CRA on 30 August 1967 submitted by Mr Frank Rivett for the registration of common rights, showed the land over which the rights were to be registered by a red/pink wash. It can be seen from that plan that the land referred to as Area A in this application was specifically excluded from that colour wash. In addition, a comparison of the application plan, the 1928 Ordnance Survey Map, the Commons Commissioners opinion of 12 December 1989 (reference 225/U/254) and the 1946 Royal Air Force aerial photograph all show the subject land as having well defined and distinct boundaries from Thwaite Common. It is clear that the land known as Area A should never have been included in the registration as common land. There is no evidence that section 19(5) applies to this case.

In view of the evidence detailed above and the fact that section 19(5) has not been shown to apply, the application is granted for the correction of the Common Land Registers for Thwaite Common, Alby-with-Thwaite, Unit CL50 by the removal of land referred to as Area A in the application of Mr Steven Wade of Goose Lane Farmhouse, Thwaite Common, dated 16 July 2015.

A copy of the applicant's plan showing 'Area A' edged and coloured in red is attached.

A handwritten signature in black ink that reads "Victoria McNeill". The signature is written in a cursive style.

Victoria McNeill,
Head of Law
Norfolk County Council

Date 26 February 2016