

NORTH YORKSHIRE COUNTY COUNCIL
NORTH YORKSHIRE LOCAL ACCESS FORUM

17th February 2005

1.0 Purpose of Report

- 0.1 To advise Members of the latest information regarding Urban Commons in North Yorkshire.

2.0 Background

2.1 At the last meeting of the Local Access Forum in November 2004, the question of the existence of "Urban Commons" within the County was discussed.

2.2 Officers have attempted to discover information relating to the existence of such commons in North Yorkshire but so far have been unable to make any firm progress

2.3 The only area of 'urban common' known to staff to exist in North Yorkshire is in the parish of Cowling on the borders with Bradford Metropolitan Borough in what was the former West Riding Administrative Area.

3.0 Current Position

3.1 The Countryside Agency has been contacted and they have agreed to forward a booklet giving further information relating to urban commons which when received will be circulated to Members who have a particular interest in this matter.

3.2 However, it may be that the original statement related not to the fact that an area of land had been wrongly mapped under the provisions of the CROW Act, but that the land was actually wrongly registered under the Law of Property Act, 1925. If this is the case, then there can be no challenge, as the showing of registered common land as Access Land is based upon the existing register of common land, and does not include 'new' common land.

3.3 For information I have include as Appendix 1 an extract from the Moorland Association that provides a brief summary of commons and urban commons which may be of interest to Members.

4.0 Recommendation

- 4.1 It is recommended that this report be received for information and, subject to the wishes of this Forum, a future report will be prepared if further clarification is required.

Commons

Of the heather moorland in England and Wales, about 30 percent (125,000 hectares) is 'common land'. Most of this lies in Cumbria, North Yorkshire, Wales and Dartmoor. The term 'common' is often misunderstood and wrongly thought to mean that the land belongs to everyone or that everyone has access to it. This is not the case at present, although the Countryside and Rights Of Way Act 2000 (CROW Act) will entitle people to have access to common land. The rights to use a common at present are very specific and normally go with nearby farm holdings, or perhaps a household. They are not rights for the public in general. Examples of common rights are grazing of animals known as 'rights of herbage' and the digging of peat as a fuel for domestic use known as 'rights of turbary'.

Common rights usually go back hundreds of years and stem from a time before land was enclosed. Then, any land which was not worked or was used collectively by people in the locality was known as common land, although it still had an owner.

In the 18th and 19th centuries most of the common land which provided good grazing was enclosed (marked out, awarded to an individual and fenced). This was done using Acts of Parliament called Inclosure Acts.

In the uplands, many areas were never enclosed and continued in the ownership of the Lord of the Manor who developed them partly as grouse moors and partly as controlled cattle and sheep grazing areas. Here, the ancient rights and traditions have remained. Nowadays, registered rights are not always exercised, but they nevertheless exist.

On commons, special rules apply to the way in which the land can be used. For example, the owner cannot build or erect fences on it, except by special permission of the Secretary of State for the Environment. However, the owner is allowed to fence on the edge of the common or between commons.

A moorland owner cannot change the use or management of a common if it prevents other rights holders from exercising their particular rights, unless they give their agreement. This stops anything happening which would be a disadvantage to other rights holders. But it can also cause problems especially where special management is needed to maintain the moorland habitat.

Metropolitan or Urban Commons

In 1925, the Law of Property Act provided a general right of public access to metropolitan and urban commons. This has led to considerable confusion. To find out whether an area is affected, you firstly have to know whether the land in question was part of a Metropolitan Police District or lay within a Borough or Urban District in 1925. This can produce surprising results. For example, a large part of the Lake District, though it is clearly not an urban area, fell within the terms of the Act. This is because the Lake District commons concerned lay within a relevant administrative area in 1925. However, most moorlands where agriculture is the established use, are not affected.