



Northumberland County Council

TYNEDALE LOCAL AREA COUNCIL

12th November 2019

CORBRIDGE MARKET PLACE SECOND REPORT

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A. Report



Northumberland County Council

TYNEDALE LOCAL AREA COUNCIL
12th November 2019

Corbridge Market Place – Proposed Scheme of Management

Report of the Deputy Chief Executive

Executive Member: Councillor Nick Oliver

Purpose of Report

The purpose of this report is to update the Local Area Council ('LAC') in relation to the proposed Commons Act Scheme in relation to Market Street ('the Market Square/Place') and for Members to make a decision as to whether to approve the proposed Scheme. If so approved, Members must then resolve whether to enter into an agreement for its management with Corbridge Parish Council.

Recommendations

It is recommended that the Local Area Council ('LAC'):

- 1. Consider whether to approve the proposed Commons Scheme at Market Street ('the Market Square/Place'), Corbridge (VG35).**
- 2. If it is agreed that a scheme of management should be made it is recommended that the LAC consider whether to enter into an agreement for its management with Corbridge Parish Council.**

Key Issues

- 1. The LAC is referred to the previous report with regard to this matter enclosed as Appendix A which sets out the background to this matter.**
- 2. Members may recall that the Council in its capacity of Commons Registration Authority originally received from Corbridge Parish Council an application to deregister the Market Place.**

3. After representations were received Corbridge Parish Council then requested that their application be withdrawn and that the County Council consider a request from them for the County Council to make a Commons Scheme under the Commons Act 1899. The Parish Council has indicated that it would enter into an agency agreement under s101 Local Government Act 1972 to then effectively take on any powers and duties of the County Council under the Scheme. Copies of the proposed Scheme and Management Agreement are attached as Appendices B and C.

Background

History

1. Market Street, Corbridge acquired village green status on 10th June 1971 pursuant to an application dated 28th June 1968 by the then Clerk of Corbridge Parish Council. It was given the village green number of VG35.
2. Corbridge Parish Council have outlined that there are ongoing and historic issues with parking and management of the Market Place which they say is unsightly with parking being uncontrolled and that this does no justice to Corbridge as a historic village. They originally believed that an application to deregister the Market Place would offer a solution, which resulted in an application being made but they then asked that the application be withdrawn and that a proposed Scheme of Management under the Commons Act 1899 be agreed by the County Council in its capacity as a District Council. They believed that a Scheme would provide clearer powers for works to be carried out which would reduce the amount of car parking and free up more space for recreational use. Should a Commons Scheme be made by the County Council the Parish Council would then enter into an agreement under s101 of the Local Government Act 1972 to manage the scheme on the Council's behalf. This has happened with regard to other village greens within the County.

Statutory process

3. Authority was given for the statutory process to commence by the Rights of Way Committee of 14th November 2017.
4. The statutory process was then undertaken, with statutory notices being placed on site, copies of the notices being forwarded to relevant landowners, copies being placed on deposit at County Hall and Corbridge Library, and copies being published on two separate occasions within the Hexham Courant as per the requirements of the relevant Regulations. A copy of the statutory notice is attached at Appendix D; Members will see that responses were requested to be provided by 20th March 2019.

Representations

5. Two responses were received:

- The first was from the Open Spaces Society. An initial response was received on 2nd January 2019 and then a further response on 20th February 2019 (Appendix E). In summary, the OSS queried what improvements were planned under the terms of the scheme. They also queried the plan and whether the Scheme departed in any way from the standard terms prescribed in the 1982 Regulations (apart from the omission of paragraph 5). A response was provided to both questions, namely that the Council had been requested to make a Commons Act Scheme at the same time as entering into an agency agreement under s101 of the Local Government Act which would then enable the Parish Council to utilise the provisions of the Scheme, and that the terms of the Scheme were the same as the standard terms in the 1982 Regulations (excluding paragraph 5). In response the OSS confirmed that they were glad that the Council intended to enter into an agency agreement with the Parish Council as regards the discharge of functions under the scheme and that this is what s.4 of the Commons Act 1899 did before its repeal, so an agency arrangement is entirely consistent with the intention of the Act.
- The second response was from Mr A M Lake (Appendix F). The response was brief, stating that as the freeholder of the above property he objected to the proposed scheme. A letter was then sent to Mr Lake asking him to confirm his interests in the Green to which he confirmed by way of e-mail that his problem with the proposal was that 'My tenants, like many others suffer badly from the terrible parking in the Market Place, cars and vans parked across shop frontages etc. I don't know if this is one of your priorities? As I've seen no plan or outline...'. Mr Lake explained that he was currently difficult to contact and no further contact was able to be made with him.

The Legislation

6. The governing legislation, the Commons Act 1899, provides that a Scheme may be made for the regulation and management of any common with a view to the expenditure of money on the draining, levelling and improvement of the common, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order on the common. If 'notice of dissent' is received from persons representing at least one third in value of such interests in the common as are affected by the scheme the Council cannot proceed further. Since only two representations have been received and neither makes reference to any interests in the common (the second representor, Mr Lake, having been asked this question but no response having been given dealing with this specific point), Members can only at this stage proceed upon the basis that no such notice of dissent has been received.

7. The legislation provides however that that the Council 'must take into consideration any objections or suggestions so made, and for that purpose may, if they think fit, direct that an Inquiry be held by an officer of the Council'. The representations are at Appendices E and F and neither objects to the proposed Scheme per se, one pointing to problems with parking and the other indicating that the OSS are glad that agency arrangements are proposed, these being entirely consistent with the intention of the Act. Since the representations received focus on improving the Green rather than objecting to the Scheme, as such and since no request for an Inquiry has been made Members may not view an Inquiry to be necessary.
8. When considering whether to make the proposed Scheme the decision must be based on the intrinsic merits of the proposed scheme; the committee must be satisfied that the scheme is necessary or desirable for the proper management of the Green.
9. In that regard a Scheme, once made, enables more to be done with a registered green than would otherwise be the case had there not been a Scheme in place. It also enables certain works to be undertaken which would otherwise be restricted; generally, greens are offered protection via the Inclosure Act 1857 and the Commons Act 1876. Section 38 of the Commons Act 2006 contains a general prohibition on carrying out 'restricted works' on land to which the section applies and such works may only be carried out with the consent of the Secretary of State. Land which is subject to a Scheme falls within s38. The general prohibition does not apply to works authorised under a Scheme which do not require consent but allows for other proposed works which may require consent from the Secretary of State (in this case the Planning Inspectorate). Detailed guidance as to what are restricted works is available on the website of the Planning Inspectorate but certain works, for example the installation of playground equipment, would be classed as restricted works which would require consent from the Planning Inspectorate. The criteria to which the Secretary of State must have regard when deciding whether to grant consent to restricted works are:
 - the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
 - the interests of the neighbourhood;
 - the public interest, which includes the public interest in:
 - nature conservation;
 - the conservation of the landscape;
 - the protection of public rights of access to any area of land; and
 - the protection of archaeological remains and features of historic interest;
 - any other matter considered relevant.

10. With regard to the proposed agreement with Corbridge Parish Council for the management of the scheme, similarly Members must be satisfied that it is necessary or desirable in the interests of the proper management of the Green to delegate the management of the Scheme to the Parish Council. A copy of the proposed management agreement is attached.
11. Members are therefore requested to consider and resolve upon the recommendations above.

Background papers:

Appendix 1 – Report to Rights of Way Committee 14th November 2017

Appendix 2 – Proposed Commons Act Scheme

Appendix 3 – Proposed Management Agreement with Corbridge Parish Council

Appendix 4 – Statutory Notice

Appendix 5 – E-mail correspondence with Open Spaces Society

Appendix 6 – Letter from Mr Lake

Author and Contact Details

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B. Appendix 1



Northumberland County Council

RIGHTS OF WAY COMMITTEE
14th NOVEMBER 2017

Request for withdrawal of Corrective Application and for the County Council to commence the consultation with regard to the making of a Scheme of Management under the Commons Act - Corbridge Market Place

Cabinet Member: Glen Sanderson, Cabinet Member for Environment and Local Services

Purpose of Report

The purpose of this report is for the Rights of Way Committee to consider:

1. a request by Corbridge Parish Council to withdraw their application to the Council (in its capacity as Commons Registration Authority) for deregistration from the register of Village Greens of The Market Place, Corbridge.
2. should agreement to withdraw the application be received, to then consider a request to commence the statutory consultation process with regard to the County Council making a Scheme of Management under the Commons Act 1899 with regard to the Market Place.

Recommendations

It is recommended that:

1. The request from Corbridge Parish Council to withdraw their application made under Schedule 2 paragraph 9 of the Commons Act 2006 for deregistration of The Market Place, Corbridge be approved.
2. If the application to withdraw is approved that authority be given to commence the statutory consultation process with regard to the County Council making a Scheme of Management with regard to the Market Place under the Commons Act 1899.

Key Issues

1. On 29th September 2016 the County Council, in its capacity of Commons Registration Authority (CRA) formally accepted an application from Corbridge Parish Council to deregister land which they state was wrongly registered as town or village green.
2. The application was advertised in accordance with the relevant Regulations and representations were received by the CRA, copies of which were forwarded to the Parish Council.
3. As a result of the representations received, the Parish Council now wishes to withdraw their application and progress what they believe to be an alternative method to better manage the Market Place and its associated traffic problems, namely by way of the County Council making a Scheme under the Commons Act 1899. Should the County Council agree to make a Scheme under the Commons Act 1899 the Parish Council has resolved that it would enter into an agency agreement under s101 Local Government Act 1972 to then effectively take on any powers and duties of the County Council under the Scheme.

Background

1. Corbridge Market Place acquired village green status on 10th June 1971 pursuant to an application dated 28th June 1968 by the then Clerk of Corbridge Parish Council.
2. The CRA under Schedule 2, paragraph 9 of the Commons Act 2006 now has the power to deregister land which was wrongly registered as town or village green. Paragraph 9 provides:

“9 (1) If a commons registration authority is satisfied that any land registered as a town or village green is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of town or village greens.

(2) This paragraph applies to land where—

(a) the land was provisionally registered as a town or village green under section 4 of the 1965 Act;

(b) the provisional registration of the land as a town or village green was not referred to a Commons Commissioner under section 5 of the 1965 Act;

(c) the provisional registration became final; and

(d) immediately before its provisional registration the land was not — (i) common land within the meaning of that Act; or (ii) a town or village green.

(3) For the purposes of sub-paragraph (2)(d)(ii), land is to be taken not to have been a town or village green immediately before its provisional registration if (and only if)—

(a) throughout the period of 20 years preceding the date of its provisional registration the land was, by reason of its physical nature, unusable by

*members of the public for the purposes of lawful sports and pastimes;
and*

(b) immediately before its provisional registration the land was not, and at the time of the application under this paragraph still is not, allotted by or under any Act for the exercise or recreation of the inhabitants of any locality. "

3. Corbridge Parish Council have outlined that they do not know the reasons why the application for Village Green status was ever submitted. They state that there are ongoing and historic issues with parking and management of Corbridge Market Place which they say is unsightly and uncontrolled and does no justice to Corbridge as a historic village. They indicated during the application process that they believe the problems had been contributed to by the Market Square's village green status.
4. DEFRA's 2010 Guidance entitled 'The Commons Registration Act 1965 – How the commons registers were prepared' states that '*On receipt of a duly made application, CRAs were required to provisionally register the land, right or claimed ownership that was the subject of that application in the relevant section of the register, irrespective of existence of any supporting evidence*'. It was not the function of the authority at that time to question what was sought to be registered, but only to give effect to the application, and to give notice of the provisional registration, so that other parties could lodge an objection. While from the Register it appears that the County Surveyor objected at the time to the application for registration it appears that that objection was withdrawn and the land in question was then registered as Village Green.
5. On 29th September 2016 the CRA formally accepted an application from Corbridge Parish Council to deregister the Market Square which they state was wrongly registered as town or village green. The Parish Council stated within their application that their research has shown no evidence of the market square ever being used as a village green for sports and similar pastimes, that a scholarly work, 'The History of Corbridge' by Robert Foster contains no reference to the Market Square being used as a village green and that in modern times the area has been used as public highway long before the registration and they provided photographs in support. A copy of the application is annexed as Appendix A.
6. The application was advertised in accordance with the Commons Registration (England) Regulations 2014 and two representations were received.
7. The first representation was from Corbridge Village Trust (copy annexed at Appendix B) which supported the application, stating that the removal of the 15 spaces for free public parking on the west side of the square would improve the general ambience of the area in question and that sympathetic landscaping to provide seating and year round planting, and to improve the amenity value of the Market Square would in turn

encourage the use by pedestrians but that consideration would need to be given to resident parking and the needs of traders to load and unload goods and materials. They indicated that with greater control of the designated area they believe that these requirements could be accommodated.

8. The other representation was from the Open Spaces Society (Appendix C). In summary, they have indicated that Paragraph 9 of the Commons Act requires that the application show that "throughout the period of 20 years preceding the date of its provisional registration the land was, by reason of its physical nature, unusable by members of the public for the purposes of lawful sports and pastimes", nor allotted as a green. They state that that is intended to be a demanding test: it is not a matter of whether the land was used as a green, but was there something which physically made the land unusable for sports and pastimes. The explanatory notes to the 2006 Act explain that: "This provision seeks to avoid an application under paragraph 9 seeking to adduce witness testimony as to the actual use made of the green prior to the date of provisional registration, which may be unhelpful so long after the period of use." It therefore provides that a town or village green (or part of it) is to be deregistered only if it was unusable during the 20 year period. They state that it is mistaken, therefore, to revisit the question of whether the land was rightly or wrongly registered under the Commons Registration Act 1965. Instead, one must look for some physical impediment to the use of the land for sports and pastimes. They state that the raised area within the land is dedicated to modest recreational use and it does not satisfy the test for de-registration. They state that while cars have habitually been parked in the remainder of the land, it was perfectly possible for the land to have been used for sports and pastimes, such as kicking a ball around, or taking a sketch of the market square. The Society recognises the desire of Corbridge Parish Council to review the use of the market square in Corbridge, and that it feels constrained in its options by the designation of much of the land as a town or village green. However, they think that this application is mistaken in two respects: firstly, it does not meet the statutory criteria, and is founded in an assumption that, if the land was mistakenly registered, then Schedule 2 to the 2006 Act must provide a remedy — but it does not. And secondly, that the key to any redesign of the market square is deregistration of the green. On the contrary, they believe that the designation gives valuable protection to the square from inappropriate development, and any redesign should respect and build on the designation.
9. In accordance with the Regulations, copies of the representations were sent to the applicant Parish Council on 14th December 2016.
10. On 14th January the Parish Council contacted the CRA to confirm that they had had a meeting with their legal advisors as to how best to respond to the Open Spaces Society letter of objection and as a result of that meeting the advice received was that in the light of the comments

made by the Open Spaces Society it seemed that they may struggle to provide evidence to satisfy the statutory test for deregistration. It had become apparent that removing the statutory designation as a Village Green would raise issues about public rights over those parts of the Market Place which are registered. As it is registered, the effective rights of the landowner are dormant. Once land ceases to be registered, there is a potentially complex interaction of potential public highway rights and/or private rights of access for properties surrounding the Market Place and that in those circumstances, they asked the CRA to take no further action on the deregistration application at the present time but they asked that the Parish Council opens discussions with NCC over the potential for NCC to make a scheme of management under the Commons Act 1899 which they believed would provide clearer powers for works to be carried out which would reduce the amount of car parking and free up more space for recreational use. They asked that the CRA take no further action with this application at the present time and they would like to open up discussions with NCC in order to make a scheme of management under the Commons Act 1899 and at the same time enter into an Agency Agreement under Section 101 Local Government Act 1972 in order to make better use of Corbridge's Historic Market Place. A copy of the correspondence is attached at Appendix C (1)

11. Upon enquiry the Parish Council subsequently confirmed that they did in fact wish to withdraw their application and they forwarded minutes of their Parish meeting of 22nd February which confirmed this.
12. On 9th October 2017 e-mails were sent to the Open Spaces Society and Corbridge Village Trust confirming the request from the Parish Council to withdraw the application and to request the commencement of the statutory process with regard to a Commons Act Scheme and requesting whether each had any further comments.
13. On 16th October a response was received from Corbridge Village Trust confirming that their support for deregistration was withdrawn and that they had concluded that the better course was to maintain the status quo with a view to NCC making a scheme of management under the Commons Act 1899. A copy of that representation is annexed at Appendix D.
14. On 23rd October the OSS confirmed that they had no objection to the withdrawal of the application. A copy of their response is annexed at Appendix E.
15. In terms of withdrawal of applications under the Commons Act DEFRA condensed guidance of 17th November 2015 on this issue states:

“Applicants don’t have an automatic right to withdraw applications. If an applicant asks to do so, you must decide whether or not it’s reasonable. You should usually allow the withdrawal of applications that need to be made by a specific person (eg the landowner) if they don’t want to

proceed with it. But be cautious about allowing an application made in the public interest to be withdrawn. Guidance states no automatic right to withdraw once made, factors to be taken into account, if reps made then re-consult if appropriate”.

More detailed, now superseded Guidance from December 2014 states:

“In the Trap Grounds case the House of Lords concluded that in considering a proposed amendment to an application to register a town green made under Section 13 of the 1965 Act [which similarly made no provision for amendment or withdrawal], the “registration authority should be guided by the general principle of being fair to those whose interests may be affected by its decision”. There is room for some uncertainty about the correct approach, and registration authorities should seek to act reasonably in all the circumstances. Given the absence of provision for withdrawal in the legislation, it may be said that an applicant is required only for the purpose of making an application in the first place. The application, once it is (properly) made, thereafter takes on a life of its own, and is capable of being assessed on its content, irrespective of the interest — or lack of it — that the applicant subsequently takes in it. If the applicant wants to withdraw it, the registration authority can still press ahead and grant or refuse it. In the Court of Appeal judgment on the Trap Grounds case, the court quoted Vivian Chapman’s report on the original registration application: “My view is that an applicant under s13 has no absolute right to amend or withdraw an application. It is not unknown for campaigners to make and then purport to withdraw and resubmit s13 applications as a tactic to inhibit the development of land. I should make it clear that there is no question of such a tactic in this case but I consider that the registration authority must have a power to insist on determining a duly made application so that the status of the land is clarified in the public interest. However I consider that it is, as a matter of common sense, implicit in the 1969 Regulations that a registration authority does not have to proceed with an application that the applicant does not wish to pursue (whether wholly or in part) where it is reasonable that it should not be pursued. It would be a pointless waste of resources for a registration authority fully to process an application that the applicant did not wish to pursue whether wholly or in part unless there was some good reason to do so.” Carnwarth LJ commented: “That approach, with respect, seems to me sensible, and unobjectionable as a matter of law, although the final decision remains a matter for the discretion of the local authority”.....It may be reasonable to permit the withdrawal of applications, where this is considered to be the most reasonable course of action in the particular circumstance. There might be cases where a registration authority’s persisting with an application in which all interest had fallen away, or perhaps been replaced by hostility to it, might be depicted as more reasonable than allowing its withdrawal but the exercise of such reasonableness is a non-statutory concession.” The cases in question related to applications for village green status but the Guidance implies that the commentary could equally apply to other applications under Part 1 of the Commons Act 2006.”

16. On balance, having considered the representation from the Open Spaces Society, paragraph 9 of Schedule 2 of the Act and taking into account account the fact that on re-consultation the OSS and Corbridge Village Trust were supportive of the withdrawal of the application it is recommended that approval be given to the Parish Council's request for withdrawal (although strictly in law this will have no effect).
17. Provided that that approval is given, the Parish Council have then requested that the County Council commence the process of making a Scheme under the Commons Act 1899 with a view to, if a decision is made to make a Scheme under the Act, the Parish Council entering into an agreement under s101 of the Local Government Act to manage the Scheme upon the Council's behalf. This has happened with regard to other Village Greens in the County.
18. Attached at Appendix F is a report to the Rights of Way Committee in 2009 which sets out some background in relation to such schemes together with a draft Scheme as taken from the relevant Regulations. A scheme may be made for the regulation and management of any common within their district with a view to the expenditure of money on the drainage, levelling, and improvement of the common and to the making of byelaws and regulations for the prevention of nuisances on the Green. A scheme, once made, and where accompanied by a management agreement with a Parish Council enables more proactive management of Village Greens than is the case without a Scheme in place. It also enables certain works to be undertaken which would otherwise be restricted such as the erection of fencing and the construction of buildings and other structures to be undertaken to Village Greens with consent of the Secretary of State. A Commons Act Scheme therefore potentially enables more to be undertaken upon and with regard to a Green than would otherwise be the case. Further details of the benefits and any potential risks to the County Council as the authority undertaking the statutory process of making a scheme can be outlined in a further report after the consultation process.
19. If authority is given then the statutory process would commence but the final decision as to whether the County Council should make a Scheme would be made after a subsequent report detailing the results of the consultation process.

Implications Arising out of the Report

Policy	The proposals, if approved, would have implications in relation to the Corporate Priority of Places and Environment
Finance and value for money	The Parish Council have agreed to meet the costs of placing the statutory notice in the press
Legal	As set out within the report
Procurement	N/A
Human Resources	N/A
Property	N/A
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>	
Risk Assessment	N/A
Crime & Disorder	N/A
Customer Consideration	The Parish Council has indicated that the proposals are designed to enhance access to the Green
Carbon reduction	N/A
Wards	Corbridge

Background papers:

Appendix A – Application for deregistration from Corbridge Parish Council accepted 29th September 2016

Appendix B – Representation received from Corbridge Village Trust received 14th November 2016

Appendix C – Representation received from the Open Spaces Society dated 24th November 2017

Appendix D – Response to re-consultation from Corbridge Village Trust dated 13th October 2017

Appendix E – Response from Open Spaces Society dated 23rd October 2017

Appendix F – Copy report to Rights of Way Committee of 15th May 2009 together with draft Scheme of Management

Author and Contact Details

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Commons Act 2006: Schedule 2

Application to correct non-registration or mistaken registration

This section is for office use only

Official stamp

<p>COMMONS REGISTRATION ACT 2006 NORTHUMBERLAND COUNTY COUNCIL</p> <p>29 SEP 2016</p> <p>REGISTRATION AUTHORITY</p>

Application number

CA 02

Register unit number
allocated at registration
(for missed commons
only)

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Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

- Any person can apply under Schedule 2 to the Commons Act 2006.
- All applicants should complete boxes 1-10.
- Applications must be submitted by a prescribed deadline. From that date onwards no further applications can be submitted. Ask the registration authority for details.
- You will be required to pay a fee unless your application is submitted under paragraph 2, 3, 4 or 5 of Schedule 2. Ask the registration authority for details. You would have to pay a separate fee should your application relate to any of paragraphs 6 to 9 of Schedule 2 and be referred to the Planning Inspectorate.

Note 1

*Insert name
of commons
registration
authority.*

1. Commons Registration Authority

To the:

Tick the box to confirm that you have:

enclosed the appropriate fee for this application:

or

have applied under paragraph 2, 3, 4 or 5, so no fee has been
enclosed:



Note 2

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via email. If box 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This box should be completed if a representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

2. Name and address of the applicant

Name:

CORBRIDGE PARISH COUNCIL

Postal address:

The Parish Hall
St Helen's Street
Corbridge

Postcode NE45 5BE

Telephone number:

01661 852277

Fax number:

E-mail address:

corbridge@ukpc.net

3. Name and address of representative, if any

Name:

Firm:

Postal address:

Postcode

Telephone number:

Fax number:

E-mail address:

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 14 to the Commons Registration (England) Regulations 2014.

4. Basis of application for correction and qualifying criteria

Tick one of the following boxes to indicate the purpose for which you are applying under Schedule 2 of the Commons Act 2006.

To register land as common land (paragraph 2):

☐

To register land as a town or village green (paragraph 3):

☐

To register waste land of a manor as common land (paragraph 4):

☐

To deregister common land as a town or village green (paragraph 5):

☐

To deregister a building wrongly registered as common land (paragraph 6):

☐

To deregister any other land wrongly registered as common land (paragraph 7):

☐

To deregister a building wrongly registered as town or village green (paragraph 8):

☐

To deregister any other land wrongly registered as town or village green (paragraph 9):

☒

Please specify the register unit number(s) (if any) to which this application relates:

VG 35

The Village Market Place
Corbridge

Note 5

Explain why the land should be registered or, as the case may be, deregistered.

5. Description of the reason for applying to correct the register:

The land has been the main thoroughfare through Corbridge since at least 1811 continued on Annex 1.

Note 6

You must provide an Ordnance map of the land relevant to your application. The relevant area must be hatched in blue. The map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland. Give a grid reference or other identifying detail.

Note 7

This can include any written declarations sent to the applicant (i.e. a letter), and any such declaration made on the form itself.

If your application is to register common land or a town or village green and part of the land is covered by a building or is within the curtilage of a building, you will need to obtain the consent of the landowner.

6. Description of land

Name by which the land is usually known:

The Market Square

Location:

Corbridge

Tick the box to confirm that you have attached an Ordnance map of the land:

**7. Declarations of consent**

Note 8

List all supporting documents and maps accompanying the application, including if relevant any written consents. This will include a copy of any relevant enactment referred to in paragraphs 2(2)(b) or 3(2)(a) of Schedule 2 to the Commons Act 2006. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

8. Supporting documentation

Listed on Annex 2

Note 9

List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

9. Any other information relating to the application

<p>Note 10 <i>The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.</i></p>	<p>10. Signature</p> <p>Date: October 15 2015</p> <p>Signatures: CHAIRMAN CORBRIDGE PARISH COUNCIL </p>
---	--

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.

Annex 1

Our research has shown no evidence of the market square ever being used as a Village green for sports and similar pastimes although the Well Bank Green clearly was.

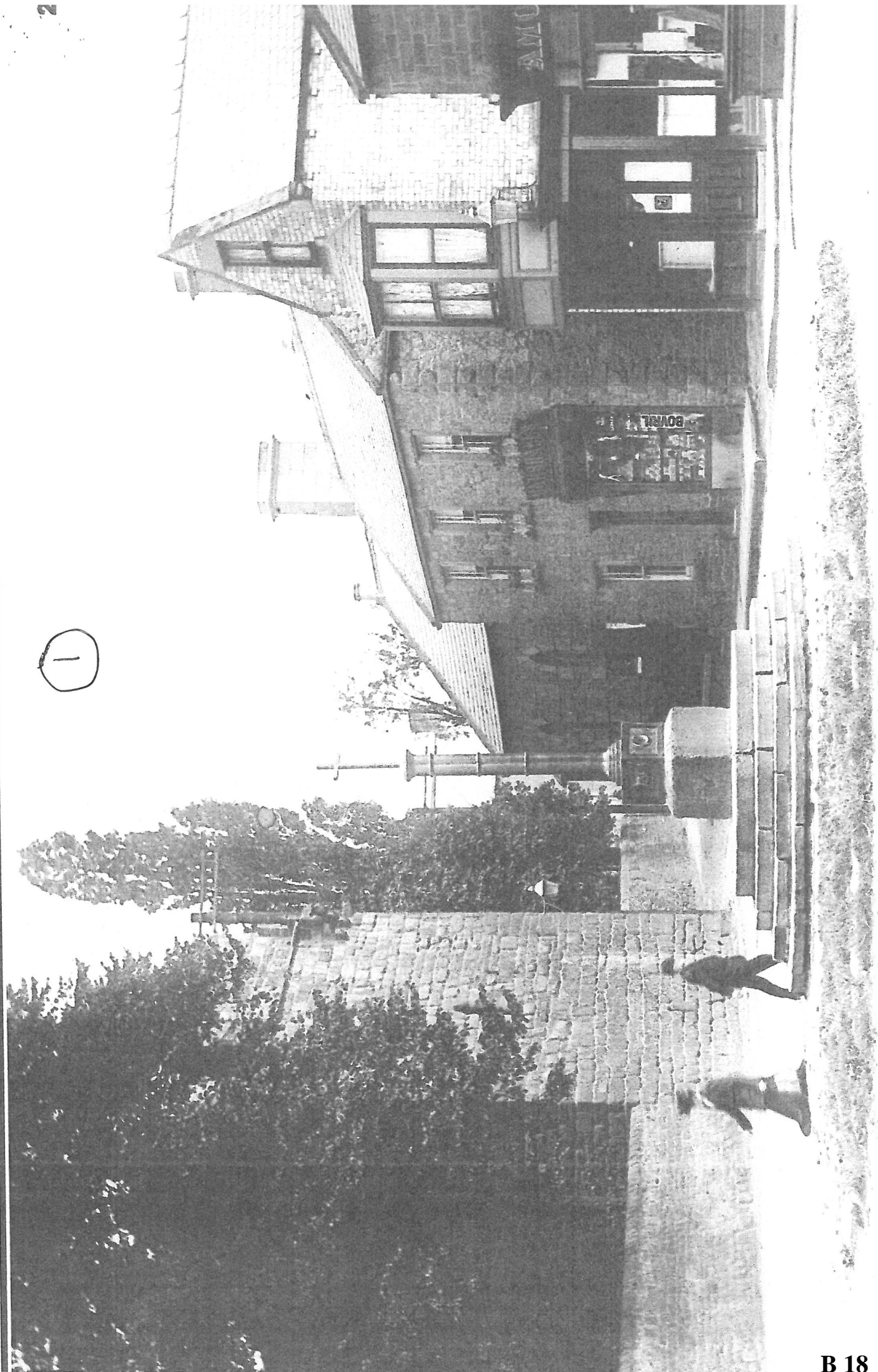
The scholarly work the History of Corbridge by Robert Foster contains no reference to this being a Village Green despite several references to the Market Square and a section on village customs which contains no reference to the Market Square.

In modern times it could not be so used because it has been used as a Public highway since at least the use of the motorcar as the various historic Photographs exhibited to this application show. They show clearly the use of The square as a public highway long before the commons registration and the Surface of the market square clearly tarmacadamised.

A search of its own records carried out by the County Council at our request revealed that in the twenty five years before the commons registration in 1965 no orders were made by the Highways Authority to allow an activity in the Market Square - the traffic continued uninterrupted !

Annex 2

1. Shows the established market square in a very early period
2. Shows the well established road layout clearly well used and again in a very early period
3. A picture of very early motor car use in the 1930s
4. A picture from the 1950s showing well established signs of vehicular use



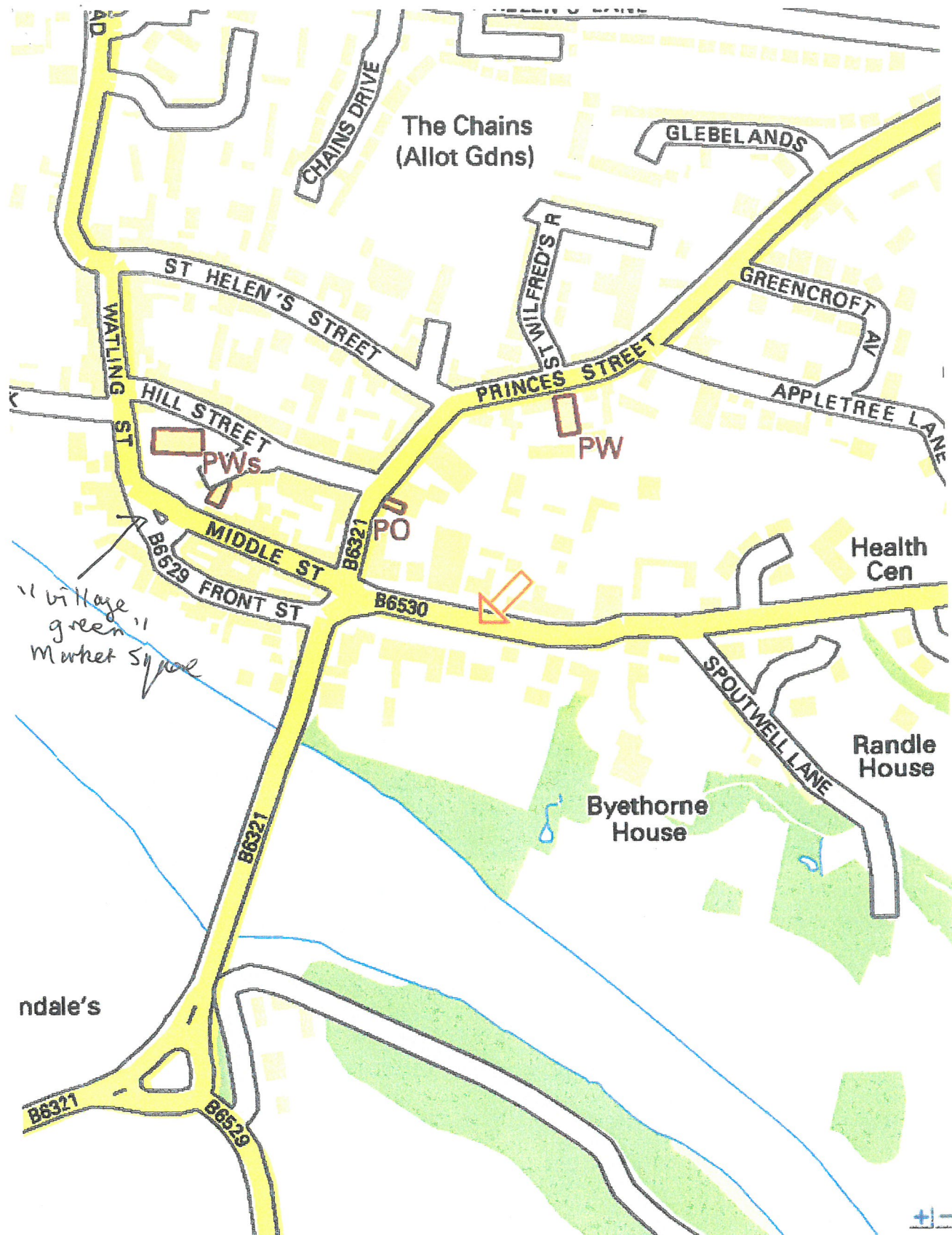
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14 NOV 2016

REC'D

CORBRIDGE VILLAGE TRUST*A Registered Charity No. 517017.***Serving Corbridge for Fifty Years, 1965-2015****Chairman**

Mr. David Waugh
The Byre
Dilston Steading
Corbridge
NE45 5RF

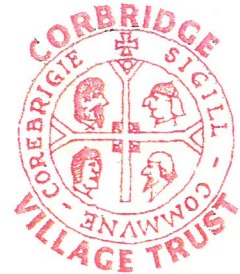
Secretary

Mr. Michael Cunliffe
Westfield
Manor Cottages
Corbridge
NE45 5HJ

Tel: 01434 632274

Email: david.waugh12@btinternet.com

Tel: 01434 632431

Email: mlcunliffe2@gmail.com

Mr. Liam Henry
Legal Services Manager
Northumberland County Council
County Hall
Morpeth
NE61 2EF

11 November 2016

Dear Mr. Henry,

**Village Green 35-Market Street ("The Market Square"), Corbridge,
Northumberland (Application Reference No CA02)**

With reference to the Notice dated 5 October 2016 on Northumberland County Council's website Corbridge Village Trust wishes to support the application by Corbridge Parish Council to deregister the Market Square.

We have considered for many years that the removal of, at the very least, the fifteen spaces for free car parking on the west side of the square would improve the general ambience of the area in the centre of our important historic village.

This area if sympathetically landscaped to provide seating and year round planting, would improve the amenity value of the Market Square.

This in turn would encourage the use by pedestrians and should be encouraged by traders. At present the majority of the fifteen cars are parked all day and some for much longer effectively reducing the footfall in the area throughout the day.

Consideration would need to be given to resident parking and the need of traders to load and unload goods and materials and with greater control of the designated area we are confident that these requirements could be accommodated.

We reiterate that we support the application for the reasons stated above.

Yours sincerely

Michael Cunliffe, Hon.Sec.

I am responding to the notice about the application mentioned below, reference HL/CA02. The notice invites emails to be sent to Liam Henry at legalservices@northumberland.gov.uk, but your council's server does not accept emails to that address (see attached). I am therefore trying again with a slightly different address. Please may I ask you to confirm receipt, and to refer this email to him?

The Society wishes to object to the application from Corbridge parish council in relation to the Market Square, Corbridge, under paragraph 9 of Schedule 2 to the Commons Act 2006.

Paragraph 9 requires that the application show that "throughout the period of 20 years preceding the date of its provisional registration the land was, by reason of its physical nature, unusable by members of the public for the purposes of lawful sports and pastimes", nor allotted as a green. That is intended to be a demanding test: it is not a matter of whether the land was used as a green, but was there something which physically made the land unusable for sports and pastimes. The explanatory notes to the 2006 Act explain that: "This provision seeks to avoid an application under paragraph 9 seeking to adduce witness testimony as to the actual use made of the green prior to the date of provisional registration, which may be unhelpful so long after the period of use." It therefore provides that a town or village green (or part of it) is to be deregistered only if it was unusable during the 20 year period. It is mistaken, therefore, to revisit the question of whether the land was rightly or wrongly registered under the Commons Registration Act 1965. Instead, one must look for some physical impediment to the use of the land for sports and pastimes: the explanatory notes helpfully suggest that, "for example, if buildings on the land precluded such use". Similarly, one might hypothesise about land which was a marsh, or throughout the period covered by discarded materials in a scrap yard, or occupied by a pit containing noxious waste — these would all physically render the land unusable. Arguably, a field which was cultivated annually with a cereal crop might also qualify. But a lawn on which there was a sign 'private: keep off the grass' would not qualify, because the sign would confer no physical impediment, even if one might infer that the lawn was, in social terms, unusable.

So far as the raised area within the application land is concerned, which is set aside with the war memorial, seating *etc.*, the answer must be that this area was, and remains, incapable of satisfying the test — the land is dedicated to modest recreational use, it cannot be said for a moment that it is or was physically unusable for sports and pastimes, and it does not satisfy the test for deregistration.

As regards the remainder of the application land, there is again no physical obstruction to use as a green. While cars have habitually been parked in this area, it was perfectly possible for the land to have been used for sports and pastimes, such as kicking a ball around, or taking a sketch of the market square. We see this area as analogous to the lawn with the 'private: keep off the grass' sign: while cars may from time to time have parked on parts of this area, they did not render the land physically unusable, they merely caused some interference with the potential use of the land. A user would have been able to use that part of the application land which remained unoccupied. The extent of the application land which was unoccupied will have varied from moment to moment, and day to day: at times, the square would have been empty, devoid of traffic, and at others, busy and full with parked vehicles: there was no permanent physical impediment across the whole of this part of the application land. It is not relevant, for example, that a user might have been exposed to some hazard from passing cars — whether or not that is correct (in a market square with low traffic speeds), such hazard does not render the land physically unusable, it only diminishes the attractiveness of the land for sports and pastimes, but that diminution is irrelevant to the statutory test.

The Society recognises the desire of Corbridge parish council to review the use of the market square in Corbridge, and that it feels constrained in its options by the designation of much of the land as a town or village green. However, we think that this application is mistaken in two respects: firstly, it does not meet the statutory criteria, and is founded in an assumption that, if the land was mistakenly registered, then Schedule 2 to the 2006 Act must provide a remedy — but it does not.

And secondly, that the key to any redesign of the market square is deregistration of the green. On the contrary, we believe that the designation gives valuable protection to the square from inappropriate development, and any redesign should respect and build on the designation.

regards

Hugh Craddock

Hugh Craddock

Case Officer

Open Spaces Society

25a Bell Street

Henley-on-Thames

RG9 2BA

Email: hugh@oss.org.uk

www.oss.org.uk

Tel: 01491 573535

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Registered charity number 1144840)

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Consider the environment: do you really need to print this e mail?

Helen Lancaster

From: Maurice Hodgson
Sent: 14 January 2017 11:52
To: Lancaster, Helen
Subject: Corbridge Market Place - Corrective Application.

Hello Helen

Following your correspondence of 14/12/16 Ref.HI/Z199 on the above matter and that you required a response from us by 20th January, I have recently held a meeting with our legal advisors as to how best to respond to the Open Spaces Society letter of objection from Hugh Craddock and as a result of that meeting the advice received was :-

1. In the light of the comments made by Hugh Craddock of the Open Spaces Society to Helen Lancaster on 24 November 2016, it seems that the Parish Council may struggle to provide evidence to satisfy the statutory test for deregistration.
2. On discussion it has become apparent that removing the statutory designation as a village green would raise issues about public rights over those parts of the Market Place which are registered. As it is registered, the effective rights of the landowner are dormant. Once land ceases to be registered, there is a potentially complex interaction of potential public highway rights and/or private rights of access for properties surrounding the Market Place.
3. In those circumstances, it may be sensible for the Parish Council to ask NCC to take no further action on the deregistration application at the present time.
4. I would, however, suggest that the Parish Council opens discussions with NCC over the potential for NCC to make a scheme of management under the Commons Act 1899. I attach the 1982 Regulations which include the model scheme.
5. In the past, NCC have made such schemes at the same time as entering into an agency agreement under section 101 Local Government Act 1972 with the relevant Parish Council. Those agreements in essence enabled the Parish Councils to utilise the provisions of the Management Scheme which technically rest with NCC (as the district council for Northumberland). I know there are a number of Councils with such agreements and I will send you a copy from my home computer. One slight word of

caution is that the wording of such an agreement may have evolved since the version I shall send.

6. My reason for suggesting consideration of a scheme is that it provides clearer powers for works to be carried out which would reduce the amount of car parking and free up more space for recreational use.
7. We did mention researching the reason for the original registration in the 1960s. Whilst it would be fascinating, I don't think it will add anything to how the Parish Council may wish to see the area managed in the future.

As a result of this advice The Parish Council would ask you to take no further action with this application at the present time and we would like to open up discussions with NCC in order to make a scheme of management under the Commons Act 1899 and at the same time enter into an Agency Agreement under Section 101 Local Government Act 1972 in order to make better use of Corbridge's Historic Market Place.

I would appreciate a response from you indicating your willingness to pursue such an arrangement.

Regards

Maurice Hodgson

Chairman Corbridge Parish Council.

REC'D

CORBRIDGE VILLAGE TRUST*A Registered Charity No. 517017.***Serving Corbridge for Fifty Years, 1965-2015****Chairman**

Mr. David Waugh
The Byre
Dilston Steading
Corbridge
NE45 5RF

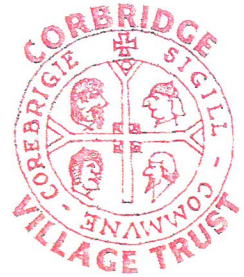
Secretary

Mr. Michael Cunliffe
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Tel: 01434 632274

Email: david.waugh12@btinternet.com

Tel: 01434 632431

Email: mlcunliffe2@gmail.com

Ms. Helen Lancaster
Principal Solicitor (Corporate and Governance)
Northumberland County Council
County Hall
Morpeth
NE61 2EF

13 October 2017

Dear Ms. Lancaster,

Application under Schedule 2, Paragraph 9 of the Commons Act 2006, Market Street, Corbridge, Northumberland-known as the Market Square.

Thank you for your email dated 9 October 2017.

Following the intervention to the Application to De-Register in December 2016 by the Open space Society and considering material supplied by them, the Trust came to the conclusion that the better course was to maintain the status quo with a view to NCC making a scheme of management under the Commons Act 1899.

Our representative attended meetings with Corbridge Parish Council and Stephen Rickitt of NACL early this year and they agreed with us. Please therefore consider our support for the Application to De-Register to be withdrawn and we welcome consultation on the imposition of a Scheme of Management.

The Trust has felt for many years that the village would benefit from wider use by the public of parts of the Market Square as an open space for recreational purposes, carrying out works to reduce car parking to achieve this.

Yours sincerely,

Michael Cunliffe, Hon Sec.

Helen Lancaster

From: Hugh Craddock
Sent: 23 October 2017 09:33
To: Helen Lancaster
Subject: RE: Application under Schedule 2, Paragraph 9 of the Commons Act 2006 - Market Street, Corbridge (known as 'the Market Square')

Hi Helen

Thank you for writing to advise the society of the request by Corbridge Parish Council to withdraw its paragraph 9 application. We have no objection to your authority agreeing to the withdrawal.

We note your authority's consideration of a proposal to make a scheme under Part I of the Commons Act 1899. The society's view on that course of action is dependent on the terms of the draft scheme. We would be very grateful if your authority would notify the society at the same time as notice is given of the authority's intention to make a scheme under r.4 of the Commons (Schemes) Regulations 1982.

We should perhaps point out that, in our view, a scheme may be made (s.1(1) of the 1899 Act) 'for the regulation and management of any common...with a view to the expenditure of money on the drainage, levelling, and improvement of the common, and to the making of bylaws and regulations for the prevention of nuisances and the preservation of order on the common.' I wrote a paper for the *Rights of Way Law Review (Access and Management under the Commons Act 1899, s.15.4, pp.19–28)* in which I commented, 'While an authority is unlikely today to wish to make a scheme for the purposes of drainage or levelling, it seems the authority must contemplate some "improvement" which will incur expenditure.' Unfortunately, amendments to Part I by s.50 of the Commons Act 2006 which would supersede the original purposes of a scheme in s.1(1) have not been brought into force.

regards

Hugh

*Hugh Craddock
 Case Officer
 Open Spaces Society
 25a Bell Street
 Henley-on-Thames
 RG9 2BA*

Email: hugh@oss.org.uk

www.oss.org.uk

Tel: 01491 573535

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Registered charity number 1144840)

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 throughout England & Wales



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

THE RIGHTS OF WAY COMMITTEE

15 May 2009

REPORT OF THE EXECUTIVE DIRECTOR OF PERFORMANCE

The Commons (Schemes) Regulations 1982

1. SYNOPSIS

This report seeks to establish a process for consideration and making schemes under the 1982 Regulations. Such schemes provide a simple and inexpensive way to manage commons and village greens within Northumberland.

2. IMPLICATIONS

Policy	This report is consistent with the County Council's corporate objective of safeguarding and maintaining the environment.
Finance and Value for Money	Funding will be part of the consideration for individual proposals; schemes are recognised as being an inexpensive way of management.
Personnel	There are no significant issues relating to personnel arising from this report.
Property	The Commons or Village Greens concerned are often in unknown ownership under the protection of the local authorities.
Crime and Disorder	This report has considered Section 17 of the Crime and Disorder Act (CDA) and the duty it imposes and there are no major implications arising from it.
Equalities	The use of schemes can enable lawful works to be carried out on Commons & Village Greens to enhance their availability for all sections of society.
Customer Considerations	As for Equalities.

3. RISK ASSESSMENT

It is not considered that a full risk review is necessary.

4. CONSULTATION

The contents of this report have been considered by the Head of Legal Services.

5. RECOMMENDATIONS

The Committee is recommended to

- a.** note the contents of this report;
- b.** Approve the delegation of powers to the Director of Corporate Services (after consultation with the chairman of the Rights of Way Committee) to:
 - i.** agree to consult on proposals for individual schemes;
 - ii.** to make schemes where no substantive objections have been raised during the consultation
 - iii.** to enter into agreements with Parish/Town Councils or appropriate community groups for the management of individual commons or village greens.

6. Background

6.1 The Commons Act 1899 provides an easy process of enabling councils and National Park authorities to manage commons and village greens where their use for exercise and recreation is the prime consideration and where the owner and commoners do not require a direct voice in the management, or where the owner cannot be found.

6.2 The scheme must be in the form prescribed by the Commons (Schemes) Regulations 1982. It includes a power to provide temporary car-parking spaces on common land subject to the consent of the owner of the soil and of the Secretary of State being first obtained. In addition once a village green is subject to a scheme, the provisions of the Commons Act 2006 will apply to works authorisations, rather than having to rely on criminal provisions in Victorian legislation.

6.3 Some schemes were made by some of the Northumberland District Councils in the past, but practice was not consistent. It is envisaged that most schemes would be requested by parish/town councils to enable them to manage common land and greens within their localities. The Regulations require two notices in a local newspaper. It is suggested that cost is borne by the applicants.

6.4 The Regulations provide for access to the common to be granted by a scheme to the 'inhabitants' but the effect of section 15(2) of the Countryside and Rights of Way Act 2000 Act is that the right of access now extends to members of the general public.

6.5 Section 50 of the Commons Act 2006 amends the Commons Act 1899 so as to update the arrangements for making schemes of management. Defra expected to consult on draft new arrangements, and new model schemes, in late 2008 but nothing has yet emerged.

7. CONTACT OFFICERS

This report has been prepared on behalf of the Executive Director of Performance by Stephen Rickitt. For further information please contact Stephen Rickitt on extension 3219.

8. BACKGROUND PAPERS

No unpublished background papers but published information is available on the DEFRA website at

<http://www.defra.gov.uk/wildlife-countryside/protected-areas/common-land/acts.htm>.

Commons Scheme
.....Village Green, Northumberland

1. The piece of land together with ponds, streams, paths and roads thereon (if any), commonly known asVillage Green, situate in the parish ofin the county of Northumberland and hereinafter referred to as "the Common", as shown on a plan sealed by and deposited at the offices of the Northumberland County Council of County Hall, Morpeth, Northumberland NE61 2EF, hereinafter called "the Council" and thereon coloured green, being a common within the meaning of the Commons Act 1899, shall henceforth be regulated by this Scheme, and the management thereof shall be vested in the Council.
2. The Council may execute any necessary works of drainage, raising, levelling or other works for the protection and improvement of the Common, and may, for the prevention of accidents, fence any quarry, pit, pond stream or other like place on the Common, and shall preserve the turf, shrubs, trees, plants and grass thereon, and for this purpose may, for short periods, enclose by fences such portions as may require rest to revive the same, and may plant trees and shrubs for shelter or ornament and may place seats upon and light the Common, and otherwise improve the Common as a place for exercise and recreation. Save as hereinafter provided, the Council shall do nothing that may otherwise vary or alter the natural features or aspects of the Common or interfere with free access to any part thereof, and shall not erect upon the Common any shelter, pavilion, drinking fountain or other building without the consent of the person or persons entitled to use the soil of the Common and of the Secretary of State for the Environment. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876 to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.
3. The Council shall maintain the Common free from all encroachments and shall not permit any trespass on or partial enclosure thereof or of any part thereof.
4. The inhabitants of the neighbourhood shall have a right of free access to every part of the Common, and a privilege of playing games and of enjoying other kinds of recreation thereon, subject to any byelaws made by the Council under this Scheme.
5. *[Not Applicable]*
6. The Council may set apart for games any portion or portions of the Common as it may consider expedient and may form grounds thereon for cricket, football, tennis, bowls and other similar games, and may allow such grounds to be temporarily enclosed with any open fence, so as to prevent cattle and horses from straying thereon; but such grounds shall not be so numerous or extensive as to affect prejudicially the enjoyment of the Common as an open space or the lawful exercise of any right of common, and shall not be so near to any dwelling-house or road as to create a nuisance or be an annoyance to the inhabitants of the house or to persons using the road.
7. The Council, may, with the consent of the person or persons entitled to the soil of the Common, and of the Secretary of State, temporarily set apart and fence such portion or portions of the Commons as it may consider expedient for the parking of motor and other vehicles, and may make charges for the use of such part as it may deem necessary and reasonable: provided that any area so set apart shall not be so near to any dwelling-house as to create a nuisance or be an annoyance to the inhabitants of the house. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876 to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.
8. The Council may, for the prevention of nuisances and the preservation of order on the Common, and subject to the provisions of section 10 of the Commons Act 1899, make, revoke or alter byelaws for any of the following purposes, namely –

- (a) prohibiting any person without lawful authority from digging or taking turf, sods, gravel, sand, clay or other substance on or from the Common, and from cutting, felling or injuring any gorse, heather, timber, or other tree, shrub, brushwood or other plant growing on the Common;
- (b) regulating the place and mode of digging and taking turf, sods, gravel, sand, clay, or other substance, and cutting, felling and taking trees or underwood on or from the Common in exercise of any right of common or other right over the Common;
- (c) prohibiting the removal or displacement of seats, shelters, pavilions, drinking fountains, fences, notice-boards, or any works erected or maintained by the Council on the Common;
- (d) prohibiting any person without lawful authority from killing, molesting or intentionally disturbing any animal, bird or fish or engaging in hunting, shooting or fishing or the setting of traps or nets or the laying of snares;
- (e) prohibiting the driving, drawing or placing upon the Common or any part thereof without lawful authority of any motor vehicle, motor cycle, carriage, cart, caravan, truck or other vehicle (including any aircraft), except in the case of accident or other sufficient cause;
- (f) prohibiting –
 - [i] the flying of any model aircraft driven by the combustion of petrol vapour or other combustible substances;
 - [ii] the taking off or (except in the case of accident or other sufficient cause) landing of any glider or any other aircraft;
 - [iii] the flying of any glider or aircraft in such a manner as to be likely to cause undue interference with the enjoyment of the Common by persons lawfully on it;
- (g) prohibiting or, in the case of a fair lawfully held, regulating the placing on the Common of any show, exhibition, swing, roundabout or other like thing;
- (h) regulating games to be played and other means of recreation to be exercised on the Common;
- (i) regulating assemblies of persons on the Common;
- (j) regulating the use of any portion of the Common temporarily enclosed or set apart under this Scheme for any purpose;
- (k) prohibiting or regulating the riding, driving, exercising or breaking in of horses without lawful authority on any part of the Common;
- (l) prohibiting any person without lawful authority from turning out or permitting to remain on the Common any cattle, sheep or other animals;
- (m) prohibiting any person from bathing in any pond or stream on the Common, save in accordance with the byelaws;
- (n) prohibiting camping or the lighting of any fire;
- (o) prohibiting or regulating any act or thing which may injure or disfigure the Common, or interfere with the use thereof by the public for the purposes of exercise and recreation;
- (p) authorising any officer of the Council, after due warning, to remove from the Common any vehicle or animal drawn, driven or placed, or any structure erected or placed thereon in contravention of this Scheme or of any byelaw made under this Scheme;
- (q) prohibiting any person on the Common from selling or offering or exposing for sale or letting for hire or offering or exposing for letting for hire, any commodity or article, unless in pursuance of an agreement with the Council or otherwise in the exercise of any lawful right or privilege;
- (r) prohibiting the fixing of bills, placards or notices on trees, fences, erections or notice boards on the common;

- (s) prohibiting the hindrance or obstruction of an officer of the Council in the exercise of his powers or duties under this Scheme or under any byelaw made thereunder.
- 9. Copies of all byelaws made under this Scheme shall be displayed on notice boards placed on such parts of the Common as the Council think fit.
- 10. Nothing in this Scheme or any byelaw made under it shall prejudice or affect any right of the person entitled as Lord of the Manor or otherwise to the soil of the Common, or of any person claiming under him, which is lawfully exercisable, in, over, under or on the soil or surface of the Common in connection with game, or with mines, minerals, or other substrata or otherwise, or prejudice or affect any right of the commoners in or over the Common, or the lawful use of any highway or thoroughfare on the Common, or affect any power or obligation to repair any such highway or thoroughfare.
- 11. Printed copies of this Scheme shall be available for sale at the offices of the Council for such reasonable price as the Council may from time to time determine.

C. Appendix 2

The Northumberland County Council
Commons Scheme
Market Street ('The Market Square') Order 2019

Commons Act 1899
The Commons (Scheme) Regulations 1982

Northumberland County Council, in exercise of the powers conferred on them by the Commons Act 1899 and the Commons (Scheme) Regulations 1992 hereby make the following Order—

1. This Order may be cited as the Northumberland County Council Commons Scheme Market Street, Corbridge ('The Market Square') Order 2019 and shall come into operation on *****
2. The Scheme specified in Schedule 1 shall apply to the Market Street ('the Market Square') Village Green, Corbridge, Northumberland as more particularly delineated on the plan attached at Schedule 2 and registered on the Northumberland County Council Register of Village Greens as unit number VG 35.

Dated this *** day of ***** 2019

The Common Seal of the Northumberland
County Council
was hereunto affixed in the presence of -

.....
Duly Authorised Officer

Seal no. _____

Schedule 1

Commons Scheme

Market Street ('The Market Square') Village Green, Corbridge, Northumberland

1. The piece of land together with ponds, streams, paths and roads thereon (if any), commonly known as Market Street ('The Market Square') Village Green, Corbridge, situate in the parish of Corbridge in the county of Northumberland and hereinafter referred to as "the Common" (registration number VG35 as shown on a plan sealed by and attached hereto and deposited at the offices of the Northumberland County Council of County Hall, Morpeth, Northumberland NE61 2EF, hereinafter called "the Council" and thereon coloured green, being a common within the meaning of the Commons Act 1899, shall henceforth be regulated by this Scheme, and the management thereof shall be vested in the Council.
2. The Council may execute any necessary works of drainage, raising, levelling or other works for the protection and improvement of the Common, and may, for the prevention of accidents, fence any quarry, pit, pond and stream or other like place on the Common, and shall preserve the turf, shrubs, trees, plants and grass thereon, and for this purpose may, for short periods, enclose by fences such portions as may require rest to revive the same, and may plant trees and shrubs for shelter or ornament and may place seats upon and in the Common, and otherwise improve the Common as a place for exercise and recreation. Save as hereinafter provided, the Council shall do nothing that may otherwise vary or alter the natural features or aspects of the Common or interfere with free access to any part thereof, and shall not erect upon the Common any shelter, pavilion, drinking fountain or other building without the consent of the person or persons entitled to use the soil of the Common and of the Secretary of State for the Environment. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876 to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.
3. The Council shall maintain the Common free from all encroachments and shall not permit any trespass on or partial enclosure thereof or of any part thereof.
4. The inhabitants of the neighbourhood shall have a right of free access to every part of the Common, and a privilege of playing games and of enjoying other kinds of recreation thereon, subject to any byelaws made by the Council under this Scheme.
5. *[Not Applicable]*
6. The Council may set apart for games any portion or portions of the Common as it may consider expedient and may form grounds thereon for cricket, football, tennis, bowls and other similar games, and may allow such grounds to be temporarily enclosed with any open fence, so as to prevent cattle and horses from

straying thereon; but such grounds shall not be so numerous or extensive as to affect prejudicially the enjoyment of the Common as an open space or the lawful exercise of any right of common, and shall not be so near to any dwelling-house or road as to create a nuisance or be an annoyance to the inhabitants of the house or to persons using the road.

7. The Council, may, with the consent of the person or persons entitled to the soil of the Common, and of the Secretary of State, temporarily set apart and fence such portion or portions of the Commons as it may consider expedient for the parking of motor and other vehicles, and may make charges for the use of such part as it may deem necessary and reasonable: provided that any area so set apart shall not be so near to any dwelling-house as to create a nuisance or be an annoyance to the inhabitants of the house. The Secretary of State, in giving or withholding his consent, shall have regard to the same considerations and shall, if necessary, hold the same enquiries as are directed by the Commons Act 1876 to be taken into consideration and held by the Secretary of State before forming an opinion whether an application under the Inclosure Acts 1845 to 1882 shall be acceded to or not.
8. The Council may, for the prevention of nuisances and the preservation of order on the Common, and subject to the provisions of section 10 of the Commons Act 1899, make, revoke or alter byelaws for any of the following purposes, namely –
 - (a) prohibiting any person without lawful authority from digging or taking turf, sods, gravel, sand, clay or other substance on or from the Common, and from cutting, felling or injuring any gorse, heather, timber, or other tree, shrub, brushwood or other plant growing on the Common;
 - (b) regulating the place and mode of digging and taking turf, sods, gravel, sand, clay, or other substance, and cutting, felling and taking trees or underwood on or from the Common in exercise of any right of common or other right over the Common;
 - (c) prohibiting the removal or displacement of seats, shelters, pavilions, drinking fountains, fences, notice-boards, or any works erected or maintained by the Council on the Common;
 - (d) prohibiting any person without lawful authority from killing, molesting or intentionally disturbing any animal, bird or fish or engaging in hunting, shooting or fishing or the setting of traps or nets or the laying of snares;
 - (e) prohibiting the driving, drawing or placing upon the Common or any part thereof without lawful authority of any motor vehicle, motor cycle, carriage, cart, caravan, truck or other vehicle (including any aircraft), except in the case of accident or other sufficient cause;
 - (f) prohibiting –
 - [i] the flying of any model aircraft driven by the combustion of petrol vapour or other combustible substances;
 - [ii] the taking off or (except in the case of accident or other sufficient cause) landing of any glider or any other aircraft;

- [iii] the flying of any glider or aircraft in such a manner as to be likely to cause undue interference with the enjoyment of the Common by persons lawfully on it;
- (g) prohibiting or, in the case of a fair lawfully held, regulating the placing on the Common of any show, exhibition, swing, roundabout or other like thing;
- (h) regulating games to be played and other means of recreation to be exercised on the Common;
- (i) regulating assemblies of persons on the Common;
- (j) regulating the use of any portion of the Common temporarily enclosed or set apart under this Scheme for any purpose;
- (k) prohibiting or regulating the riding, driving, exercising or breaking in of horses without lawful authority on any part of the Common;
- (l) prohibiting any person without lawful authority from turning out or permitting to remain on the Common any cattle, sheep or other animals;
- (m) prohibiting any person from bathing in any pond or stream on the Common, save in accordance with the byelaws;
- (n) prohibiting camping or the lighting of any fire;
- (o) prohibiting or regulating any act or thing which may injure or disfigure the Common, or interfere with the use thereof by the public for the purposes of exercise and recreation;
- (p) authorising any officer of the Council, after due warning, to remove from the Common any vehicle or animal drawn, driven or placed, or any structure erected or placed thereon in contravention of this Scheme or of any byelaw made under this Scheme;
- (q) prohibiting any person on the Common from selling or offering or exposing for sale or letting for hire or offering or exposing for letting for hire, any commodity or article, unless in pursuance of an agreement with the Council or otherwise in the exercise of any lawful right or privilege;
- (r) prohibiting the fixing of bills, placards or notices on trees, fences, erections or notice boards on the common;
- (s) prohibiting the hindrance or obstruction of an officer of the Council in the exercise of his powers or duties under this Scheme or under any byelaw made thereunder.
9. Copies of all byelaws made under this Scheme shall be displayed on notice boards placed on such parts of the Common as the Council think fit.

10. Nothing in this Scheme or any byelaw made under it shall prejudice or affect any right of the person entitled as Lord of the Manor or otherwise to the soil of the Common, or of any person claiming under him, which is lawfully exercisable, in, over, under or on the soil or surface of the Common in connection with game, or with mines, minerals, or other substrata or otherwise, or prejudice or affect any right of the commoners in or over the Common, or the lawful use of any highway or thoroughfare on the Common, or affect any power or obligation to repair any such highway or thoroughfare.
11. Printed copies of this Scheme shall be available for sale at the offices of the Council for such reasonable price as the Council may from time to time determine.

DRAFT

D. Appendix 3

DATED

AGREEMENT

To manage
Market Street ('The Market Square'), Corbridge, Northumberland

Liam Henry
Legal Services Manager
Northumberland County Council
County Hall
Morpeth
Northumberland
NE61 2EF

20..

BETWEEN

1. **NORTHUMBERLAND COUNTY COUNCIL** of County Hall, Morpeth,
Northumberland NE61 2EF (“the County Council”) and
2. **CORBRIDGE PARISH COUNCIL** of (“the Parish Council”)

WHEREAS:

1. The Village Green known as Market Street ('the Market Square'), Corbridge, Northumberland is registered under reference number VG35 by the County Council as a Village Green in accordance with the provisions of the Commons Registration Act 1965 and the Commons Act 2006 as the case may be
2. The County Council has made a Scheme under the Commons (Schemes) Regulations 1982 (SI 1982 Number 209) dated for this Village Green ("the Scheme").
3. A copy of the Scheme is attached to this Agreement.
4. The two Councils enter into this Agreement under the provisions of Section 101 of the Local Government Act 1972 as amended or replaced from time to time

The two Councils now agree

- (1) That the Parish Council shall exercise the powers of the County Council under the Scheme
- (2) The Parish Council may exercise those powers without further reference to the County Council
- (3) The Parish Council shall take reasonable steps to ensure that its general liability cover includes the exercise of functions under this Agreement and the Parish Council

shall indemnify the County Council against any loss arising from the exercise of these functions by the Parish Council.

(4) This Agreement may be terminated by twelve months written notice from either Council to the other

SIGNED on behalf of
NORTHUMBERLAND COUNTY COUNCIL
by

SIGNED on behalf of
CORBRIDGE PARISH COUNCIL
by

E. Appendix 4

**NORTHUMBERLAND COUNTY COUNCIL
MARKET STREET ('THE MARKET SQUARE'), CORBRIDGE, NORTHUMBERLAND
COMMONS ACT 1899**

Notice is hereby given that the Northumberland County Council intend to make a Scheme under the above Act for the regulation and management of the village green at Market Street ('The Market Square'), Corbridge, Northumberland (VG 35) in their district with a view to the expenditure of money on the drainage, levelling and improvement of the Common, and to the making of byelaws for the prevention of nuisances and the preservation of order.

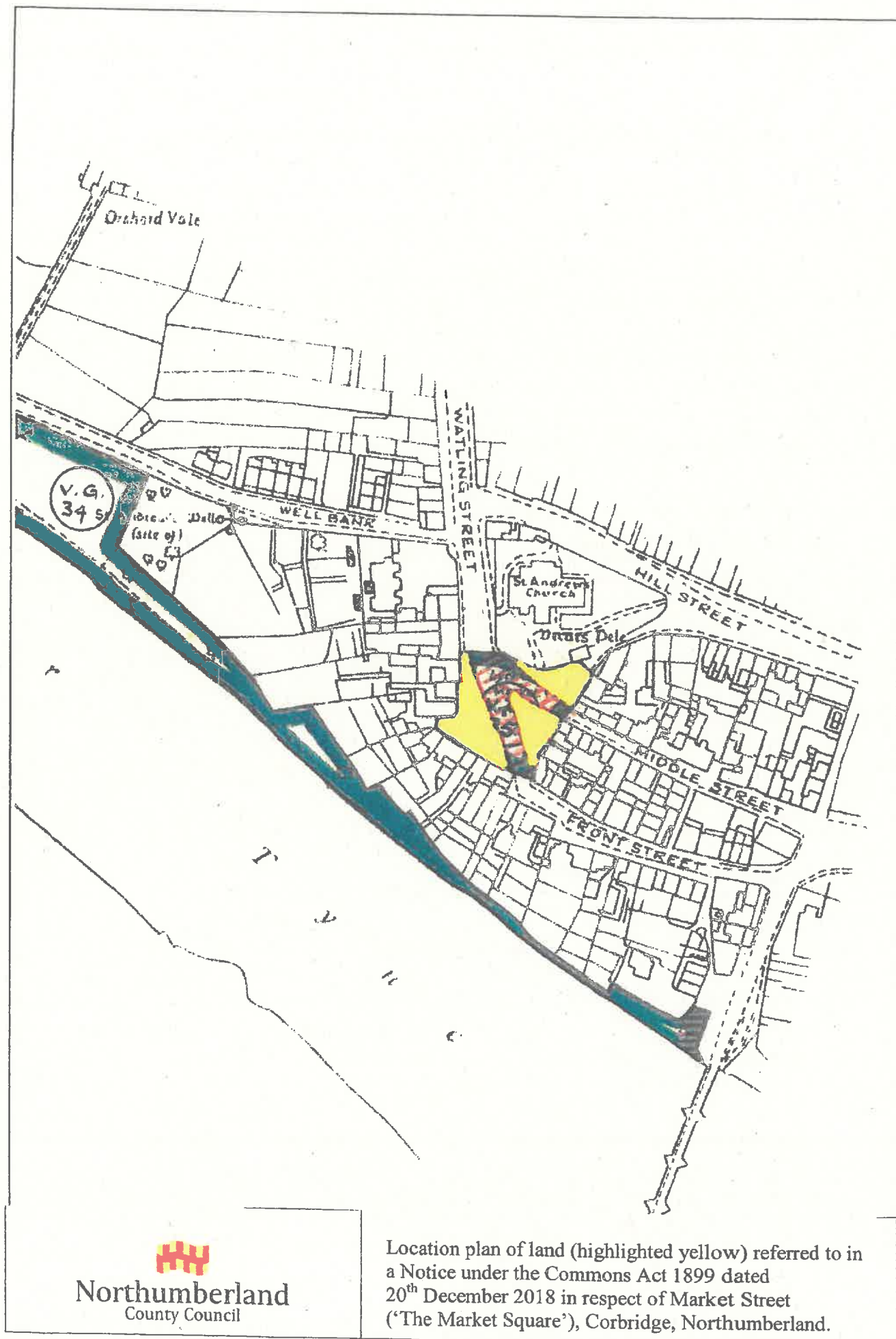
Copies of the draft Scheme together with the plan therein referred to may be inspected at the offices of the Council situate at County Hall, Morpeth, Northumberland NE61 2EF.

Any objection or representation with respect to the Scheme or plan shall be sent to the offices of the Northumberland County Council at County Hall, Morpeth, Northumberland NE61 2EF (ref: Legal/HL) by 20th March 2019, being a period of 3 months from the date that this notice was first published.

If, at any time before the Council have approved the Scheme, they receive a written notice of dissent, which is not subsequently withdrawn, from either a person entitled to the soil of the common or from persons representing at least one third in value of such interests in the common as are affected by the Scheme, then the Scheme cannot be made.

Dated this 20th December 2018

**LIAM HENRY
LEGAL SERVICES MANAGER
NORTHUMBERLAND COUNTY COUNCIL
COUNTY HALL
MORPETH
NE61 2EF**



Northumberland
County Council

Location plan of land (highlighted yellow) referred to in a Notice under the Commons Act 1899 dated 20th December 2018 in respect of Market Street ('The Market Square'), Corbridge, Northumberland.

F. Appendix 5

Helen Lancaster

From: Hugh Craddock
Sent: 20 February 2019 10:00
To: Helen Lancaster
Subject: RE: Proposed Commons Scheme Corbridge Market Square

Hi Helen

Thank you for your encouraging reply. This appears to resolve our concerns for the time being. We are glad that the council intends to enter into an agency agreement with the parish council as regards the discharge of functions under the scheme (this is what s.4 of the Commons Act 1899 did before its repeal, so an agency arrangement is entirely consistent with the intention of the Act).

We assume that there is now no intention to renew any application or proposal for deregistration of the town or village green.

However, I would encourage you to adopt a slightly more precise map of the scheme land, as the one you copied to me is pretty unclear.

Please would you be good enough to copy to us the scheme and map when it is approved, as we find it very helpful to keep records of land subject to schemes — while we have copies of schemes approved by the Secretary of State before 1982, it is less easy to identify schemes made after that date?

regards

Hugh

Hugh Craddock
Case Officer
Open Spaces Society
25a Bell Street
Henley-on-Thames
RG9 2BA

Please support our campaign now to stop
the wrongful deregistration of common land.



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

From: Helen Lancaster [<mailto:helen.lancaster@northumberland.gov.uk>]

Sent: 18 February 2019 17:52

To: Hugh Craddock

Subject: RE: Proposed Commons Scheme Corbridge Market Square

Hugh,

I apologise for the delay in getting back to you – I appear to have overlooked your e-mail but I hope that the below will assist.

With regard to points you have made I will take each in turn:

- I confirm that we have been asked by the Parish Council to make a Scheme at the same time as entering into an agency agreement under s101 of the Local Government Act which would then enable the Parish Council to utilise the provisions of the Scheme. The Parish Council has indicated that essentially a scheme would provide clearer powers for works to be carried out which would reduce the amount of car parking and free up more space for recreational use. I understand that they had also intended to carry out a public survey of how people would wish the Market Place to be laid out and used. I understand that Councillor Nick Oliver was going to contact you further in this regard and may have done so by now.
- The plan used reflects the current registration (with highways excluded as per the original registration)
- The terms of the Scheme are the same as the standard terms in the 1982 Regulations (excluding paragraph 5).

I hope that this assists,

Many thanks,

Helen Lancaster

Principal Solicitor

Legal Services

Northumberland County Council

County Hall

Morpeth

NE61 2EF

Telephone: 01670 623323

Fax: 01670 626030

E-mail: Helen.Lancaster@northumberland.gov.uk

Website: <http://www.northumberland.gov.uk>

Helen Lancaster

From: Helen Lancaster
Sent: 18 February 2019 17:52
To: 'Hugh Craddock'
Subject: RE: Proposed Commons Scheme Corbridge Market Square

Hugh,

I apologise for the delay in getting back to you – I appear to have overlooked your e-mail but I hope that the below will assist.

With regard to points you have made I will take each in turn:

- I confirm that we have been asked by the Parish Council to make a Scheme at the same time as entering into an agency agreement under s101 of the Local Government Act which would then enable the Parish Council to utilise the provisions of the Scheme. The Parish Council has indicated that essentially a scheme would provide clearer powers for works to be carried out which would reduce the amount of car parking and free up more space for recreational use. I understand that they had also intended to carry out a public survey of how people would wish the Market Place to be laid out and used. I understand that Councillor Nick Oliver was going to contact you further in this regard and may have done so by now.
- The plan used reflects the current registration (with highways excluded as per the original registration)
- The terms of the Scheme are the same as the standard terms in the 1982 Regulations (excluding paragraph 5).

I hope that this assists,

Many thanks,

Helen Lancaster
Principal Solicitor
Legal Services
Northumberland County Council
County Hall
Morpeth
NE61 2EF
Telephone: 01670 623323
Fax: 01670 626030
E-mail: Helen.Lancaster@northumberland.gov.uk
Website: <http://www.northumberland.gov.uk>

From: Hugh Craddock [<mailto:hughcraddock@oss.org.uk>]
Sent: 02 January 2019 10:56
To: Helen Lancaster
Cc: Christine Hunter
Subject: RE: Proposed Commons Scheme Corbridge Market Square

Hi Helen

Thank you for your emails last month, and my best wishes for the year ahead.

Thank you also for a copy of the draft scheme for Corbridge Market Square. I note that notice of the scheme was given on 20 December.

Some comments and questions:

- The notice anticipates 'the expenditure of money on the drainage, levelling and improvement of the Common'. I think we can rule out the likelihood of the first two elements, so what improvement is now planned under the terms of the scheme please? This question goes to the heart of proposals for the management of the square, and there is still a sense that legal measures are being pursued without a clear idea of what is to follow.
- The scheme refers to the land being coloured green on the deposited plan, but the plan you have sent me shows the location of the land coloured yellow (but without explanation as to why parts of the land enclosed by the yellow are green or hatched red). Moreover, that plan also features other land coloured green. Also, the yellow colouring on the plan obscured the detail underneath, which leaves uncertain what land is in fact affected. At the very least, I think you need a plan which clearly identifies the affected land, and what land is excluded.
- Do the terms of the scheme depart in any way from the standard terms prescribed in the 1982 Regulations (apart from the omission of paragraph 5)?

regards

Hugh

Hugh Craddock
Case Officer
Open Spaces Society
25a Bell Street
Henley-on-Thames
RG9 2BA

6

Please support our campaign now to stop
the wrongful deregistration of common land.



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.

G. Appendix 6

AMLAKÉ

90 15-17, MARKET PLACE

COLDRIDGE

NORTHUMBERLAND

NE45 5AW

Northumberland County Council
Executive PA'S Office

20 MAR 2019

RECEIVED

20th March, 2019.

Dear Sir/Madam,

Ref: Legal/HL

As the Freeholder of the above Property, I object to
the intended scheme.

Regards