

Registration

of Sudbury (Freemen's) Common Lands

Currently required under Commons Act 2006

And under Land Registration Act 2002

Protecting the Rights and Heritage of Sudbury Freemen

Alan Shelley September 2007

Sudbury Common Lands

Freemen's Land

Whose land is it? Ownership?

- Sudbury Common Lands have anciently belonged to the 'Freemen of Sudbury'. Charters dating back to 1260 have confirmed ownership of these lands by the freemen burgesses, and to pass on the property to their descendants.
- The lands are currently vested (secured) within the protection of the 'Sudbury Common Lands Charity'.
- Inherited 'rights over the land' (in the past combined with land ownership) are held¹ (as real property) by the freemen of Sudbury listed on the current Freemen's Roll.²
- A Scheme of 6 May 1897 secured the land and rights under the stewardship of 'Trustees' acting "on behalf of the Freemen of Sudbury".
- Changes enforced by statutory reforms³ (set to prevent unreasonable privilege and or profit) introduced a revision and a new Scheme 14 May 1987. Trustees now act "on behalf of the Charity".
- The property (protected under the new scheme) is managed by the Trustees, who may let the lands and let the rights of grazing (and sporting) over the lands⁴.
- It is recognised that benefits from investment now 'belong' to the 'Official Custodian for Charities'. But surely the 'lands' formerly of the freemen, are not now 'owned' by the Charity they are merely 'protected' within the Scheme and the Trustees have powers of administration over any profit from the property.
- The activity of the Chairman of the Sudbury Common Lands Charity is somewhat relevant to, and succeeding that of Steward, bailiff or seneschal of the former Corporation, officiating for the Lord of the Manor⁵. As stewards, protecting the Sudbury Common Lands, surely the Charity should never presume 'complete ownership' of this real property, the legitimate inheritance of the Sudbury Freemen!

Alan Shelley 10 April 2006.

¹ Registered under the Commons Registration Act, 1965.

² In accordance with Section 248 of the Local Government Act, 1972.

³ Including the Charities Act, 1960.

⁴ Preference is to be given to applicants who are Freemen of Sudbury. Rights permit any Freeman to depasture two beasts in each year.

⁵ The Corporation was formed of the 'Freemen', whose body was consistent with the 'Lordship of the Manor'.

Wycken End
16 Bournside Road
Cheltenham
Glos. GL51 3AH

Mrs S Prior
16 Kelso Close
Great Horkesley
Colchester
Essex CO6 4TS

28 September 2006

Dear Simonie

Registration of Sudbury Commons & Right Holdings

Further to our telephone conversation some two weeks ago, regarding FEW. Having returned from Cornwall and received a call from Alan Fallows, I understand and was sorry to hear, you had been put under some duress by Tony Sharpe. This is most unfortunate but not entirely unexpected.

However, thank goodness you are resilient and I am sure you will not have allowed this to upset you. Your actions, in support of Alan Fallows, will have been approved by the vast majority.

Now on the subject of new legislation (by this reforming government) and the desirability to register 'our' land for the freemen and of their rights over it! Having considered all aspects, it would seem we must ensure that we adequately protect matters.

In no particular order, but soon, we should ensure that:

1. The entry for rights holdings, in the now to be updated County Commons Register, sufficiently covers (in detail) each current freeman or widow.¹
2. We attempt registration (of ownership under the Land Registration Act 2002) with the Land Registry. Firstly, the specific lands as gained by Charter or Deed to the Freemen. These should be registered as 'Freemen's Land' managed by Trustees under a scheme.² Secondly, the rights of both grazing/herbage and fishing should be registered as the 'real property' of the Freemen of Sudbury.

In my opinion the land and the rights over it should be registered as owned by the "Freemen of Sudbury (subject to the current Freeman's Roll) - managed by Trustees of the Sudbury Common Lands Charity". NB The application should not be made on behalf of the Freeman's Society but on behalf of the Freemen of Sudbury.

I enclose an overview I sent to Allan Berry back last April, expressing how I consider the Common Lands. I hope this will be useful - all the best.

¹ There is a worrying issue (to be resolved) over the letting of rights. (new Commons Act)

² Application for registration carried out in June 1968 was done to protect the Commons. John Wardman (not a freeman) registered the land as Chairman of the Common Lands Charity.

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GL51 3AH

Common Lands Registrar
Suffolk County Council
Endeavour House
8 Russell Road
Ipswich
Suffolk
IP1 2BX

11 August 2007

Dear Sir or Madam

Registration of Rights under the Commons Act 2006
(CL58, CL59, CL60, CL61)

As a freeman of Sudbury with 'stinted grazing rights' (held in Gross) over common land at Sudbury I am a little concerned about potential changes, under the new Act, that may affect the registration of freemen's individual rights, and the continuity thereof.

During the Bill and run-up to the Act, it was suggested that the Registers would require certain corrective changes. This included the rights section (under the 1965 Act) to clearly indicate the current names of individuals holding rights over common land. The right holders of Sudbury are stated, somewhat vicariously, as persons currently entered on the Freeman's Roll (elsewhere) and entitled under the charity namely the "Sudbury Common Lands Charity" of 1897.

These customary rights 'for every Freeman for the time being on the Freeman's Roll of the Borough of Sudbury to graze two beasts and of every widow of every such Freeman to graze one beast' remain precisely the same and are now under a subsequent, changed scheme, of the Sudbury Common Lands Charity, 14 May 1987.

Would you kindly confirm that the entries on the registers of Sudbury Common Lands meet the requirements as required under the new Act.

Many thanks for your assistance.

Yours faithfully

Alan Shelley BA DLA FRSA

Resource Management

Mr A Shelley
Wycken End
16 Bournside Road
CHELTENHAM
Gloucestershire
GL51 3AH

Legal Services
Scrutiny & Monitoring Division
Endeavour House
8 Russell Road
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Enquiries to: Mrs Jane Stevenson
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Web: <http://www.suffolk.gov.uk>

Your Ref
Our Ref: 2890/JHS/JC
Date: 16 August 2007

Dear Mr Shelley

Re: REGISTRATION OF RIGHTS UNDER THE COMMONS ACT 2006

Thank you for your letter of 11 August. I am considering the issues you raise and will write to you again in due course.

Yours sincerely

J Stevenson

Mrs Jane Stevenson
Senior Legal Office

Registration of Sudbury (Freemen's) Common Lands (Commons Act 2006 and Land Registration Act 2002 (Regs 2003))

Requirements of the Land Registration Act 2002, are that ownership of all land in England should be registered. This also includes any rights over or into the land.

Registration of Sudbury Common Lands, under the Commons Registration Act 1965, was carried out by RW Wardman, as Chairman of the Trustees of the Sudbury Common Lands Charity.

Within the rights section of the register is the wording: 'The right of every Freeman for the time being on the Freeman's Roll of the Borough of Sudbury to graze two beasts and of every widow of every such Freeman to graze one beast in his capacity as a person entitled to the benefit of the charity called "The Sudbury Common Lands Charity" and now being administered and managed in accordance with a Scheme approved of the High Court of Justice (Chancery Division) on 6 May 1897'.

The new Commons Act 2006 requires that the existing registers be corrected to reflect current status of ownership and right holdings.

Sudbury Commons, registered under the 1965 Act, are Freemen's Lands. Ownership, for the purposes of the Land Registration Act 2002, could possibly be recorded as 'Freemen's Lands, protected and administered by trustees of the Sudbury Common lands Charity'. The rights of the Freeman (as they are both customary and prescriptive¹) could seemingly be registered without reference to their attachment to the Charity, as follows: 'The right of every Freeman for the time being on the Freeman's Roll of the Town of Sudbury to graze two beasts and of every widow or widower of every such Freeman to graze one beast. Also that all the aforementioned Freeman, widows and widowers have a right to fish the waters associated with the registered Freeman's Lands'.

For the purposes of correcting the existing entries in the Common Land Registers (at County Hall) changes should be made, at least, to replace the word Borough with Town of Sudbury and to ...'a Scheme approved on 14th May 1987. Alternatively, the Lands could simply be registered within the ownership of the Freeman of Sudbury, protected and administered by Trustees of the Sudbury Common Lands Charity. The rights section need simply be stated as proposed for registration under the Land Registration Act 2002.

These proposals in no way diminish the importance of the Common Lands Charity (or the benefits to the townspeople) but may help to resolve the question of inherited land ownership for future freemen.

Alan Shelley 14 August 2007

¹ Prescription = long enjoyment of the right 'during legal memory' (since A.D.1189) - in practice, for a long period of years. Proof of 60 years is deemed absolute. (Prescription Act 1832).

Analysis of Commons Registration

My concern over the registration of the Freeman's Lands and rights thereon, was initiated by inferences in the Bill leading to the Land Registration Act 2002 (*who would be registering the Freeman's lands and what might be the likely consequences?*).

This was further exacerbated when reading Adrian Walters paper entitled 'Formulation and Evolution - The Sudbury Common Lands' (ILC March 2006). His conclusion within the essay was that Freeman are reduced to a ceremonial role and that the remaining 'common money' has no economic relevance. (*Which of course, in essence, is true*).

A radical rethink is necessary (*does inheritance of the lands and the freedom have any interest to future admissions*) as "effectively the Freeman - with rights over the land merely join the whole populace who now have access rights ... under the CRoW Act".

Adrian's comments are entirely correct but lead one to consider who are the true 'owners' when considering registration of the land and the rights (real property) over them.

The Common Lands were registered (at County Hall, Ipswich) under the 1965 Commons Registration Act, as 'belonging to the Common Lands Charity' (*a moot point*).

These lands have anciently belonged to the Freeman, by charters dating back to 1260 and over the centuries Freeman have jealously and desperately coveted their rights too and over, the lands.

John Wardman, as Chairman of the Common Lands Charity, refers in his book many times and confirms that the Freeman are the hereditary owners of the Common Lands. The Trustees are agents to protect and administer the Scheme of the Sudbury Common Lands Charity.

The old Borough Corporation had managed the lands but often suffered severe disagreement with various stakeholders. When the old Corporation was replaced by a new Borough Council in 1836 (Municipal Corporation Act) Freeman remained owners of the Commons and the commoners rights. The new Borough Council took over the management of the Commons.

By around 1890 only a tenth of the Freeman were still actually using their grazing rights and the Council were under pressure from the Graziers. The Freeman wanted income distributed and the Graziers wanted it used to improve the meadows. In 1890, 103 freemen petitioned for a scheme to divide the benefits. The Council sought advice from the Charity Commissioners but no decisions were reached until 1894. In 1895 action against the Council was threatened. A Commission of Enquiry was held at the Town Hall 13 March 1896. A Scheme was settled and approved by the Mayor and Town Clerk in December 1896.

Administration of the Scheme had been changed from 'Mayor, Aldermen and Council of the Borough to Official Trustee of Charity Lands and his Successors' it also referred to "The Trustees". The new scheme provided for management of the common lands by a body of trustees. The lands were vested in the Official Trustee of charity lands "in trust for the Freeman of Sudbury". (Editorial for Suffolk & Essex Free Press Wednesday Evening, 9 December 1896.

The Trustees of the Charity were formed to manage and protect the lands on behalf of the Freeman. Reorganisation of the Scheme in 1987 led to the Charity assuming a role of absolute 'ownership'. It is fully recognised that benefits from investment now 'belong' to the 'Official Custodian of Charities' but surely the lands are protected by bare Trustees and the lands remain inherited by the Freeman.

Alan Shelley 14 August 2007

Conclusions

Ownership of the Sudbury Common Lands appears to have been absorbed by the national Charity Commissioners. A decade ago the meadows were often called, by people of Sudbury, 'the Freeman's Meadows or Lands'.

'Permitted' access to the townspeople has always provided a leisurely and scenic adjunct to Sudbury. This has rarely been denied. The CRoW Act, 2000 has further opened the Commons to the wider public.

However, this should not determine a loss of the true ownership belonging to the Freeman. Perhaps Adrian's recent remark, concluding his essay, "the Commonalty are again acquiring rights of their own" was a little *tongue in cheek*. John Wardman, in his book of the Common Lands, on page 17 makes the point that the 'commonalty' are the body of freemen (as commoners) and not the public at large.

The Common Lands Charity do an excellent job of running and protecting the Common Lands and all credit to Adrian for his devotion to the task. Any attempt to alter the wording (lands belonging) within the agreement Sealed on 14 May 1987, is too late to action.

I have heard Allan Berry suggest that we (or The Charity) probably shouldn't have registered the Common Lands under the 1965 Act, but for SJ Blackwell's interference in attempting to adopt Town Green Status. The truth is that it has formed the greatest protective factor in preventing any access roads, to the proposed Western By-pass, over the Common Lands. Registration as common land also provided protection under the 1925 Property Act preventing any constructions to be built on the land. I personally brought this to the attention of Mr Grimm who was developing the project at that time.

Action may now be necessary to correct anomalies in the Commons Register and to register a simple entry in the 'Land Registry' to protect the land heritage and the ongoing rights of the Freeman of Sudbury.

APPENDICES

Scheme 6th May 1897 "Sudbury Common Lands Charity" (constituted body of Trustees)

Vesting of Real Estate (Clause 3)

'The Common Lands of the Charity as described in the Schedule, together with appurtenances, . . . are vested in the Official Trustee of the Charity Lands and his successors, in trust for the Freeman for the time being of Sudbury, according to the provisions of this Scheme. The management, preservation, and letting of the said Estate, and the superintendence of the collection of the income - shall belong and be exercised by the Trustees'.

- (31) 'The persons entitled to the benefit of the Charity are the Freeman who are for the time being on the Freeman's Roll of the Borough and the widows of such Freeman, including those who do not reside in the Borough'.
- (32) Rights: 'Each Freeman is entitled to depasture two beasts on the lands of the Charity during the year, and each widow is entitled to depasture one beast on such lands during the year, each Freeman and Widow paying the Trustees a fixed sum. Priority of depasture is given to Freeman and Widows'.

Schedule of Lands

	A	R	P
Harp Close Meadow	16	0	0
Part of Common	10	0	27
Great & Little Fullingpit Meadow	24	1	0
North Meadow	41	1	0
Friars Meadow	22	0	20 (Half-yearly land)
Part of Commons	12	1	23
Ballingdon Marshes	19	0	34

The above details are extracted from the printed copy of the Scheme given to Alan Shelley by Guy Cook in the 1970s

Scheme 14th May 1987 "Sudbury Common Lands Charity"

Property

21. Management and letting of lands. (1) The Trustees shall let and otherwise manage all the lands belonging to the Charity not required to be retained or occupied for the purposes thereof. The Trustees shall not without the sanction of the Commissioners or a competent court create any tenancy wholly or partly in consideration of a fine or for a term ending more than 22 years after it is granted or for less than the best rent obtainable.
- (2) The Trustees when letting rights of grazing and sporting rights over the land belonging to the Charity shall give preference to applicants for such rights who are Freemen or widows or widowers of Freemen, and subject thereto to applicants who are inhabitants of the Town of Sudbury.
25. Provision of land and buildings - (1) The Trustees may appropriate any land and buildings belonging to the Charity for use for any charitable purposes for the general benefit of the inhabitants of the Town of Sudbury and in particular may in accordance with this sub-clause appropriate land for use as grazing land.
- (4) The Trustees shall manage any grazing land so as to protect and preserve it in its natural state as grazing land for the general benefit of the inhabitants of the Town of Sudbury.
- (5) The Trustees shall in accordance with the traditions of the Charity be obliged to permit any Freeman to exercise the right to depasture two beasts in each year on grazing land, and any widow or widower of any Freeman to exercise the right to depasture one beast in each year on grazing land, in return for payment of such reasonable sum in respect of each beast depastured in pursuance on this sub-clause as the Trustees from time to time prescribe.

Application of Income

26. Expenses of management: The Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon and all other charges and outgoings payable in respect thereof), the purchase of any grazing rights exercisable by Freemen or the widows or widowers of Freemen, the cost of managing any land and buildings appropriated under sub-clause (1) of clause 25 above and all other proper costs, charges and expenses of and incidental to the administration and management of the Charity.

27. Application of income - after expenses:
- (a) In relieving in cases of old age, sickness or financial need Freemen and the widows and widowers of Freemen;
 - (b) In making payments to the Trustees of the Charity called Sudbury Freemen's trust for application for the purposes of that Charity as income thereof;
 - (c) In providing or assisting in the provision of facilities for recreation or other leisure time occupation for the inhabitants of the Town of Sudbury with the object of improving their conditions of life;
 - (d) In making payments to the Trustees of the Sudbury Municipal Charities for application for the purposes of those Charities as income thereof;
 - (e) For any charitable purposes for the general benefit of the inhabitants or the needy inhabitants of the Town of Sudbury.

Schedule of Lands

1. Land containing 16.00 acres or thereabouts known as Harp Close Meadow,
2. Land containing 22.99 acres or thereabouts known as Great & Little Fullingpit Meadow,
3. Land containing 42.19 acres or thereabouts known as North Meadow,
4. Land containing 8.27 acres or thereabouts known as King's Marsh Part 1,
5. Land containing 6.50 acres or thereabouts known as King's Marsh Part 2,
6. Land containing 22.41 acres or thereabouts known as Freemen's Great & Little Commons,
7. Land containing 2.81 acres or thereabouts known as Coote's Meadow Part 1,
8. Land containing 1.87 acres or thereabouts known as Coote's Meadow Part 2.

The above details are extracted from the publication of the 1987 Scheme by the SCL Charity.

Alan Shelley 14 August 2007

Wycken End
16 Bournside Road
Cheltenham
Glos. GL51 3AH

Land Registry
Earle House
Colonial Street
Hull HU2 8JN

14 August 2007

Dear Sir or Madam

Registration of Sudbury Common Lands under the 2002 Act

I am informed that land in Babergh comes under your jurisdiction. Apparently the new expectation of the Land Registration Act 2002 requires all land ownership in England to become clearly registered.

Would you kindly advise me if the 'Common Lands' adjacent to the Town of Sudbury, Suffolk, are registered with the Land Registry. I am aware of the entries already made within the 'Commons Registers' held at County Hall.

It would be desirable that a simple entry advising land ownership 'of the Freemen of Sudbury, protected and administered by Trustees of the Sudbury Common Lands Charity'. A further entry should include the rights over the lands (as real property) which are held 'of every Freeman for the time being on the Freeman's Roll of the Town of Sudbury to graze two beasts and of every widow or widower of every such Freeman to graze one beast. The aforementioned 'Freemen, widows and widowers also have a right to fish the waters associated with the Freeman's Lands.

This request specifically applies to the following pieces of land:

- North Meadow Common containing 42.19 acres or thereabouts;
- Little Fullingpit and Great Fullingpit Meadows containing 22.9 acres or thereabouts;
- Freeman's Great and Freeman's Little Commons containing 22.41 acres or thereabouts;
- King's Marsh containing 14.77 acres or thereabouts.

Will you kindly confirm if I am correct in the assumption that entries for common land should, for the purposes of the correct registration of all lands, be appearing on both registers - those at Land Registry and at County Hall.

Many thanks for your assistance.

Yours faithfully

Alan Shelley BA DLA FRSA, Freeman of Sudbury

Application for an
official search
of the index map

Land Registry

SIM

Land Registry Kingston upon Hull Office

If you need more room than is provided for in a panel, use continuation sheet CS and attach to this form.

1. Administrative area		BABERGH
2. Property to be searched		'SUDBURY COMMON LANDS' CO10 1
Postal number or description		
Name of road		" " "
Name of locality		TOWN OF SUDBURY, SUFFOLK
Town		SUDBURY SUFFOLK
Postcode		CO10 1
Ordnance Survey map reference (if known)		TL 8660418 APPROX
Known title number(s)		NOT KNOWN, North Meadow Common containing 42.19 acres or thereabouts Little and Great Fullingpit Meadows containing 22.9 acres or thereabouts Freemen's Great and Little Commons containing 22.41 acres or thereabouts King's Marsh containing 14.77 acres or thereabouts.
3. Payment of fee Place "X" in the appropriate box.		For official use only
<input type="checkbox"/> The Land Registry fee of £ N/A accompanies this application.		Impression of fees
<input type="checkbox"/> Debit the Credit Account mentioned in panel 4 with the appropriate fee payable under the current Land Registration Fee Order.		
4. The application has been lodged by:		
Land Registry Key No. (if appropriate)		
Name <u>ALAN SHELLEY</u>		
Address/DX No. <u>16 BOURNSIDE ROAD</u> <u>CHELTENHAM GLOS GL51 3AH</u>		
Reference <u>SFR 2</u>		
E-mail <u>ashelley@glos.ac.uk</u>		
Telephone No. <u>01242 515739</u>		Fax No. <u>01242 515739 (MANUAL)</u>

5. If the result of search is to be sent to anyone other than the applicant in panel 4, please supply the name and address of the person to whom it should be sent.

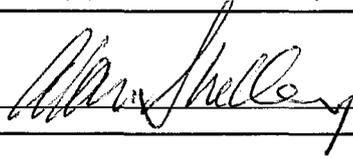
Reference

N/A

6. I apply for an official search of the index map in respect of the land referred to in panel 2 above and shown OUTLINED IN RED on the attached plan.

Any attached plan must contain sufficient details of the surrounding roads and other features to enable the land to be identified satisfactorily on the Ordnance Survey map. A plan may be unnecessary if the land can be identified by postal description.

7. Signature of applicant



Date

21 August 2007

Explanatory notes

1. The purpose and scope of Official Searches of the Index Map are described in Practice Guide 10 'Official searches of the Index Map' obtainable from any Land Registry office. It can also be viewed online at www.landregistry.gov.uk.
2. Please send this application to the appropriate Land Registry office. This information is contained in Practice Guide 51 'Areas served by Land Registry offices'.
3. Please ensure that the appropriate fee payable under the current Land Registration Fee Order accompanies your application. If paying fees by cheque or postal order, these should be crossed and payable to "Land Registry". Where you have requested that the fee be paid by Credit Account, receipt of the certificate of result is confirmation that the appropriate fee has been debited.