COMMON LAND IN TEFFONT

This is a subject well worth paying attention to as only Planning causes more confusion with more different types of “Registered Land”. Soon after I became Chairman for the Parish Council in 1999, the law changed with something titled CRoW which resulted in the need for the Parish Council to get on top of this. Luckily, as it will save time in achieving this, in the Parish Council file titled ‘ Common Land’ there was a briefing paper on this subject and that now follows; it is followed by comments and any new information we have recently acquired.

*The briefing paper reads:*

‘Late last year, the Countryside Commission, doing what is required of it under the CRoW (Countryside and Rights of Way) Act 2000, sent the Parish Council a map showing what Common Land it believed to be in our Parish. The Parish Council was required to comment on whether we believed that this map, which showed part of Springhead as the only Common Land in the Village , was correct or not. We did this as described below but it started us on some detective work to try and understand what the situation in the Village really is and resulted in my acquiring from Wiltshire County Council, who are legally required to keep a Register of all Common Land and Village Greens in the County, details of what they have registered for Teffont. I have also attended a seminar on this subject at County Hall at Trowbridge. The following information comes from these two sources as well as discussions with Ed Waddington, who, we discovered, had deeds that show him as the owner of Springhead.

There are two pieces of land in Teffont “registered” at County Hall. The area which we know as the Village Green, bounded by Magna Churchyard to the North, the stream to the West and the road to the East, was registered in 1970, in the ownership of Teffont Parish Council, as a Village Green - this is different to Common Land as the laws concerning Village Greens differ quite considerably from those affecting Common Land. Unlike Common Land, Village (or Town) Greens are “for the exercise or recreation of the inhabitants of any locality” - technically therefore not for visitors to the Village! I have to note that whoever allowed a part of the Village Green to be removed and replaced by a lay-by broke the law as putting any hard surface, or even manure (!), on a village green is a criminal offence but, as it was done so long ago, it is very unlikely that anyone could be prosecuted for it now. The Parish Council, as owner of the Village Green, is therefore legally responsible for this land and that the laws concerning Village Greens must be applied to it. I did submit details of our Village Green as though it were Common Land as part of our response to the mapping exercise that the Countryside Agency are carrying out but I have now discovered that that was an error as they are not mapping Village Greens.

The second piece of land registered at County Hall is the Western side of Springhead, a long strip running from the bridge right up to the top end going as far East across the area as would take you to the stream for most of its length but then veering away to the West at the top so that there is some land here that is not Common Land to the West of the stream and not including the land to the East of the stream. In fact, for those who have been in the Village long enough to remember when Wessex Water had the stream itself fenced off, the Common Land is the area to the West of that fence. The map that we were sent last autumn by the Countryside Agency under the Countryside and Rights of Way (CRoW) Act 2000 correctly showed this as Common Land. The papers which I recently received from County Hall stated that, in 1970, the Commons Commissioners had been unable to establish who owned this land and that, as a result, it would be administered under Section 9.9 of the Commons Registration Act of 1965 which means that any Local Council in whose area it fell, Parish, District or County, could act as the “landowner” of that land. As Ed Waddington had assured me that he had deeds to the land.

I found this all very confusing but mainly because I was making an assumption, one I suspect that most people share: this was that Common Land is owned by the Community with, perhaps, the Parish Council acting as “guardian” of it. This is WRONG. All that the term Common Land means is that, for that piece of land, some other people, “the commoners”, have, or had, certain rights over the land, perhaps to graze or to fish or to collect firewood etc. In many cases - and Springhead is one of them - who these commoners were and what rights they had, is lost in the mists of time (or these rights would be included in the Register at County Hall) but that does not negate the fact that the land is still marked as “Common Land” and the CRoW Act adds the new right of access to such land to everybody - so, once the Countryside Agency who are responsible for implementing this Act have confirmed that that part of Springhead is Common Land, we will all have the right of Access over it; this is unlikely to be before 2005. Ed Waddington continues to own the land but his deeds should show that part of Springhead is Common Land. He is now aware of the situation and what he needs to do to ensure that the Register of Common Land at County Hall is updated to reflect his ownership of Springhead. Once this part of the CRoW Act 2000 is fully implemented, he will be responsible to ensure that access to this piece of Common Land is maintained but that does not mean that he has to keep it cleared of the high nettles that grow there for most of the year!

The third piece of land which we believed to be Common Land in the Village is The Pound and, like the Village Green, we incorrectly submitted details of this to the Countryside Agency stating that we believed it to be Common Land. In fact, Pounds can never be registered as either Common Land or Village Greens. Where they exist, they are the area in the village where stray animals were “impounded” until the owner of that animal paid a fine - to whom I did not discover. Like all land, the Pound will have an owner - if we want to find out who it is, we were advised to look at the tithe maps of c.1850 or the Land Tax maps which were drawn up following the Finance Act of 1910 - most, if not all of these for Wiltshire, are held at County Hall. Lynette Nelson has taken on this task.

Other pieces of land in the village have been mentioned as having been Common Land in the past. As they were not registered between 1967 and 1970 under the Commons Registration Act 1965, any status they previously had as “Common Land” has now been lost and it is very nearly impossible to register new pieces of Common Land any more - to do so, one would have to show that someone had been exercising some form of “Common” rights over the land, without the owner’s permission, for a period of 20 years or more. It is still possible to register Village or Town Greens but this process too is very complex and I do not feel we have any occasion to do this as we do not have any areas that meet the necessary criteria.

Richard Long-Fox

Chairman, Teffont Parish Council’

COMMENTS TO THIS BRIEFING PAPER ARE AS FOLLOWS:

1. The story of the registration of the Village Green – and of its tarmacking is a saga in its own right and hopefully will be published as an addendum.
2. There was a donkey in the Pound once!
3. Despite inefficiency at Trowbridge in 1970, Springhead has an owner, Ed Waddington. He has Deeds covering this part of Springhead.
4. There is a newer Act dating 2006 and covering Village Greens which may make some updates to this Briefing Paper.