

Statement

by

The Committee and Trustees of SH&DCRA

Concerning Court Action, brought by the Trustees on behalf of a single holder of CL124 Common Rights at Brancaster, against Brancaster Parish Council to recover £1,500 in compensation for an agreement to forego the use his grazing rights for one year.

Decision to retire the Action.

At a Hearing in the County Court in Norwich on 25th July 2024, the Judge ruled that the claim against Brancaster Parish Council for non-payment of the £1,500 claim could not be heard in the Small Claims Court.

The prohibitive costs for Common Rights Holders in further court actions have led to the Trustees decision to, with great sadness, retire their case. With funds being perilously depleted retiring the case at this stage is also a damage limitation strategy and still leaves the option of taking the case forward at a later date. Noting here that none of the evidence has yet been heard in court; it has been the legal profession arguing one way or the other whilst mounting up enormous costs.

Background.

After many months of fruitless attempts to have discussions with the Royal West Norfolk Golf Club (RWNGC) and Brancaster Parish Council (BPC) concerning the “taking of profit” from CL124, a “Letter before Action” was sent to BPC in September 2022. This asked for talks and warned that the SH&DCRA Trustees would seek to claim for tolerating the loss of grazing on their single common right that had been bequeathed to the Trustees by a past common rights holder. No response was received, and accordingly claim of £1,500, representing one year’s compensation, was made in December 2022 in the Norwich Small Claims Court.

The Claim remained uncontested until its expiry date and a County Court Judgement was applied for by SH&DCRA Trustees. At this point BPC employed a legal team which tried, and failed, to have the claim dismissed. The Judge said that the Common Rights Holders had a case and suggested that they should get legal advice.

Statement by the Committee and Trustees of SH&DCRA

Following this advice involved the Trustees in ever increasing costs, while at the same time being messed about by changes and delays in setting the hearings.

Result

The Trustees feel aggrieved, emasculated and angry at being forced to withdraw, after eighteen months, when none of the evidence has been tested in court.

It seems that the Court decided that the issues were so complex that the case should be heard in the Fast Track or Multi Track court with hearings that might last two full days.

Basis of disagreement

Fact	Query
SH&DCRA has evidence of 1902, 1950's and 1960's agreements that, if adhered to today, would compensate Common Rights Holders for their tolerance and also allow the car park and golf course to continue unaffected	Why will BPC and RWNGC not adhere to these agreements?
Brancaster Parish Council make no claim to owning any part of CL124.	Why do they take tens of thousands of pounds in profit from the common?
Common Rights Holders have a legal interest in the common and forego their grazing rights so that the golf course and the car park can exist.	Why is it that the Common Rights Holders receive nothing at all by way of compensation for not exercising their rights?

It should not be forgotten that the existence of the golf club and the related facilities is in part due to the goodwill of the holders of Common Rights in temporarily foregoing some of these in exchange for compensation and that it is thus within their rights to rescind such foregoing if the implied contract is breached.

SH&DCRA Committee

27th July 2024