



Application Decision

Site visit made on 29 January 2025

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 31 March 2025

Application Ref: COM/3337337

Register Unit: CL525

Registration Authority: North Yorkshire Council

- The application, dated 13 June 2023, is made under Schedule 2 paragraph 4 of the Commons Act 2006 ('the 2006 Act').
 - The application is made by The Open Spaces Society.
 - The application is to register waste land of a manor as common land in the register of common land.
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Decision. The application is refused and the land shown on the plan attached to this decision shall not be added to the commons register

Preliminary matters

1. The application plan includes the herbaceous border and stone flagged footpath which provides the pedestrian (and only) access to Green Cottage (and also in part the access to the Village Hall). The owners of Green Cottage consider that this land is essential for access to that property and to the Village Hall. The applicant has agreed to amend the application to exclude this land from the application. I have proceeded on that basis.

The Application Land

2. The application relates to land at Ramsgill Green, in the village of Ramsgill, North Yorkshire

Main Issues

3. The main issue is whether the land is waste land of a manor and whether before 1 October 2008:
 - (a) the land was provisionally registered as common land under section 4 of the Commons Act 1965 ("the 1965 Act");
 - (b) an objection was made in relation to the provisional registration; and
 - (c) the provisional registration was cancelled in the circumstances specified in subparagraphs (3), (4) or (5) of the Commons Act 2006. Subparagraph (5), on which the applicant relies, requires that the person on whose application the provisional registration was made requested or agreed to its cancellation (whether before or after its referral to a Commons Commissioner).

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4. It is seldom possible to prove definitively that a particular parcel of land is of a manor. But it should be sufficient to show that, on the balance of probabilities, the land lies in an area which is recognised to have been, or still be, manorial, and that there is no convincing evidence to the contrary.

Reasons

Whether the land had been provisionally registered as common land under section 4 of the Commons Registration Act 1965

5. An application (No. 2149) to provisionally register the application land was made by the Ramblers' Association on 8 December 1969 and entered in the register of common land.

Whether an objection was made to the provisional registration

6. An objection to the provisional registration was made by the Yorke Arms Hotel (Ramsgill) Ltd on 21 February 1972, on the grounds that the application land was in the ownership of that company and that it was not common land.

Whether the provisional registration was cancelled as set out in subparagraph (5)

7. In response to the objection, the Ramblers' Association agreed to withdraw that part of the application land subject to the objection, and only the remaining part of the land was registered as common land on 19 March 1973. I am therefore satisfied that the land that was withdrawn from the application made by Ramblers' Association is eligible for registration as common land under paragraph 4(5) of Schedule 2 to the Commons Act 2006.

Whether the land fulfils the character of waste land of a manor

8. The application land is in three parcels which, individually and collectively, are relatively modest in area. It lies at the intersection of several routes that converge on the hamlet of Ramsgill which, as the applicant points out, is a settlement pattern which is typically found where there is an area of waste.
9. The application land is, and has historically been, open in the usual meaning of that word. Writing in 1863, William Grainge describes the land as 'open space' in front of the inn which had been rebuilt about 20 years previously (referring there to the Yorke Arms Inn). The applicant considers that the land has long been recognised as an open space and over time has assumed the name of a 'green', probably reflective of its central location in the village and its physical character.
10. The land is uncultivated, insofar as there is no engagement with farming or activity with the soil which causes it to be broken for productive purposes. I am mindful that the owners of Yew Bank House, Ramsgill mow and otherwise maintain this land but this does not involve the gathering of a crop. Consequently, having regard to the comments of McCullough J. in the judgement in *R. v Doncaster Metropolitan Borough Council Ex p. Braim* [1986] 57 P. & C.R., albeit comments made in obiter, I am satisfied that the land is not cultivated.
11. The land is not occupied to the exclusion of others. The seating (wooden benches) is available for anyone to use, which suggests that that access is unrestricted and expected. This indicates that the land is unoccupied.
12. Overall, the land fulfils the character of waste land of a manor.

Whether the land is waste land of a manor

13. I have been provided with an extract from 'A Plan of the Manors of Bewerley and Ramsgill...and of the manor of Appletreewick in Craven...1782'. However, due to the scale at which the map was produced, it is only possible to identify the site of the place name of Ramsgill as indicating that the application land was situated in the manor of Ramsgill at that time. Beyond that, this map has very little evidential value.
14. The application land was formerly situated in the township of Stone Beck Down in the parish of Kirkbymalzeard. The Tithe Survey of the township of Stone Beck Down comprises a large-scale map of the parish, with an inset map for the hamlet of Ramsgill. The surveyor did not record the status of the large open space in the centre of the hamlet of Ramsgill.
15. An extract from the Yorkshire Gazette dated Saturday 8 July 1843 (broadly contemporaneous with the Tithe Apportionment and Map) indicates that John Yorke Esq of Bewerley was lord of the manor of Ramsgill at that time. That same John Yorke held the land recorded as Tithe Apportionment No. 455, now the Yorke Arms. The applicants contend that, if the land in front of the Yorke Arms had been held by another person, this would have been recorded in the survey but it was not. Indeed, the applicant points out, it is not distinguished from nearby roads which are merged with the land. This then leads the applicant to the conclusion that, taking into account the evidence of the landscape itself, this land is waste land of the manor of Ramsgill.
16. I am not satisfied that it is possible to draw that inference from the evidence that is available. I note that a similar albeit smaller open space can be seen in the nearby hamlet of Gouthwaite and which is also depicted on the large-scale Tithe Map. Here, the surveyor recorded that the central area of the hamlet was waste, with the Tithe Apportionment for the township of Stone Beck Down showing Tithe Apportionment No. 276 with a pencilled cross against it, presumably indicating that no rent charge was levied. The applicant considers that is reasonable to conclude that the central and open space at Ramsgill was also waste land despite the omission of the description of the land in the Tithe Survey.
17. The same large scale Tithe Map covers both Ramsgill and Gouthwaite (albeit in an inset in the case of the former). It is reasonable to conclude, and I have no evidence to the contrary, that the map was produced by the same surveyor. I fully recognise that there are inconsistencies in mapping at around that time. However, it seems to me more likely than not that the same surveyor working on the same map and at around the same time would adopt a consistent approach across the piece. This would include how waste was recorded on the Tithe Apportionment in 1838 and on Tithe Map in 1839, only one year later.
18. I therefore consider that it is a false equivalency to conclude that the central and open space at Ramsgill was also waste land despite the omission of the description of the land in the Tithe Survey. It seems to me that it is more likely than not that the surveyor would have treated and depicted the spaces at Ramsgill and Gouthwaite in exactly the same way had that been the case. If anything, I consider that the absence of any reference on the Tithe Apportionment and Map to waste at Ramsgill is an indication that the land was not considered to be waste at that time.

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19. At the time of the Tithe Survey, the hamlet of Ramsgill was distinguished by scattered dwellings and buildings. Two cottages were situated on that part of the application land to the west of the road that runs through the hamlet of Ramsgill. These were demolished in the nineteenth century. There is no evidence to show whether these cottages were lawful or not, precisely when they were demolished or why they were demolished.
 20. The inset Tithe Map for the hamlet of Ramsgill shows that these cottages are numbered in a manner that is consistent with other properties on the map. I have not been provided with either the Tithe Apportionments for these cottages, or for the other properties shown on the inset map. Absent that evidence, I cannot determine the status of these cottages. Nevertheless, it is instructive that these cottages are numbered on the Tithe Map in exactly the same manner as other properties for which a tithe was likely to have been paid. This also supports a hypothesis that the land was not waste at that time.
 21. The Register Titles relating to the application land confirm that the application land in front of the Yorke Arms and across the road was formerly owned by John Edward Evelyn Yorke. The Register Title for that part of the application land in front of the Yorke Arms states that:

NOT to build upon that portion of Field No 381 which forms Ramsgill Green but to keep the same and to cause the same to be kept as an open space for ever and further not to permit or suffer any noise or unseemly conduct or any other act or thing whatsoever thereon which may in any way interfere with the quiet and orderly user of said Green during the times of the services of Ramsgill Church on Sundays Christmas day Ascension day Lady day and Good Friday in any year.
 22. Two points emerge from this extract. Firstly, it clearly relates only to a portion of Field No 381, the extent of which is not shown on any plan that is before me. The Ordnance Survey map of Yorkshire CXVII.6 1907 -1909 shows Field No 381 in the north-east part of the application land, with smaller parcels of land to the immediate south of it. Secondly, the extract from the Register Title strongly implies that the requirement to keep the land open is associated with the use of the Ramsgill Church rather than for any other reason. This would be consistent with the location of Field No 381 as shown on the Ordnance Survey map of 1907-1909.
 23. I am therefore not satisfied, on the balance of probability, that the requirement in the Register Title that the land is “kept as an open space for ever” relates to the whole of the application land. Furthermore, there is nothing in that extract from the Register Title that points to the application land being waste at that time.

Other Matters

24. The objectors consider that this application is unnecessary. They are the owners of that part of the application land to the west of the road that runs through the hamlet of Ramsgill and have permitted the public, by licence, to use that part of the application land for recreation. They have every intention of continuing to do so. Furthermore, they consider that the conservation area status is already sufficient to protect the land.
25. I concur with the applicant that conservation area status is not sufficient in itself to protect the application land. This is partly because conservation area status largely imposes restrictions to development under the Town and Country Planning Act

1990, but also because local planning authorities are required to review conservation area boundaries and designations from time to time. I have no doubt that the objectors will continue to look after that part of the application land that is within their ownership but, of course, they have no such rights or obligations in relation to that part of the application land that is not within their ownership.

Conclusion

26. I recognise that the application land fulfils the character of waste land of a manor. However, when looked at in the round, the historical evidence does not show on the balance of probability that the application land was waste land. Indeed, there is convincing evidence to the contrary.

Paul Freer
INSPECTOR



Plan

This is the plan referred to in my decision dated:

by Paul Freer BA(Hons) LLM PhD MRTPI

Land at: Ramsgill Green, in the village of Ramsgill, North Yorkshire

Reference: COM/3337337

Scale: Not to scale

