



RHONDDA CYNON TAF

**RECORD OF DELEGATED OFFICER DECISION**

**SUBJECT:** Inclosure Act, 1847  
Commons Act, 1876  
Commons Act, 2006

Land Known as The Green, Chapel Street, Blaencwm as a Town or Village Green.

**PURPOSE OF REPORT:** The need to consider whether Rhondda Cynon Taf County Borough Council ("the Council") should take formal action in relation to a complaint made to the Council that the Village Green is being used as a 'work place'.

**DELEGATED DECISION (Date):** June, 2012

- That no action be taken for the reasons and information as set out in the report.

**Chief Officer Signature**

P. J. WCA S

**Print Name**

4/7/12

**Date**

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution

M. Webster.

CONSULTEE CABINET MEMBER SIGNATURE

DATE

OFFICER CONSULTEE SIGNATURE

DATE

Directorate:	
Contact Name:	
Designation:	
Tel.No.	

**RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2012 – 2013**

**REPORT TO ACCOMPANY RECORD OF OFFICER DELEGATED  
DECISION**

**INCLOSURE ACT 1847  
COMMONS ACT 1876  
COMMONS ACT 2006**

**LAND KNOWN AS THE GREEN,  
CHAPEL STREET, BLAENCWM AS  
A TOWN OR VILLAGE GREEN**

**1. PURPOSE OF THE REPORT**

To consider whether Rhondda Cynon Taff County Borough Council ('the Council') should take formal action in relation to a complaint made to the Council that the village green is being used as a 'work place'.

**2. RECOMMENDATION**

That no action be taken

**3. BACKGROUND**

- 3.1 On 25<sup>th</sup> October 2010 and following the receipt of the report of the Inspector Mr. Anthony Porten QC prepared following a non-statutory inquiry the Council resolved to register the land shown edged red on the plan at Appendix 1 ('the Plan') and known as 'The Green' Chapel Street Blaencwm as a new town or village green ('the Green').
- 3.2 The area of the Green shown hatched red on the Plan is in the ownership Keith Dennis Glaister, Martin John Russell and Alastair Hamilton Pennell.
- 3.3 The Council have received complaints from a resident in the locality that the hatched are of the Green was used by the owners of the Green as a work space during the bank holiday weekend (Fri 1<sup>st</sup>, Sat 2<sup>nd</sup>, Sun 3<sup>rd</sup>, Mon 4<sup>th</sup> and Tue 5<sup>th</sup> June 2012) from 8 am to 5 pm. The complaints were made in a telephone conversation with the Council on 6<sup>th</sup> June 2012 and followed up by a set of photographs and a letter. The photographs are attached at Appendix 2.
- 3.4 The Complainant advised that the owner had cut down trees, brought a digger on the Green churning up the Green and removed fences which were subsequently placed on the Green.

- 3.5 In a telephone conversation with the Council on 7<sup>th</sup> June 2012 one of the owners of the Green advised that work was being undertaken to support their application for deregistration of part of the Green under Section 16 Commons Act 2006 which they were due to submit to the Welsh Government. He advised that the work was being undertaken outside the boundary of the Green but that vehicles had passed over and been on the Green but it was their intention to re-seed the Green where it had been churned up. Photographs have been submitted by the owners to the Council of the works being undertaken and these are attached at Appendix 3

#### **4. OFFENCES ON TOWN AND VILLAGE GREENS**

- 4.1 Section 12 Inclosure Act 1857 provides *“and whereas it is expedient to provide summary means of preventing nuisances in town greens and village greens... as a place for exercise and recreation; If any person... wilfully lay any manure, soil, ashes, or rubbish, or other matter or thing thereon, or do any other act whatsoever to the injury of such town or village green or land, or to the interruption of the use or enjoyment thereof as a place for exercise and recreation, such person shall for every such offence, upon a summary conviction thereof before two justices, upon the information of any churchwarden or overseer of the parish in which such town or village green or land is situate, or of the person in whom the soil of such town or village green or land may be vested, forfeit and pay, in any of the cases aforesaid, and for each and every such offence, over and above the damages occasioned thereby, any sum not exceeding level 1 on the standard scale...”*. Section 189 of The Local Government Act 1972 provides that references to a churchwarden or overseer of the parish in which the green is situate are to be construed as references to the council of the district or Welsh principal area in which the green is situated
- 4.2. Section 29 Commons Act 1876 provides *“An encroachment on or inclosure of a town or village green, also any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section twelve of the Inclosure Act 1857 he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground is situate, as well as upon the information of such persons as in the said section mentioned. This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.”*
- 4.3 It is clear from the legislation referred to above that the Council has a power to take legal action to protect the Green but also that action

under S.29 Commons Act 1876 can be undertaken by the residents of the parish within which the Green lies.

**5. ISSUES**

- 5.1 On examination of the photographs supplied by both the complainant and the owners it is clear that there was encroachment on the Green by vehicles but that the majority of the works took place outside the area of the Green.
- 5.2 It is the view of the Council that the encroachment onto the Green by vehicles and the churning up of the green are temporary in nature and will not affect the long term enjoyment of the Green by the residents. In this regard the owners have indicated to the Council that they intend to re-seed the Green to rectify any damage caused.
- 5.3 The Green benefits the locality in which it is situate and the residents are able to take legal action themselves to protect their interests.
- 5.4 In addition to the above it is the view of the Council that it would not be appropriate to expend the Council's limited resources on legal action in respect of a matter which is likely to be temporary in nature.

**6. SUMMARY**

That the Council take no action.