

HORTON-IN-RIBBLESDALE PARISH COUNCIL

Clerk HELEN C. SERGEANT B.Sc., M.Sc.

Your Ref

Borrins Selside Settle North Yorkshire BD24 OHX
Telephone Horton-in-Ribblesdale (01729) 860379

May 24th 1996

Dear Mr Webster,

Thank you for sending Horton-in-Ribblesdale Parish Council a copy of the letter you sent to North Yorkshire County Council about Selside Village Green, dated May 16th 1996.

Please find enclosed for your information a copy of the text of a letter sent to the County Council recently by the Parish Council.

Yours sincerely,

Helen C. Sergeant

Parish Clerk

Mr Colin Webster
Secretary
Selside Residents Association
The Old School
Selside
Settle
BD24 OHZ

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May 24th 1996

Dear Mr Daly,

Thank you for your letter dated May 9th 1996, enclosing a copy of the Opinion of G Ryan QC in relation to the Parish Council's application to register the Green at Selside as village green under the Commons Registration Act 1965.

The Council has seen a copy of the letter sent to you by the Selside Residents Association dated May 16th 1996, and wishes you to know that the Parish Council fully endorses the contents of that letter.

In addition the Council would like to emphasise several points. From reading his Opinion, it is apparent that G Ryan QC does not have a clear picture in his mind's eye as to what the Green and the hamlet of Selside looks like. We would like you to recommend to the Economic Development and Environmental Issues Sub-Committee that they should hold a site meeting before reaching any decisions on this application. The Council feels that this is very important as only then could the Committee appreciate the nature of the use of the Green by the residents of Selside, and how this use is determined by the size and location of the Green.

G Ryan QC refers to an aerial photograph of Selside submitted by Mr J H Morphet. This photograph was taken by the company concerned to show the house Penyghent Cottage (then a barn), not to show Selside village green. Had the photograph been taken from the other side it would have clearly have shown the open space, this would not have been obscured by intervening buildings. The "fertiliser store" has never been more than a pile of till in plastic bags resting on railway sleepers. Sometimes it was there; sometimes it wasn't, all depending on the Morphets' farming activities. It was never a building. The Parish Council has already pointed out in its letter to you, addressed to Mr Pennell, in March this year, that the nissen huts were open-ended and available for children to play hide and seek. G Ryan QC seems to have missed this point. Was the Parish Council's letter of March 1996 shown to Mr Ryan? I see that the Parish Council has not received an acknowledgment of the receipt of this letter by the County Council; could you please confirm that it has been received.

G Ryan QC is mistaken when he says on page 3 that "a low stone wall----- has for years enclosed the greater part of the green". The Green has NEVER been enclosed either by Mr Morphet or anyone else. There are part walls on two sides of the Green only. This illustrates the problem of trying to come to a decision about something without seeing it, and we would like to ask again that the Sub-Committee holds a site meeting.

When G Ryan QC says that "the land was for many years occupied by Mr Morphet" it is misleading, because Mr Morphet did not occupy the land exclusively; it was used by the rest of the inhabitants of Selside at the same time as well.

The implication by Mr Ryan that the evidence of children and teenagers is invalid is disturbing. The Parish Council would agree with the Selside Residents Association that this part of the Opinion should either be ignored or tested in a court of law.

Similarly, the Parish Council does not feel that the County Council should include in its deliberations the judgement in the case of R. v Suffolk C.C., as this is subject to an appeal. The Parish Council has consulted with the legal advisor to the Yorkshire Local Councils Associations on this issue, who has written, "As far as we are aware other cases of land becoming registered as village green subsequent to 1970 have not had to face the test set out by the Honourable Mr Justice Carnwath. The normal interpretation and the one these Associations have always held is that under Section 1(2)(a) of the Commons Registrations Act 1965 land not registered by 2 January 1970 is deemed not to be a town or village green."

Please will you ensure that the members of the Sub-Committee see the contents of this letter in full rather than a summary, and would you kindly do likewise with previous letters on this matter written to you by the Parish Council. The Council feels that this is important, in view of the changes in the structure of the County Council, and the fact that this is a "new" sub-committee.

Yours sincerely,

Parish Clerk

Richard T Daly MA (Oxon)
Head of Legal Services
North Yorkshire Legal Services
County Hall
Northallerton