

Background and update on the ADM Claim concerning their Town Mills Ham site.

The Severn Ham is:

Approx. 166 acres of meadowland surrounded by water but with two pedestrian accesses and one controlled vehicular/animal access via the Mill.

The Severn Ham has ancient rights of common, regulated by Act of 1808 (To know more see [“Severn Ham – Commons”](#) on this site)

The Severn Ham (Land) Owners are:

Major - Tewkesbury Town Council

Minor - ADM since 2003 (Previously Allied Mills, Healings Mills)

Archer Daniels Midland (ADM) and their Court Claim

ADM have “rationalised” their business in UK and closed Tewkesbury Mills in 2006 along with others. Their objective now is to sell the site and buildings, presumably for development of alternative uses.

The Town and Borough Council have welcomed this possibility for regeneration of that part of town. The Borough has developed design briefs for such development and the site is recognized as a major opportunity in the current MasterPlanning exercise being carried out in Tewkesbury.

One of the hindrances to a sale has been the confusion surrounding whether all common rights were extinguished at the various times parcels of land were sold to the previous Mill owners. (Common rights could theoretically include not only grazing of animals but such as taking of peat and turf, taking of fish, taking of wood, gorse or furze or eating of acorns or beechmast by pigs!).

This was compounded by the fact that the larger part of their site was registered as common land under the Commons Registration Act 1965. This registration was done by two local townsmen with the best of intentions for the Ham at large. The fact that they included the Mill site was almost certainly incorrect, not challenged at the time and probably not noticed by the then owners.

So ADM are going to Court to seek agreement that all common rights on their land are extinguished and the site was incorrectly included along with the remaining, larger, part of the Ham as Common land. They do not on the face of it seek anything else affecting the part of the Ham owned by the Council nor the rights of transit across their property for approved vehicles and livestock in order to reach the Council owned land.

Such transit rights are anyway enshrined in the Deeds of transfer of the last plot the Council sold to Allied Mills. It was with the Secretary of State’s approval at that time that pedestrian access to the Ham through the Mill site was extinguished in favour of

access across the new pedestrian bridge from Back of Avon, but approved vehicular and livestock transit rights were maintained..

Any Claim such as this has potential defendants that have a choice of agreeing the Claim before it goes to Court or contesting it.

Tewkesbury Commons Trustees were named as defendants but after taking Legal Council's advice that all rights had indeed been extinguished (with one exception), they agreed not to contest the Claim. There was a negotiation first about the one exception; the last parcel sold by the Council where commons rights of grazing had not been extinguished but leased in-perpetuity to the Mill owners. After Legal Council's advice that nothing could ever be done with these rights and for a consideration they were extinguished.

The Council was another named defendant. It is my understanding that they do not disagree with the Claim as I have described it above but that their Legal Council has advised that the Claim **as worded** will risk transit rights or have implications for the part of the Ham they own, or both. So, I believe they will contest and seek a Court decision and wording that avoids these risks.

The Council is meeting on the 31st January in extraordinary session to hear the latest advice from their Legal Council.

If the Council had not taken this course of action then possibly the Attorney General, the third named defendant, whose role it is to be the final defender of public rights, may have had to take action. As it was they felt the Council was doing enough in the public's interests so will not themselves contest.

This matter has been rumbling on for four to five years and will presumably be decided in Court in the Spring. It is to be hoped that all is resolved satisfactorily soon so sale and redevelopment can go ahead and be incorporated into the MasterPlanning exercise.

Alan Purkiss
Clerk to Tewkesbury Commons
30/01/11

THE SEVERN HAM – CURRENT POSITION RE CUTTING ETC. AND THE IMPLICATIONS

Position this year:

Five plots were sold but remain uncut now (most other sold plots were cut and cleared around or a little after the “last” date of 12th July)

A further two unsold plots (due to weed infestation and water-logged ground caused by leaks in pipes - has TTC sought compensation from ST?) remain uncut.

Implications

Upon being informed, Natural England insist all grass is to be cut and cleared. They point to the grant monies paid as more than adequate to cover this cost if necessary.

Approximately seventy acres are not available for lease by the Commons on August 12th (with one month’s worth of fresh grass on them), this is reducing the value the Commons will receive and for which compensation will be sought.

The Commons are severely compromised but are holding off signing any Grazing Agreement until tomorrow because of the doubt of the start date. All in order not to queer TTC’s negotiating position re cutting unsold plots (ie. Grazing sheep and hay cutting don’t mix well).