



**IN THE FIRST-TIER TRIBUNAL  
CHARITY  
GENERAL REGULATORY CHAMBER**

**Case No. CA/2010/0006**

On appeal from Charity Commission Decn No. C-286046-W29C of 4 August 2010

**Appellant: Mr Christopher Lasper  
Respondent: The Charity Commission for England and Wales**

**Determined on the Papers**

**By  
Vivien Rose, Tribunal Judge  
A'isha Khan, Tribunal Member  
Stuart Reynolds, Tribunal Member**

**Subject matter: The Town Field, Brigham, Keswick  
Application of the Commons Registration Act 1965**

## **DECISION**

The appeal is allowed and the decision of the Charity Commission is quashed. The Tribunal remits the matter to the Charity Commission as set out at section 6 of the reasons.

### **REASONS FOR THE TRIBUNAL'S DECISION**

#### **1. Background**

- 1.1 Mr Lasper has lodged a Notice of Appeal challenging a decision of the Charity Commission not to remove an institution from the register of charities maintained under section 3 of the Charities Act 1993. The institution concerned is called "the Town Field" and is entered on the register of charities as registered charity number 520295. The Town Field is one of the names given to a piece of open land in the town of Keswick in Cumbria.
- 1.2 On 1 February 2009 Mr Lasper asked the Commission to remove the Town Field from the register of charities. He contends that because of the operation of the Commons Registration Act 1965 in respect of the Town Field, any charitable trusts on which the land was originally held have been extinguished. The Charity Commission disagrees and has refused to remove the Town Field from the register. The decision against which Mr Lasper appeals is the decision taken by the Charity Commission on 4 August 2010 after Mr Lasper had invoked the Commission's internal review procedure.<sup>1</sup>
- 1.3 The history of the Town Field is not in dispute. Originally the land was the subject of an Inclosure Award made on 30 December 1848 under a local Act of Parliament. The land was awarded to the Churchwardens and Overseers for the time being of the town of Keswick, as and for a place of exercise and recreation for the neighbouring population. This Award was replaced in July 1922 by a Scheme made by the Charity Commissioners pursuant to section 18 of the Commons Act 1899. The 1922 Scheme vested the land in the Official Trustee of Charity Lands (who was the predecessor of the Official Custodian for Charities). The Scheme also listed a number of individuals as Trustees.
- 1.4 The 1922 Scheme was in turn replaced by a scheme made by the Minister of Education in March 1951 under section 1 of the Education (Miscellaneous Provisions) Act 1948. The 1951 Scheme appointed the Urban District Council

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<sup>1</sup> The Charity Commission initially applied to strike out Mr Lasper's appeal on the grounds that he was not a person who is or may be affected by the decision for the purposes of the Tribunal's jurisdiction under section 2A(4) of the Charities Act 1993 and item 1 in Schedule 1C to that Act. The application to strike out was dismissed by the Tribunal on 1 November 2010.

of Keswick to be trustee of the charity but did not affect the vesting of the land in the Official Trustee. Subsequent local government reorganisations transformed the Urban District Council into Keswick Town Council.

- 1.5 Thus at the time the Commons Registration Act 1965 came into force the land was vested in the Official Custodian for Charities (which would perform the role of a custodian trustee) and the managing trustee of the charity was Keswick Town Council.

## **2. The Commons Registration Act 1965**

- 2.1 Section 1 of the Commons Registration Act 1965 (“the 1965 Act”) provided a system of registration for all land in England and Wales which is common land or a town or village green. In describing the legislation we will refer to its application to a town green although the provisions generally also apply to common land and to village greens.
- 2.2 Broadly speaking, county councils were established as registration authorities and were required to create and maintain a register of land over which rights of common existed. According to section 1 of the 1965 Act, the details to be registered were -
  - (a) the land in England and Wales which is a town green;
  - (b) the rights of common over such land; and
  - (c) “persons claiming to be or found to be owners of such land or becoming the owners thereof by virtue of this Act”.
- 2.3 Section 3 provided that regulations made under the 1965 Act could require or authorise the registration authority to note on those registers such other information as may be prescribed.
- 2.4 The 1965 Act provided for provisional registration of the details listed in section 1 in respect of a piece of land (section 4); for publication of that provisional registration and for the lodging of objections to registration (section 5); and for the disposal of disputed claims in respect of any land by Commons Commissioners (section 6).
- 2.5 Section 8 of the 1965 Act is the key provision for the purposes of this appeal. It provided for what was to happen where land had been registered as a town green but no person had been registered as the owner of that land. In such a case:
  - (a) the question of ownership of the land was referred by the registration authority to a Commons Commissioner appointed under section 17 (section 8(1));
  - (b) the Commons Commissioner would, after giving such notices as were prescribed, “inquire into the matter” (section 8(2));

- (c) if the Commons Commissioner was satisfied after that inquiry that any person was the owner of that land, he was to direct the registration authority to register that person accordingly (section 8(2));
- (d) If the Commons Commissioner was not so satisfied then he was required to direct the registration authority to register as the owner of the land the local authority whose area of responsibility included the land (section 8(3));
- (e) the registration authority was in either event required to comply with the direction of the Commons Commissioner.

2.6 Section 8(4) then provided:

“On the registration under this section of a local authority as the owner of any land the land shall vest in that local authority and, if the land is not regulated by a scheme under the Commons Act 1899, sections 10 and 15 of the Open Spaces Act 1906 (power to manage and make byelaws) shall apply in relation to it as if that local authority had acquired the ownership under the said Act of 1906.”

2.7 Section 10 of the 1965 Act provided that:

“The registration under this Act of any land as common land or as a town or village green, or of any rights of common over any such land, shall be conclusive evidence of the matters registered, as at the date of registration, except where the registration is provisional only.”

2.8 Section 22 defined various terms including what is meant by a town or village green. It also provided in subsection (2) that references in the 1965 Act to ownership and the owner of any land are references to the ownership of a legal estate in fee simple in any land and to the person holding that estate.

### **3. The application of the 1965 Act to the Town Field**

3.1 What happened in respect of the Town Field is described in the decision of a Commons Commissioner dated 21 August 1979. The decision covered four different areas of land which had been entered onto the Register of Town or Village Greens maintained by the former Cumberland County Council. No person was registered as owner of these pieces of land. One of the four greens was Derwentwater Green which, it is agreed between the parties, is another name for the Town Field. The decision records that after public notice was given of the reference of this matter to the Commons Commissioner, no one came forward claiming to be the owner. A hearing was held on 23 May 1979 to inquire into the question of ownership.

3.2 The Commissioner refers in his decision to a letter sent by the Commons Open Spaces and Footpaths Preservation Society providing him with information about the original Inclosure Awards. He states that in the absence of any claim to ownership by successors of the respective

churchwardens and overseers in whom the land was vested, the Commissioner was not satisfied that any person was owner of the land, whether by derivation from those awards or otherwise. He therefore directed the registration authority to register Keswick Town Council as owner of Derwentwater Green under section 8(3) of the 1965 Act.

- 3.3 We do not know why the Official Custodian for Charities did not come forward in 1979 to claim ownership of the land, or why Keswick Town Council did not draw the Commons Commissioner's attention to the existence of the 1951 Scheme and their role as trustees under that Scheme. It is not suggested that there has been bad faith on anyone's part in this matter – the problem may have arisen because of confusion between the name The Town Field and the name Derwentwater Green.
- 3.4 The effect of the Commons Commissioner's direction and consequent entry of Keswick Town Council as owner on the register of Town or Village Greens was, in our judgment, that title in the land vested in Keswick Town Council pursuant to section 8(4) of the 1965 Act so that the Official Custodian of Charities was no longer the owner of the land.

#### **4. Did the transfer of the land extinguish the charitable trusts?**

- 4.1 The question raised by this appeal is whether what happened to the Town Field also had the effect of extinguishing the charitable trusts under the 1951 Scheme in so far as they applied to that land.
- 4.2 In this regard, two points can be disposed of at the outset. First, it is clear that the registration of land under the 1965 Act is not, of itself, inimical to the continued existence of charitable trusts over that land. There is no reason under the 1965 Act why, if the Official Custodian had come forward in 1979 and been registered as the owner, the charitable trusts could not have remained in place. On the contrary, a letter from the Charity Commission to Mr Lasper of 1 April 2009 refers to regulation 23 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471) ("the General Regulations"). This regulation provides that where any land registered under the 1965 Act is held for charitable purposes, the registration authority shall, on the application of the owner or the charity trustees, enter a note to that effect in the land section of the register. So the mere registration of a town or village green under the 1965 Act did not affect any charitable trusts subsisting over that green.
- 4.3 Secondly, the application of sections 10 and 15 of the Open Spaces Act 1906 by section 8(4) of the 1965 Act is not of itself inconsistent with the continued existence of the charitable trusts. The Open Spaces Act 1906 ("the 1906 Act") provides a number of routes whereby land which is used for gardens and open space can be transferred to a local authority. This can be done by trustees of the open space appointed under a local or private Act of Parliament (section 2 of the 1906 Act); by trustees of a charity which holds the land on trust for the purposes of public recreation (section 3 of the 1906 Act)

or by charity trustees who hold the land on trust for other charitable purposes (section 4 of the 1906 Act).

- 4.4 Section 10 of the 1906 Act provides that where a local authority has acquired land under the Act, it must hold and administer that land for the enjoyment of the public and must maintain it in good condition. Section 15 empowers the local authority to make byelaws for the land. Neither of these powers is inconsistent with the continued operation of charitable trusts over the land. Indeed, in respect of land transferred to the local authority under section 3 of the 1906 Act, the statute expressly states that the local authority shall hold the land on the trusts and subject to the conditions on which the trustees held the land: see section 3(1) of the 1906 Act.
- 4.5 Mr Lasper and the Charity Commission agree that section 10 does create a trust over the transferred land, but that it is not a charitable trust. We have been referred to section 126 of the Local Government Act 1972. This empowers parish or community councils to appropriate any land belonging to them which is not required for the purposes for which it was acquired and to use it for their other purposes. Section 126(4B)<sup>2</sup> provides that where land appropriated is held in accordance with section 10 of the 1906 Act:

“the land shall by virtue of the appropriation be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with ... the said section 10”.

This power of a local authority to appropriate the land and extinguish the section 10 trusts is inconsistent with those section 10 trusts being charitable.

- 4.6 In our judgment the application by section 8(4) of the 1965 Act of sections 10 and 15 of the 1906 Act is intended simply to ensure that the local authority, once vested with title in the town green, has adequate powers to administer and maintain it. That is why those 1906 Act provisions only apply if the land is not already subject to a scheme under the Commons Act 1899. The Commons Act 1899 (which applies to town and village greens as well as to common land) confers powers on a local authority to manage land within its area, without affecting the title of that land.
- 4.7 We do not, therefore, consider that the question whether the charitable trusts over the Town Field survived the operation of section 8(4) of the 1965 Act can be answered by looking at the 1906 Act. In our judgment the question must be answered by considering whether, on the proper construction of the provisions of the 1965 Act as a whole, Parliament must have intended that any charitable trusts on which unclaimed land was held before 1965 are extinguished when the land is vested in a local authority under section 8(4).
- 4.8 The Charity Commission rely on the fact that there is no provision in section 8 or elsewhere in the 1965 Act which expressly states that charitable trusts are extinguished once the land vests in the local authority pursuant to section 8(4)

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<sup>2</sup> Inserted by the Local Government, Planning and Land Act 1980 s. 118, Sch 23 Pt, V para 17(2).

of the 1965 Act. We accept that this is a weighty point. It is certainly a serious matter to imply into a statute the extinction of rights without compensation – even though those rights have, *ex hypothesi*, not been uncovered following inquiry by the Commons Commissioners pursuant to the 1965 Act.

4.9 However, there are two reasons why we conclude, on balance, that the operation of section 8(4) of the 1965 Act must have been intended to extinguish these rights.

4.10 The first reason is that the survival of these rights would be inconsistent with an important aspect of the purpose of the 1965 Act. That purpose was described by Lord Hoffmann in his speech in *R v Oxfordshire County Council ex parte Sunningwell Parish Council* [1999] UKHL 28, [2000] 1 AC 335. In that speech, with which the other Law Lords agreed, Lord Hoffmann said:

“The main purpose of the Act of 1965 was to preserve and improve common land and town and village greens. It gave effect to the Report of the Royal Commission on Common Land 1955-1958 (1958) (Cmnd. 462) which emphasised the public importance of such open spaces. Some commons and greens were in danger of being encroached upon by developers because of legal and factual uncertainties about their status. Others were well established as commons or greens but there was uncertainty about who owned the soil. This made it difficult for the local people to make improvements (for example, by building a cricket pavilion). There was no one from whom they could obtain the necessary consent.

“The Act of 1965 dealt with these problems by creating local registers of common land and town and village greens which recorded the rights, if any, of commoners and the names of the owners of the land. If no one claimed ownership of a town or village green, it could be vested in the local authority. Regulations made under the Act prescribed time limits for registrations and objections and the determination of disputes by the Commons Commissioners. In principle, the policy of the Act was to have a once-and-for-all nationwide inquiry into commons, common rights and town and village greens. When the process had been completed, the register was conclusive. By section 2(2), no land capable of being registered under the Act was to be deemed to be common land or a town or village green unless so registered”.

4.11 We agree that the purpose of the 1965 Act was to be achieved by removing what Lord Hoffmann referred to as factual and legal uncertainties about the status of town and village greens. The Act did not provide a *clean* slate for such land because, as we have described, in cases where section 8(4) has no application the land may well be subject to continuing charitable or other trusts. But at the least it was meant to provide a slate on which one could be confident that all salient aspects of the land were registered and which enabled one to make such inquiries about the land as one might wish. It is true that section 23 of the General Regulations does not mean that the register will contain a note of every charitable interest because the owner or trustees may fail to apply to add a note. But the register shows who the owner is and that owner is the best person to answer questions about who has what rights over the land in addition to the commons rights registered.

- 4.12 In our judgment, the survival of charitable trusts of which the local authority might have no knowledge would undermine this purpose. It would mean that the register could not itself provide the whole picture in respect of the land and moreover that it would not provide enough information to enable the public to approach someone who is likely to know the whole picture. Trusts, the existence or terms of which have been long forgotten, would continue to subsist in the land despite the once-and-for-all inquiry to which Lord Hoffmann referred. We do not consider that that can have been Parliament's intention.
- 4.13 The second reason for our conclusion is that the local authority has no choice about whether to accept the land into its ownership. Section 8 provides only that if the Commons Commissioner is not satisfied that any person is the owner of the land, he shall direct the registration authority to register the local authority as the owner of the land and the registration authority must comply with that direction. On registration, the fee simple estate in the land vests in the local authority. On the Charity Commission's case, the local authority may in fact hold that land on unknown trusts for unknown trustees.
- 4.14 We do not consider that it can have been Parliament's intention to put local authorities at risk of acting in breach of trusts of which they have no knowledge and which subsist over land which they have no choice but to accept into ownership. The chances of them acting in breach of trust may be reduced by the fact that the land will continue to be used for recreation under the 1965 Act schema and by the fact that they can exercise the powers conferred by sections 10 and 15 of the 1906 Act or under a Commons Act 1899 scheme. But those powers are not a complete shield and it is possible to envisage situations where the local authority would unwittingly be in breach of trust. Money might be generated by uses of the land which are consistent with the enjoyment of the registered rights of commons, for example the grant of wayleaves to a utility company. A local authority which mixed that money with its other income and used it for its general activities might be doing so in breach of trust. The fact that they are unlikely to be held to account for that breach of trust, given that no one asserted the existence of the trust during the registration procedure, does not in our view remove the significance of this risk.
- 4.15 There is also the possibility that a local authority owner might dispose of a town green under section 126 of the Local Government Act 1972 which we referred to in paragraph 4.5 above. Any proceeds of sale would be assumed to be free of any trusts under section 126(4B) of the 1972 Act and would be mixed with other assets of the local authority for its general purposes. If unknown charitable trusts persisted over such proceeds of sale there would again be an unwitting breach of trust. We recognise that an individual who successfully asserts a claim to own a town green may also in fact hold the land on charitable trusts of which he is entirely unaware and those trusts would not be extinguished by his registration under the 1965 Act. But that person would, at least, be in no worse position as regards unwitting breaches of trust merely because he is now registered as owner. The local authority, in contrast, only becomes owner of the land by virtue of the operation of the



1965 Act and so would be in a worse position if it takes that land subject to charitable trusts of which it is unaware.

- 4.16 In our judgment, therefore, despite the absence of express wording in the 1965 Act, the vesting of land in the local authority pursuant to section 8(4) of that Act does operate to extinguish charitable trusts which existed before.
- 4.17 We have considered the arguments put forward by the Charity Commission contesting such a conclusion. They rely on the fact that in this case Keswick Town Council was both the trustee of the land under the 1951 Scheme and the body which benefited from the operation of section 8(4) because they acquired the Town Field. Keswick Town Council should not, the Commission argue, be allowed to benefit from their failure to draw the attention of the Commons Commissioner to the trusts on which they held the land.
- 4.18 The extinction of charitable trusts by the operation of section 8(4) cannot, in our view, depend on the individual circumstances of the case. Either those trusts are extinguished by the vesting of the land in the local authority or they are not, depending on whether it is right to construe the statute as having such a result. That cannot be influenced by the fact that in some cases but not others, the local authority may have been instrumental in the land remaining unclaimed during the course of the Commons Commissioner's inquiry. As we stated earlier, there is no suggestion here of bad faith on the part of the local authority, still less of the Official Custodian.
- 4.19 Similarly the fact that in this case the local authority has all along regarded itself as the trustee of the land and has continued to treat the Town Field as being subject to the charitable trusts under the 1951 scheme cannot affect the matter. Whether or not the trusts were extinguished by the operation of the statutory provisions cannot be influenced by the subsequent behaviour of the local authority as owner.
- 4.20 In the light of the above reasoning, we find that the charitable trusts that attached to the Town Field under the 1951 Scheme were extinguished when the land was vested in Keswick Town Council pursuant to section 8(3) and 8(4) of the 1965 Act.

## **5. Should the Town Field be removed from the Register of Charities?**

- 5.1 It is important to distinguish between the land known as the Town Field and the charity of that name which is registered on the register of charities. We agree with the Charity Commission that if, as we have held, the land is no longer subject to charitable trusts we must go on to consider whether that means that the charity should be removed from the register.
- 5.2 Section 3(4) of the Charities Act 1993 (as substituted by section 19 of the Charities Act 2006) provides that the Charity Commission:

“ ... shall remove from the register –

- (a) any institution which it no longer considers is a charity, and
- (b) any charity which has ceased to exist or does not operate.”

- 5.3 The Charity Commission does not regard section 3(4)(a) as applicable here because even if the land is no longer subject to the charitable trusts, the institution created by the original Inclosure Award has not ceased to be a charity. We agree that the purpose of providing facilities for public recreation continues to be a charitable purpose even if the charity’s principal asset – the land – has ceased to be subject to those trusts.
- 5.4 The Charity Commission accepts that an unincorporated charity such as the Town Field ceases to exist for the purposes of section 3(4)(b) when property ceases to be held on the trusts of the charity. The question is therefore whether there is any property held by the charity other than the land. The Charity Commission contends that a potential claim for property should be treated as property for this purpose. So if there is a claim which might be enforced by the charity trustees, thereby bringing property into the charity, it would not be right to remove the charity from the register.
- 5.5 The Charity Commission relies on three possible routes by which the charity may acquire some property entitling it to remain on the register of charities. The first is under section 19 of the Commons Act 2006. That section provides:

**“19. Correction**

(1) A commons registration authority may amend its register of common land or town or village greens for any purpose referred to in subsection (2).

(2) Those purposes are-

(a) correcting a mistake made by the commons registration authority in making or amending an entry in the register;

(b) correcting any other mistake, where the amendment would not affect-

(i) the extent of any land registered as common land or as a town or village green; or

(ii) what can be done by virtue of a right of common;

...

(3) References in this section to a mistake include-

(a) a mistaken omission, and

(b) an unclear or ambiguous description,

and it is immaterial for the purposes of this section whether a mistake was made before or after the commencement of this section.

(4) An amendment may be made by a commons registration authority-

- (a) on its own initiative; or
- (b) on the application of any person.

(5) A mistake in a register may not be corrected under this section if the authority considers that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so.

...”

5.6 In the decision which Mr Lasper appeals against, the Head of Legal Compliance at the Charity Commission said:

“It seems to me that there is a mistake in the Ownership Section of the register, given that the land is owned by the charity created by the Award, not by the Town Council. Even if “owned” in the 1965 Act refers only to the ownership of legal title to land, a mistake was made because legal title to the land vested in the Official Custodian for Charities not in the Town Council. Moreover, a mistake was also made by the Commons Commissioner in not satisfying himself that the land was owned by the charity pursuant to section 8(2), and in making the Direction under section 8(3). Since it is registration of the local authority as owner that triggers section 8(4), correcting the registration should disapply the provisions of section 8(4)”.

- 5.7 The potential disapplication of section 8(4) of the 1965 Act following a correction made under section 19 of the Commons Act 2006 is thus the first ground on which the Charity Commission would resist removing the Town Field from the register of charities, even if the land is no longer subject to the charitable trusts.
- 5.8 We do not accept this analysis of how section 19 would work. First, there was no “mistake” here. The Commons Commissioner followed the procedure set out in section 8 after the matter had been referred to him by the local authority. He was not mistaken in coming to the conclusion that he was not satisfied that any person was the owner of the land because no one claimed ownership of the land. If the original owner of land can come forward many years later and rely on section 19 of the Commons Act 2006 to unravel the registration which followed his failure to assert his rights at the appropriate time, then the conclusive nature of the registration of ownership is entirely undermined.
- 5.9 Secondly, even if one could describe the decision of the Commons Commissioner that he was not satisfied that there was an owner as “mistaken” for this purpose, that does not mean that the entry on the register is a mistake. The entry on the register accurately reflects the registration made by the registration authority in compliance with the direction from the Commissioner. There is no mistake on the register.
- 5.10 Finally there is the point that the Charity Commission acknowledge that section 19 of the Commons Act 2006 is not yet in force in respect of this area of the country. It was brought into force in October 2008 in respect of seven

specified county and district councils as pilot areas. We do not know whether it is intended to bring it into force in respect of the rest of the country. The provision that section 19 appears to replace is regulation 36 of the General Regulations. That refers to the correction of “any clerical error or omission, or error or omission of a like nature”. That wording, which seems to be the wording currently in force, is even less apt to cover what happened to the Town Field than section 19 of the 2006 Act.

- 5.11 The other two potential claims to property which the Charity Commission argues justify maintaining the charity on the register relate to potential claims for restitution or under a constructive trust which could be brought by the charity against Keswick Town Council in its capacity as trustee. These are said to arise because Keswick Town Council failed to alert the Commons Commissioner to the existence of the trust and stood by whilst the land was vested away from the Official Custodian and the trusts were extinguished, thereby obtaining the beneficial ownership of the trust land without authority.
- 5.12 We are doubtful whether either of these potential claims have any real prospect of being brought against Keswick Town Council, let alone of being successfully pursued. We certainly do not regard their theoretical existence as a justification for keeping the charity on the register indefinitely.

## **6. Next steps**

- 6.1 The powers that the Tribunal has when determining an appeal against a decision not to remove an institution from the register are a power to quash the decision and (if appropriate) remit the matter to the Charity Commission or direct the Commission to rectify the register.
- 6.2 For the reasons given above we are unanimous in finding that the land which constituted the principal asset of the Town Field charity is no longer held under charitable trusts. We therefore quash the original decision of the Charity Commission that formed the basis of this appeal.
- 6.3 However, we consider that it would be premature for us now to direct the Charity Commission to remove the Town Field from the register. We have received evidence that Keswick Town Council have continued to regard themselves as trustees of the charity called the Town Field, that they have administered the property via a charitable trusts committee and have regularly filed an annual return with the Charity Commission.
- 6.4 Keswick Town Council, as owners of the land and trustee of the charity, should be allowed time to consider the implications of this ruling and any action they may decide to take in consultation with the Charity Commission. Whilst we do not consider there to be a strong likelihood of a successful claim for restitution or under a constructive trust, Keswick Town Council may still choose to initiate proceedings or otherwise restore property to the charity.

- 6.5 The present situation should not be allowed to persist indefinitely. After a period of no longer than six months, if no claim has been brought by the charity and if no other property has been identified as belonging to the charity then the Town Field should be removed from the register of charities.
- 6.6 We therefore remit the matter to the Charity Commission so that they can liaise with Keswick Town Council to consider whether, in the light of this ruling, there are any assets to which the charitable trusts could apply and whether there is now a realistic possibility that the charity will acquire such assets by bringing an action against the trustees. If there are no such assets and no likelihood of the charity bringing an action within a reasonable time, the charity should be removed from the register.

## **7. Right to Appeal**

- 7.1 The parties have a right to appeal against this decision on a point of law to the Upper Tribunal under section 11 of the Tribunals, Courts and Enforcement Act 2007 and rule 42 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 as amended.
- 7.2 A person wishing to appeal must make a written application to the Tribunal for permission and that application must be received no later than 28 days after the receipt of this written decision. Such an application must identify the alleged error or errors of law in the decision and state the result the party is seeking. Relevant forms and guidance for exercising this right are available on the Tribunal's website [www.charity.tribunals.gov.uk](http://www.charity.tribunals.gov.uk).

**Signed:**

**Dated: 14.1.11**

**Vivien Rose**  
**Tribunal Judge**

**A'isha Khan**  
**Tribunal Member**

**Stuart Reynolds**  
**Tribunal Member**