

## Registration of Croglin Quarry

# A report for **Ainstable** Parish Council

By Kimberley Lawson, Clerk, January 2017

### 1. Introduction

At the meeting of Ainstable Parish Council on 15<sup>th</sup> March, 2016 it was noted that, in order to comply with the Transparency Code, the Parish Council must list on its website all the land it owns. Cllr H Proud had carried out some research and presented a list of pieces of land that were possibly owned by the Parish Council.<sup>1</sup>

Included on the list were two pieces of land know as *Sand Pit by Channel Pool* and *Croglin Quarry*. Cllr Proud's research showed that the Parish Council was the owner of the Sand Pit but that Croglin Quarry had no owner. The Clerk began the process of registering the Sand Pit with the Land Registry.

However, in the process of researching the Sand Pit and another piece of parish land at Ruckcroft in order to gather evidence to support the Parish Council's claim to the land, the Clerk found evidence to suggest that the Parish Council does, in fact, own Croglin Quarry.

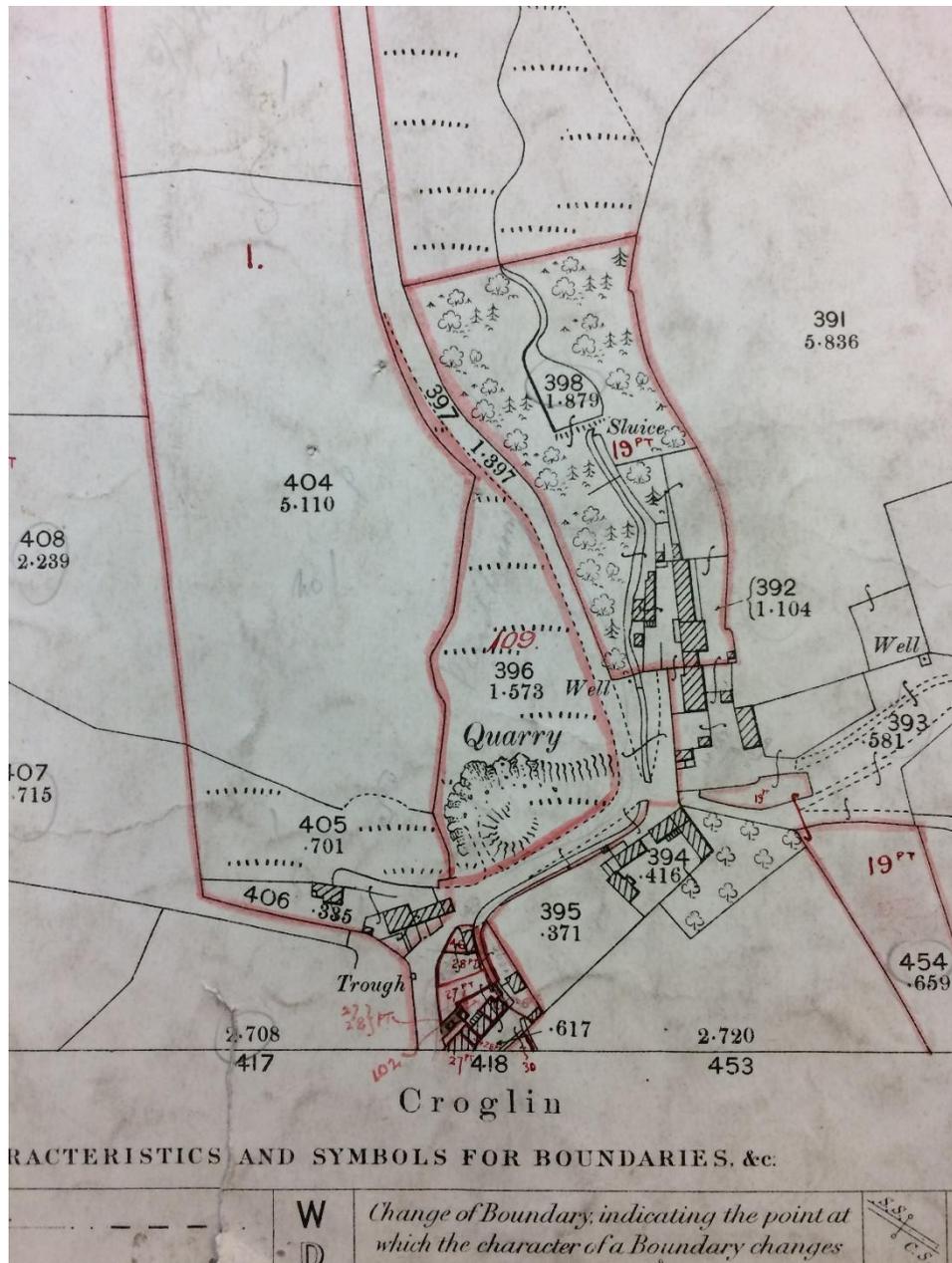
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<sup>1</sup> Minutes, Ainstable Parish Council, 15<sup>th</sup> March 2016

## 2. The Evidence

### 2.1. Rates Book 1910

The image below shows part of the parish map, held at the Cumbria County Archive Centre in Carlisle, dated 1900. Croglin Quarry and an area of land adjoining it (Field 396), outlined in red, can be clearly seen in the centre. The number 109 has been hand written in red ink. The red outlining and numbering were added in 1910 and relate to the parish rate book.



The photograph below shows the page of the rate book, also held at the Cumbria County Archive Centre in Carlisle, which relates to Croglin Quarry. The relevant part is outlined in red and lists the Parish as the owner of the whole piece of land numbered 109 (column 4). By 1910, "Parish" would refer to Croglin Parish Council, created under the Local Government Act of 1894, which was merged with Ainstable Parish Council in 1934.

1	2	3	4	5	6	Acres
100	School managers	School managers for Revd C. Haidle School Mission, Cumbrev.		Cumbrev.		
101	J. Dubbo	Jos. Duers		Cottages + garden	Croglin	
102	J. Duers.	Trus of Joseph Duers		Cottage	do.	
103		Rev. A. S. Newton		Woodland	"	
104		Parish Council		Quarry	"	
105	J. S. Harrison	Trus. Com. for England		Allotment.	"	57
106	Croglin Estate Co. Ltd	1/0 J. R. Thompson (Chairman)		Sporting Rights	"	2100
107	Isaac Holliday	Ed. Heatherstonhaugh, the college, Hirkowald.		Land	Staffield	
108	H. Mulcaster	Sir R. Musgrave		"	Scarrowmanick	
109		Parish		Quarry	Croglin	"
110	Jos. Spedding	Miss Spedding		Land	"	1

## 2.2. Application to Register Croglin Quarry as Common Land

In 1969, Ainstable Parish Council applied the Commons Commission to have Croglin Quarry, but not Field 396, registered as common land.<sup>2</sup>

## 2.3. Decision of the Commons Commission – Croglin Quarry

In the decision of the Commons Commission regarding Croglin Quarry<sup>3</sup>, the following information is included:

“The land in question was one of the public freestone quarries upon which or in the open Commons or waste ground of the manor of Croglin which were awarded, ordered assigned, set out and appointed by the award made 31 August 1815 under the Great Croglin Enclosure Act of 1808 (48 Geo. III, c.47 (private; not printed)) to be for ever appropriated to and for the common use and benefit of the lord of the manor for the site being and all others the landowners and tenants within the manor for the time being.

“The award left the freehold vested in the lord of the manor. In the absence of any evidence of a conveyance by a successor to the title of lord of the manor, the land can only have become vested in the Parish Council by adverse possession. In my view, the evidence is not sufficient to support the acquisition of a possessory title by the Parish Council.”

The decision lists actions taken and minuted by the Parish Council with regard to the quarry during the 20<sup>th</sup> century, particularly with regard to fencing.

## 2.4. Decision of the Commons Commission – Sand Pit near Channel Pool

In the Commons Commission’s decision regarding the Sand Pit near Channel Pool<sup>4</sup>, the following information is included:

“By the award made 7 May 1821 under the Ainstable Enclosure Act of 1818 (58 Geo.III, c.9 (private)) the land in question was allotted to the Surveyors for the time being of the High Roads of the parish of Ainstable for the use of the Surveyors and of the owners and occupiers of messuages, lands and tenements within the parish for a sand pit.

“By virtue of ss.25 and 67 of the Local Government Act 1894 the land was transferred to the new Rural District Council set up under that Act... There is no evidence that the Rural District Council ever took any action in respect of the sand pit.”

The decision lists various actions Ainstable Parish Council took during the 20<sup>th</sup> century regarding the sand pit, e.g. maintenance of the fence and gate.

It then states, “In the absence of evidence to the contrary and particularly in the absence of any objection by the Rural District Council, it must be assumed that the Parish Council had some right to act as it did. A possible explanation would be that the Rural District Council transferred the sand pit to the Parish Council by a conveyance which has been lost.”

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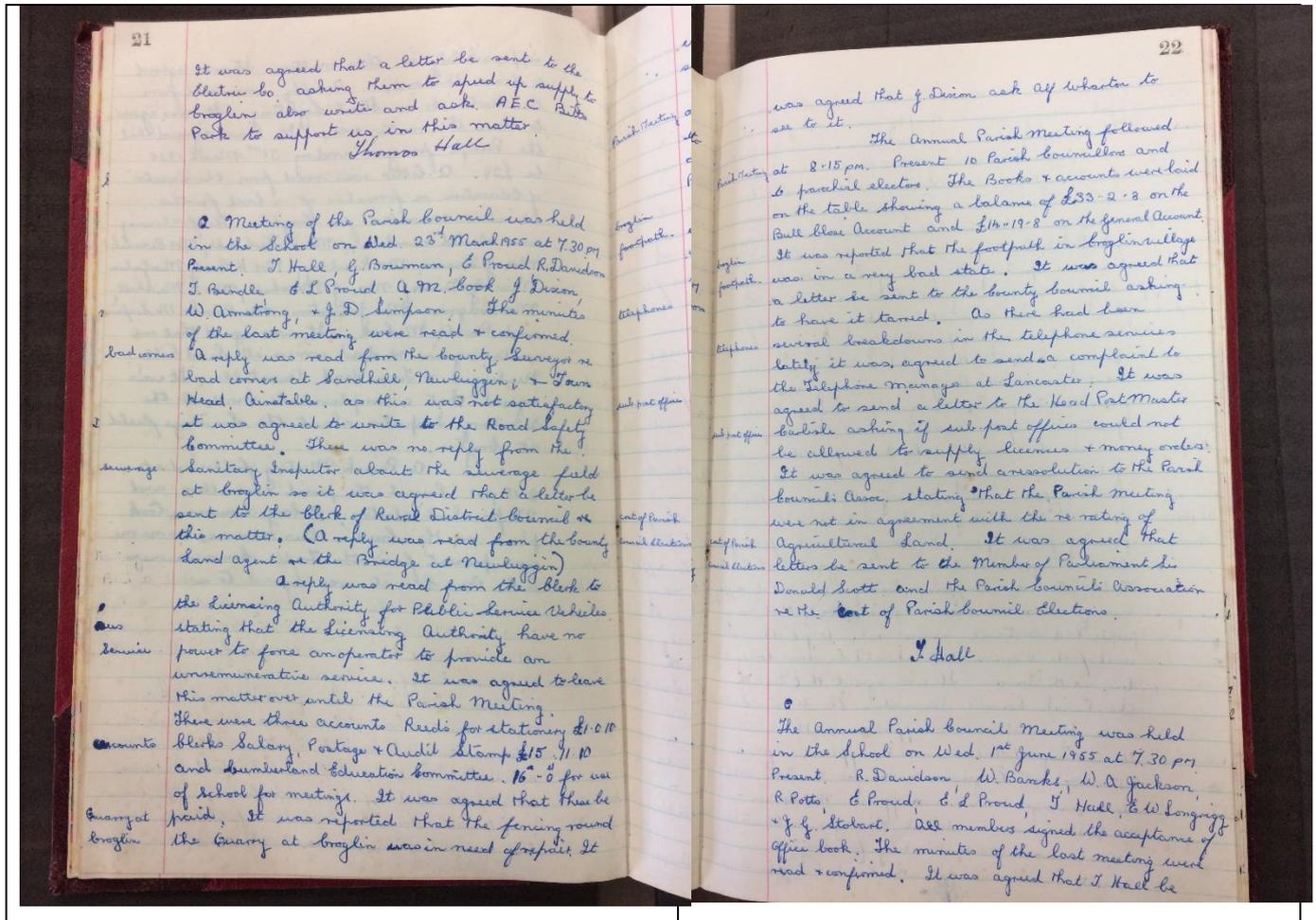
<sup>2</sup> Appendix 4.1: Application for Registration of Croglin Quarry as Common Land

<sup>3</sup> Appendix 4.2: Decision of the Common Commission re Croglin Quarry

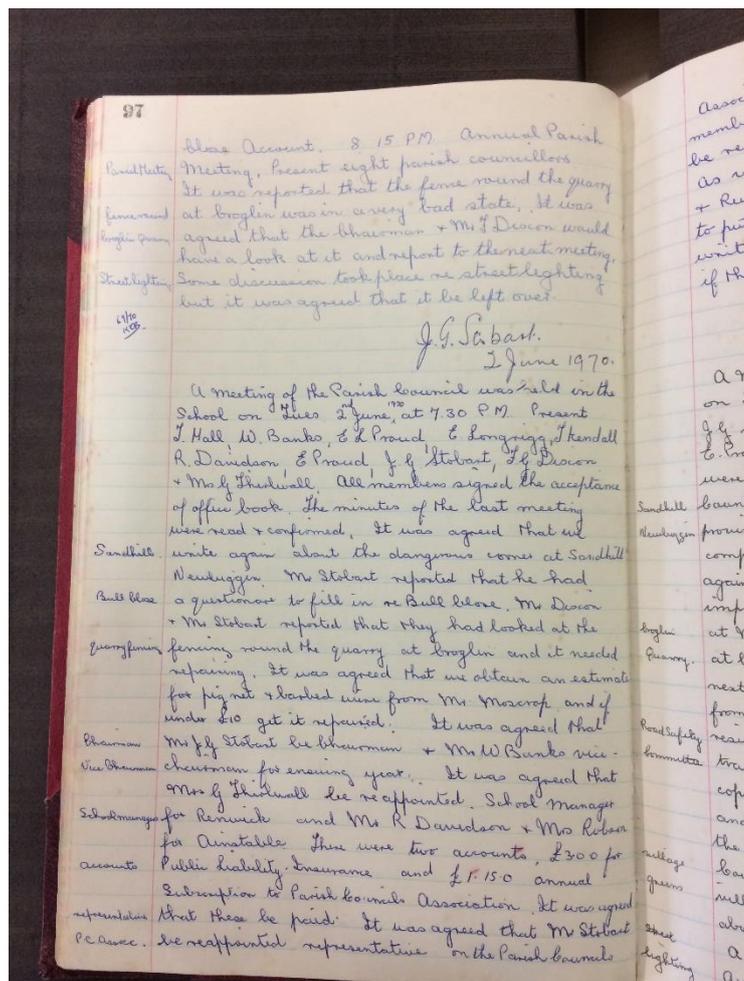
<sup>4</sup> Appendix 4.3: Decision of the Common Commission re Sand Pit by Channel Pool

## 2.5. Minutes of Ainstable Parish Council

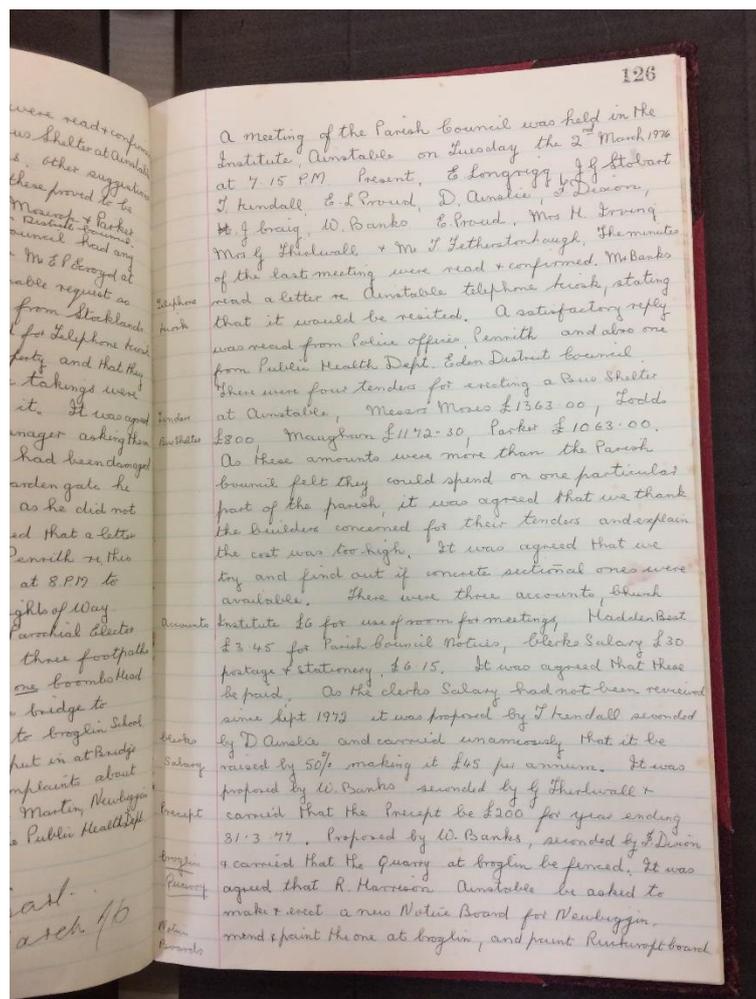
23<sup>rd</sup> March 1955 – "It was reported that the fence around the Quarry at Croglin was in need of repair. It was agreed that J Dixon ask Alf Wharton to see to it."



2<sup>nd</sup> June 1970 – “Mr Dixon and Mr Stobart reported that they had looked at the fencing round the quarry at Croglin and it needed repairing. It was agreed that we obtain an estimate for pig net and barbed wire from Mr Moscrop and if under £10 get it repaired.”



2<sup>nd</sup> March 1976 – “Proposed by W Banks, seconded by F Dixon and carried that the Quarry at Croglin be fenced”



## 2.6. Report of Cumbria Commons Officer, January 2017

The Commons Officer at Cumbria County Council confirms that there are no common rights over Field 396, other than the quarry itself.

## 2.7. Land Registry Search

A search of the Land Registry map shows no ownership over either Croglin Quarry or Field 396.

## 3. Analysis

If the quarry was exhausted before the Local Government Act of 1894, it is probable that the quarry would have passed from the lord of the manor to the Parish Council. No records have been found to prove whether extraction was still taking place from the quarry in 1894 or subsequently; given the informal nature of the quarry as a community asset it is unlikely that any such records exist, except perhaps anecdotally. However, in 1910 the rates book shows Croglin Quarry in the ownership of the Parish and there is no evidence that this ownership was disputed, other than by the Commons Commissioner in 1981.

The decisions made by the Commons Commission over Croglin Quarry and the Sand Pit show a puzzling inconsistency.

The official record showed that Penrith Rural District Council (PRDC) was the owner of the Sand Pit. Even though no evidence was found of the land being transferred to Ainstable Parish Council, the Commons

Commission was willing to accept that, because PRDC did not object to Ainstable Parish Council acting in regard to the land, it must therefore accept Ainstable Parish Council's right to do so. In other words, even though evidence of the transfer cannot be found, the actions of Ainstable Parish Council and the lack of objection from any other party, demonstrates that the transfer must have taken place.

In the case of Croglin Quarry, the decision states that the freehold was vested in the lord of the manor. As with the Sand Pit, the Commission found no evidence of the land being transferred to Ainstable Parish Council. Ainstable Parish Council took a similar duty of care over the quarry as they did over the Sand Pit, with no recorded objections. At the time of the quarry being registered as common land, there were no other claims of ownership. Yet in this case, even though evidence of the transfer cannot be found, and despite the lack of objection to Ainstable Parish Council's actions from any other party, the Commons Commission argues that the transfer did not take place.

Both decisions list a number of sources of evidence that were consulted but neither decision mentions the Rates Book of 1910, which suggests that this piece of evidence was not examined at the time. The Rates Book is the most recent document regarding ownership of Croglin Quarry by any party which has been found and if it was not examined by the Commons Commission in 1981 the validity of its decision should be re-examined.

Only the quarry itself was registered as common land, in line with the application for registration made by the Parish Council at the time. Should Field 396 have been registered as a common at the same time? The quarry has a history of use by local residents. No evidence has been found of the way Field 396 has been used at any point in time.

#### **4. Relevant Duties and Powers of the Parish Council**

- 4.1. The Parish Council has a duty to complete an annual financial audit,<sup>5</sup> which includes a declaration of the value of its fixed assets, including land. As noted in the Introduction, above, this list of assets must also appear on the Parish Council's website, in order to comply with the Transparency Code<sup>6</sup>.
- 4.2. The Parish Council has the power to sell land it owns, for the going market rate.<sup>7</sup> Ownership of the land must, of course, be first established beyond doubt before the land could be sold.

#### **5. Conclusion and Recommendations**

From an examination of the evidence found, it is this Clerk's conclusion that Croglin Quarry, and Field 396 adjoining it, are owned by Ainstable Parish Council. In order to fulfil the Parish Council's legal obligations listed in section 4, above, the Parish Council is recommended to take the following action:

- 5.1. Register ownership by Ainstable Parish Council of Croglin Quarry and Field 396 with the Land Registry.
- 5.2. Establish what, if any, use is being made of Field 396 and take legal advice before making a decision whether or not to apply to register it as common land.

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<sup>5</sup> Accounts and Audit Regulations 2011/817

<sup>6</sup> Local Audit and Accountability Act 2014

<sup>7</sup> Local Government Act 1972, ss. 127