

KIRKBY STEPHEN TOWN COUNCIL

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Market Place & Cloisters. First Registration of Title. Summary Report.

Part 1.

At the end of January 2021, the Town Council began a consultation over its intention to make a first registration of title at the Land Registry of the Market Place and Cloisters which are both listed on the Town Council's Asset Register¹ following a report to council approved on the 19th January 2021².

The consultation ended on the 31st March 2021 and following further specialist consultation (EDC Legal and CCC Highways) this report has been prepared for further consultation and three recommendations have been prepared 'in principle' and subject to formal advice for approval by the Town Council. The Town Council has a fourth option of taking no action.

The Town Council identified three separate areas which it proposed to investigate for first time registration.

- Area 1: To the West of the A685 bounded by the pavement in front of Eden Valley Produce, the Pennine Hotel, Sleddall House and Old Fountain including a bus shelter listed on the Town's Asset Register
- Area 2: A central area of paving forming the Market Place itself bounded by cobbles and the highway to the east of the A685. Within the central paved area are situated a street furniture and a war memorial listed on the Town's Asset Register.
- Area 3: The Cloisters which form the entrance way to the Church Green and access to the Church.

The Town Council identified title holders of adjacent properties and wrote to them with a questionnaire in anticipation of proceeding with registration. This part of the consultation was concluded on the 31st March 2021 and indicated significant majority support for the Town Council's proposal to make a first-time registration by freeholders of properties in the Market Square. In addition, the consultation was helpful in identifying established rights that it would be appropriate to acknowledge or register in relation to a registration of first title.

The Town Council consulted with Eden District Council and the Highways Authority after the public consultation had been completed.

The initial report specifically mentioned that *'it was accepted that the area to be registered will exclude 'in principle' any part of the highway or pavements adopted by the County Council'*.

It has been established that the whole of Area 1 is "Highway Maintainable at Public Expense". As it is not possible in law to claim adverse possession and title to such land a registration of first title cannot proceed over this area.

¹ <https://www.kirkby-stephen.com/app/uploads/20210302-20.135-Asset-Register-Approved.pdf>

² <https://www.kirkby-stephen.com/app/uploads/20210119-First-Registration-Report-Cloisters-and-Market-Square-2.pdf>

The Town Council has examined its own records, Minutes, Asset Register & Historic Town Centre Enhancements records from 2006 to establish the basis of its claims to ownership and this information will be available to councillors independently of this summary.

Options Appraisal

1. Do nothing: Incurs risk of loss of control of public assets which the Town Council has a duty to maintain.
2. Make Registrations of Title in respect of Area 2 and 3 and register a Caution against Registration of First Title over Area 1: Registration would discharge the council's duty of care to manage and control property assets which are held by it for the public benefit and maintained at the public expense by the Town Council, details of registration would be added to the council's asset register. Registration would further mitigate against the risk of loss of information proving the basis of ownership arising over time.

Cost Implications

Land Registry Fees	£60
Preparation of Documents title plans etc.	£75
Legal expenses fees etc.	£50
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Total	£185

Summary Recommendations

Area 1: Register 'a caution against First Registration of Title' over this area.

Area 2: Make an application for First Registration of Title to the Land Registry.

Area 3: Make an application for First Registration of Title to the Land Registry.

Revised 8 Sept 2021.