

# CLITHEROE TOWN WELLS CONSERVATION CAMPAIGN



HEALD WELL



STOCK WELL



ST. MARY'S WELL

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## CTWCC: Campaign Support Document No1: Review of Legal Issues

### ‘Reflections on the Water’

The significance of these three sites is ably illustrated in Andy Bowes’ *‘Reflections on the Water’* exhibition, still on display in the First Floor Gallery of Clitheroe’s Public Library. This was subsequently developed into a book, published and launched in Sept. 2024.

That was one of prime events which restarted this campaign. ‘ROTW’ reconfirms the enormous significance of all three of these sites to the ancient settlement of ‘Clitheroe/Clyderhowe’, the need for their conservation to the benefit of its present and future residents - and many beyond this Parish - who care for a sense of place and its history.

### Stock Well

This campaign had an early success by encouraging Ribble Valley Borough Council (RVBC) to accept its responsibilities for one of the three town well sites. On 5<sup>th</sup> July 2019, they obtained ‘Title Absolute’ for Stock Well from HM Land Registry. Since then, the Council has resisted all further overtures to make further applications to HMLR to register Heald Well and St. Mary’s Well.

Obtaining legal title for Stock Well enables the registered owners, RVBC, to undertake a comprehensive Conservation Project there, including: Accredited Conservation Consultant led surveys, investigations, interpretation, consolidation and repair works. To date, none of this has happened.

The successful First Registration application for Stock Well granted RVBC ‘Title Absolute’ despite the absence of Title Deeds. Proof of possession was determined solely by a Plan in an 1876 Clitheroe Municipal Borough Corporation (CMBC) Survey Book of Corporation Land. CMBC is the legally recognised municipal forebear of RVBC in accord with the directions of *‘The Local Authorities (England) (Property Etc.) Order 1973’*<sup>1</sup>.. Conditions and responsibilities established by the this ‘Title’ now enables RVBC – **if minded to do so**. This enables RVBC to carry out the following duties and responsibilities of the ownership of a Grade II Listed Site and recognised Heritage Asset with the Clitheroe Conservation Area:

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<sup>1</sup> <https://www.legislation.gov.uk/ukSI/1973/1861/made>

- To obtain and maintain Public Liability Insurance
  - to raise, and provide, funds and apply these to maintain, better interpret, and promote the Stock Well Site for the benefit of the Civil Parish of Clitheroe, Ribbles Valley and the North- West region.
- To date, none of these actions have taken place or been committed to at Stock Well.**

## **Heald Well and Stock Well – ‘The Orphans’**

No title deed for either Heald and St Mary’s Well has yet been found despite extensive searches by this Campaign prior to, and after, the successful registration of Stock Well. Enquires to all existing adjacent landowners - and Lancashire County Council. Just as for Stock Well none have found to date.

It is not unreasonable to assume that written titles may never even have existed for these pre-Norman sites, not an uncommon condition for such ancient sites. If they ever had existed then, once again, it is not unreasonable to assume they may have simply been lost to the ravages of time and/or poor curation. In such circumstance, a lawful and truthful application for title must, and can, rely on the application of relevant Laws of England and particularly the provision of records of active possession, expenditure and maintenance of an ‘untitled site’.

Notwithstanding RVBC’s unsubstantiated claims that to make applications to registers the other two former Town Well sites would be ‘*unlawful and deceitful*’, this Campaign believes valid applications can be made to HMLR by virtue of the existing Laws of England, collected evidence, and HMLR’s own Guidance for applications to register sites without benefit of title, as follows:

**A:** Reference to the legal directions of ‘*The Local Authorities (England) (Property Etc.) Order 1973*’<sup>2</sup>. This order ensured that property owned by district or borough councils before 1974 was transferred to the ownership of the newly formed local authorities. The transfer included matters related to property, assets, and responsibilities, and,

**B:** HMLR Guidance indicates that evidence of ‘responsibility and maintenance’ of an unregistered site over time be provided. On 1<sup>st</sup> August 2022 HMLR provided new Guidance for applicants - ‘Return and rejection of applications for registration (practice guide 49)’<sup>3</sup> Extracts relevant to this Campaign are:

‘If title deeds have never existed, but there is **proof of possession** of the land, HM Land Registry **will consider applications for first registration**’.

In the supporting documents to that Guid there is no record of any applications ever being rejected by reason of them being the product of ‘deceitful or unlawful’ actions by applicants as inaccurately and disingenuously claimed by RVBC.

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<sup>2</sup> <https://www.legislation.gov.uk/ukxi/1973/1861/made>

<sup>3</sup> [www.gov.uk/government/publications/return-and-rejection-of-applications-for-registration/return-and-rejection-of-applications-for-registration-practice-guide-49](https://www.gov.uk/government/publications/return-and-rejection-of-applications-for-registration/return-and-rejection-of-applications-for-registration-practice-guide-49)

This campaign has extensive records of possessory action and financial expenditure by RVBC, their municipal forbear CMBC and, their forbears – as recorded in the Manorial Court Leet Records for Clitheroe dating back to, at least, 1593<sup>4</sup>. The registration of Stock Well effectively created a ‘template’ for the future Registration of Heald and St. Mary’s Wells. Using this evidence, we are convinced would be, at least, equal to the Single Map which secured Stock Well’s Title.

HMLR’s Guidance and this Campaign’s extensive records of RVBC’s and their municipal forbears’ possessive actions confirm that applications submitted by RVBC would, **at least**, be considered. To claim otherwise is to prejudge the outcome of the HMLR assessment and contra to their stated intent ‘*to register any unregistered public estate by 2025*’ and ‘*their current focus is to work with public bodies to ensure all their landholdings are registered by then.*’<sup>5</sup>

Legal opinion, obtained to date from two separate sources<sup>6</sup>, concludes there is no reason not to adopt the wells other than ‘**with the will to do so**’, and the probability that, if applied for, title would be granted for these sites too. Whether this application is approved by HMLR is their decision. **That outcome cannot be prejudged by Council Officers.**

## Post Registration

Once titles for all sites are granted a project to ‘*ensure their lasting and meaningful future*’ can commence. The template and precedence exists for such based on the 2014-17 Conservation of the Houses of Parliament Pinnacle Project<sup>7</sup>. Led by this team, CCS assisted RVBC abandon their intention to dismantle this Grade II Listed Pinnacle, within Clitheroe War Memorial Castle Gardens, due to the dilapidated condition they allowed.

The legacy of this project testifies what can be done when Municipal Authority works with the Community. The outcome being to the lasting benefit to Clitheroe and RVBC and the thousands of visitors who travel to appreciate one of our unique Heritage Assets here. **Why not once more on the Town’s former Public Well sites, which are of far greater antiquity, social and historic significance?**

Steve Burke Dip.Arch (Oxf’d)  
Secretary  
Clitheroe Town Wells Conservation Campaign  
Revised 8<sup>th</sup> January 2025

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<sup>4</sup> See CTWCC Campaign Support Document CSD No.5: Historic Records of Judicial and Possessory Actions to the Clitheroe Town Wells [www.clitheroe3wells.com](http://www.clitheroe3wells.com)

<sup>5</sup> <https://hmlandregistry.blog.gov.uk/2019/05/30/registering-land-for-more-than-150-years/>

<sup>6</sup> Manchester University Faculty of Humanities, Property Law Oct. 2024 and Harrison & Drury Solicitors, Clitheroe 2020: [www.clitheroe3wells.com](http://www.clitheroe3wells.com)

<sup>7</sup> <http://clitheroecivicsociety.org.uk/projects/clitheroe-pinnacle-project.html>