

Submission from Commissioner Hugh Grierson to the Clerk of the Committee, dated 14 May 2018

In response to your request the Commissioners would like to explain their decision to recommend the inclusion of the lands at Dollerie in the payment schedule.

In evidence to Committee we were initially in favour of classing the land as benefited but not including it in the payment schedule.

We held this opinion for several reasons:

1. The Commission had decided to use the plans created for the 1846 improvement to define the limits of benefited land. The 1850 Plan shows that there is land at Dollerie that benefited from the improvements but in the 1846 Book of Reference it states that the land at Dollerie will not be charged for the cost of improvements. The Commissioners felt that they could not cherry pick from the original survey. They must either accept the 1846 surveyors' findings or use an alternative method.
2. The reason given for excluding the land at Dollerie was that the same benefit could have been achieved without the considerable expense of the 1846 improvements. The Commissioners shared this opinion. They think that the land below the bridge at Dollerie could have been drained very simply whereas the vast majority of improvements to the Pow were made above the bridge and have been of little benefit to land below the bridge. The Commissioners thought that this was good cause to treat the Dollerie land below the bridge differently.
3. The Commissioners were also aware that previous landowners at Dollerie have in the past allowed Pow Commissioners to carry out extensive works on their land free of charge. We suspect this influenced the 1846 surveyor when he decided not to charge Dollerie. It also influenced us as we know it has been of great benefit to heritors recently. In 1995 we deepened the Pow at Dollerie and were able to dispose of large amounts of spoil onto land at Dollerie. If heritors had had to pay a commercial rate for the inconvenience and waste disposal the costs could have been thousands of pounds each. Indeed without permission from the landowner we could not have undertaken the improvements at all. We preferred to maintain the informal arrangement of waiving the annual charge and asking for free help when needed.

After hearing the Committee's opinion we noted the following concerns:

1. The Committee found it unacceptable to have two classes of benefited land.

2. We could not be seen to favour large landowners when small householders were being asked to pay assessments.

On looking at the latest Land Plan we also considered the following points:

1. The benefited land at Dollerie that has not previously been charged is now in the ownership of 3 separate people.
2. Some of the Dollerie land is above Dollerie bridge and therefore benefits more than we originally thought.
3. There is other benefited land below Dollerie bridge that has always paid an assessment.

At the Commissioners Meeting on 7th March the Commissioners considered the matter again. They found that their original reasons for wanting to leave the Dollerie land off the payment schedule were all weakened.

Now that the Dollerie estate has been split up and owned by 3 new owners the informal arrangement that allowed us to carry out major improvements would be harder to maintain.

Given that some Dollerie land was above the bridge and some other land below the bridge was assessed we could not find a basis for defining a class of land that did not pay assessment. Furthermore we were aware that a second class of land might not be acceptable.

While we remain concerned that we are deviating from the 1846 Book of Reference we think that it is a small change that Parliament could make with the support of the heritors.

We do not believe that the Agreement noted in the 1846 Book of Reference would be binding in the event that the 1846 Act is repealed. There will be opportunities for the effected landowners to consult with Commissioners and appeal to the Committee if they think the changes are unjustified.

On balance we decided to recommend that in the new Act all benefited land be treated the same and include the Dollerie land in the payment schedule.