



In the Matter of Westrop Green
Bucklebury Newbury D

DECISION

This dispute relates to the registration at Entries Nos 7 and 8 in the Rights section of Register Unit No CL 27 in the Register of Common Land maintained by the Berkshire County Council and is occasioned by Objection No 161 made by D A Hartley Russell and noted in the Register on 20 May 1971.

I held a hearing for the purpose of inquiring into the dispute at Newbury on 17 May 1978. The hearing was attended by Mr Russell, Mrs Sanders and Mr Chiles in person.

Mr Chiles and his neighbour Mr Kingsford each own part of the land for which rights are claimed under Entry No 8. Mr Russell was content that I should confirm the rights claim as appurtenant to the heading identified in column 5 of the Rights Section, if Mr Chiles and Mr Kingsford wish to have the register amended so as to effect an apportionment they will have to proceed under Section 13 of the Act of 1965 and the relevant Regulations. This Unit is in fact part of Bucklebury Common and the Rights over it are similar to the Rights over CL 28 Entries Nos 1 to 6 in the Rights Section of this Unit have become final but in order to clarify these Entries which are ambiguous I confirm Entry No 8 modified by deleting all the words in column 4 and substituting thereto the following words viz:- "the right to take timber for repairs, to top pollards which have been usually lopped to have hedgebote and tirebote and to take furz and fern and to graze 2 beasts and to turn out one sow and her litter"

As regards Entry No 7 Mrs Sanders accepted that she had no documentary evidence to support her claim for rights but she endeavoured to claim rights by prescription. The history of Mrs Sanders holding is that it was sold by Mr Russell's predecessor to Tom Cripps in 1930, and after his death in 1959 it was sold in 1960 to a Mr Cox who in turn sold it to Mr & Mrs Sanders in 1964. Tom Cripps was an employee with many years service of the Russell family and was therefore well known to Mr Russell. Mr Russell told me that Tom Cripps had 2 house cows which he pastured in his own field and that he never grazed or exercised any other rights on the common and Mrs Sanders had no evidence to the contrary, and she had no evidence of the exercise of any rights by Mr Cox. In the absence of any evidence prior to 1964 it is clear that whatever Mr & Mrs Sanders may have done they cannot have acquired the prescriptive title to rights. Mrs Sanders was under the mistaken impression that because animals had been kept on the holding it followed that there was a right to graze those animals on the common.

For the reason given above I refuse to confirm Entry No 7.

Mr Sanders told me that her son is about to take over the holding and that he wishes to assist in improving the common. Nothing that I have said should preclude Mrs Sanders' son reaching an agreement with Mr Russell and the Commoners which will be for the mutual benefit of all parties.



I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 21 day of July 1978

Y A Lette

Commons Commissioner