



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/42

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of land at April Cottage, forming part of Treslea Downs,
Cardinham

DECISION

This reference relates to an objection under the Common Land (Rectification of Registers) Act 1989 to the registration of part of the land registered in Entry No. 1 in the Land Section of Register Unit No. CL.128 in the Register of Common Land maintained by the Cornwall County Council.

It is occasioned by Objection No. OB40 made by Anthony Hall and referred to a Commons Commissioner on 18 March 1993.

No person wrote to the Clerk of the Commons Commissioners stating that he wished to oppose the objection. On 30 June 1993 I caused notice to be given under regulation 8(1) of the Common Land (Rectification of Registers) Regulations 1990 that I proposed to give a decision allowing the objection without a hearing. No person requested me to hold a hearing.

The Objector's case is that the land referred to in the Objection ("the relevant land") has since a date prior to 5 August 1945 formed part of the garden of, or an outbuilding ancillary to, a dwellinghouse namely April Cottage, which is situate immediately across the road from the relevant land.

The dimensions of the relevant land appear from the plan marked "AH3" exhibited to the Objector's statutory declaration made on 25 June 1993: the land is a rectangle measuring approximately 22 yards along its frontage to the road and 35 yards in depth.

The evidence consists of the above statutory declaration, the exhibits thereto, an earlier statutory declaration made by the Objector on 10 July 1992 and a statutory declaration made by Mrs Audrey Carthew also on 10 July 1992. It appears from those statutory declarations as follows:

- (a) that Mrs Carthew resided at April Cottage from July 1941 until April 1962 and that the Objector has resided there from 1962 until the present time
- (b) that Mrs Carthew occupied the relevant land throughout the period that she lived at April Cottage and used the same as a garden and chicken run
- (c) that the Objector has used the relevant land as part of his garden since 1962 when he took possession of April Cottage save that in 1973 he built a garage in the position shown on the said plan "AH3".

There is no evidence to contradict or cast doubt on the foregoing. In these circumstances I consider that it is not necessary to hold a hearing and that the relevant land satisfies the requirements of section 1(2) of the 1989 Act.



I am required by regulation 22(1) of the Regulations 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

24

day of

August

1993

A handwritten signature in cursive script, appearing to read 'C. A. R. Owen', written in dark ink.

Commons Commissioner