



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/24

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of Land at Chalet Nos 113-122 inclusive part of
Gwithian Common Towan

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.109 in the Register of Common Land maintained by the Cornwall County Council.

It is occasioned by an Objection made by A R Butterfield and referred to a Commons Commissioner on 9 October 1992.

No person (apart from the Open Spaces Society) wrote to the Clerk of the Commons Commissioners stating that he wished to oppose the objection. On 3 March 1993 I caused notice to be given under regulation 8(1) that I proposed to give a decision allowing the objection without a hearing in relation to all the chalets other than 113 ("The Jam Pot"). No person requested me to hold a hearing. In the above circumstances and in view of the Open Spaces Society's letter to the Clerk dated 22 September 1992, I consider that the representation by the Society is one they would not wish to sustain.

The Objector's case was that the land referred to in the objection is and has at all times since 5 August 1945 been land on which dwellinghouses stand or the gardens used and enjoyed with such dwellinghouses.

There is no evidence that chalet 113 ("the Jam Pot") has ever been a dwellinghouse. On the contrary F C Fuller in his statutory declaration mentioned below says that "the Jam Pot has never been used as a chalet. Its early use was as a "Fisherman's Huers' Hut" or "Watch House" stationed on the cliff top. It is presently used as a cafe..." On that evidence (which is not contradicted by any other evidence) I am satisfied that it is not necessary to hold a public hearing and that the Jam Pot and its curtilage do not satisfy the requirements of section 1(2) of the 1989 Act.

As to the other chalets statutory declarations have been made by Jeanette Powell (on 2 October 1991) J T Prisk (on 22 October 1991) and F C Fuller (on 23 February 1993).

Ms Powell says she confirms that to the best of her knowledge these chalets have been at Gwithian Towans since 5 August 1945 but this is of little evidential value since she does not say for how long she has known the neighbourhood.

Mr Prisk's statutory declaration is to the same effect and is of more value since he says he remembers the chalets in the late 1930s.

Mr Fuller says he has for 20 years been the agent for the Charles Hockin Trust, that the Trust is the freehold owner of the chalets and that as their agent he has become well acquainted with the chalets. He gives detailed information as to each of them and also produces photographs of some of them. Each has



several bedrooms as well as lounge, fitted kitchen, shower room and toilet. All are connected to mains electricity and water. Each is in its own clearly defined plot. Most are let on five year leases, one is let on a ten year lease the others are let on oral yearly tenancies.

On that evidence (which is nowhere contradicted or put in doubt) I am satisfied that it is not necessary to hold a public hearing and that the land objected to (other than 113 "the Jam Pot") satisfies the requirements of section 1(2) of the 1989 Act.

I am required by regulation 22(1) of the Common Land (Rectification of Registers) Regulations 1990 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 30 day of April 1993

A handwritten signature in cursive script that reads "Ian Rowler".

Commons Commissioner