



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/17

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of Lindford House, part of Treleaver Common, St. Keverne

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

It is occasioned by Objection No. 17 made by Mrs F L Harry and referred to a Commons Commissioner on 29 July 1992.

The objection as originally made relates to two adjacent areas of land. The first area ("the green land") which is edged in green on the plan numbered 2 sent with the objection and is shown on the O.S. map as being fenced off from the common is generally agreed to be part of the garden of a dwellinghouse known as Lindford House. The second area known as ("the red land") which is edged and hatched red on the plan lies immediately to the west. It is not shown on the O S Map as being fenced off from the common and has been described as a roadside verge.

The objector, whose husband purchased Lindford House in 1951 and who has lived there ever since produced -

- (1) a statutory declaration by herself dated 30 March 1992 stating that the whole of the objection land has been used as a garden ancillary to Lindford House by her husband and herself since December 1951 and is still so used.
- (2) a statutory declaration dated 24 March 1992 and made by David John Mason who states that he is 81 years of age and has known Lindford House since his boyhood (approximately the age of 10) until the present time and that the objection land, identified by a plan has been used as a garden by the successive owner and occupiers of Lindford House ever since 1931.
- (3) a statutory declaration dated 25 March 1992 and made by Bertram Ivey to much the same effect.

On 9 September 1992 the Open Spaces Society wrote to the Clerk of the Commons Commissioners opposing the objection as far as the red land is concerned.

On 25 November 1992 the objector's solicitors, having caused to be noted on the Register a claim to a right of way over the red land, wrote to the Clerk of the Commons Commissioners withdrawing the objection in respect of that land while maintaining it in respect of the green land.

On 4th December 1992 the Clerk of the Commons Commissioners gave notice under regulation 8(1) of the Common Land (Rectification of Registers) Regulations 1990 that a Commissioner proposed to give a decision allowing the objection as far as it related to the green land without a hearing. No person requested the Commissioner to hold a hearing.



Having regard to this uncontradicted evidence and the letter from the objector's solicitors I consider that it is not necessary to hold a public hearing and that the part of the land objected to which is edged in green on the plan numbered 2 sent with the objection 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 6<sup>th</sup> day of January 1993

*Mati Roth...*

Chief Commons Commissioner