



In the Matter of Rosenannon Downs in the
Parish of St Wenn, St Issey, St Breock and
St Columb

1156

DECISION

These disputes relate to the registrations at the Entries in all three sections of Register Unit No. CL 192 in the Register of Common Land maintained by the Cornwall County Council.

(1) The land comprised in this Unit ("the Unit land") was registered in consequence of an application by Mrs C J Dell to register rights: there were also applications for registration as common land by Chapman Bros., Mr B Richardson, the Ramblers Association and St Breock Parish Council.

There were nine applications to register rights, and two applications for registration in the Ownership Section.

There are five Objections to the land registration, and these consequentially involve objections to the Rights Entries. They are:-

- Objection No. X 33 by Mrs G S James, noted in the Register on 1 April 1970
- Objection No. X 34 by Mr R A G Sims, noted in the Register on 6 May 1970
- Objection ~~No.~~ X199 by Mr W E Cave, noted in the Register on 8 September 1970
- Objection No. X310 by Mr J A Eustice, noted in the Register on 25 September 1970
- Objection No. X604 by Mr J M Bazeley, noted in the Register on 3 December 1970.

There are also Objections to Rights Entries viz. No. X563 by Mrs G S James, noted in the Register on 15 December 1970, No. X976 by W H Cornish and Co, noted in the Register on 10 April 1972 and No. X1163 by Mrs R P Tindall noted in the Register on 8 April 1972.

(2) I held a hearing for the purpose of inquiring into the disputes at Bodmin on 15 October 1981. The hearing was attended by Mr P Claydon, representing the Ramblers Association: by Mr C A Gillingham, Solicitor, appearing on behalf of the applicants (or their successors) for registration at Entries Nos. 2, 4, 6, 7, 8 and 9 in the Rights Section: by Mr Nunn and Mr Thomas (successors to applicant for registration at Rights Entry No. 1): by Mr R A G Sims, applicant for registration at Entry No. 3 in the Rights Section and Objector (No. X34): by Mr W A Phillips, Solicitor, appearing on behalf of Mr Eustice (Objection No. X310): by Mr B A Pratt, successor to Mr Cave (Objection No. X199): and by Mr Gill, of the Registration Authority. Mr Gillingham also appeared for Mrs James (Objections Nos. X33 and X563) and Mr Phillips appeared for the No. X976 Objectors.

(3) At the hearing Mr Sims withdrew his application at Entry No. 3 in the Rights Section, and accordingly I refuse to confirm that registration, Objection No. 1163 by Mrs Tindall, who was not present or represented, appeared to relate to land not part of the Unit land and does not, I think, require consideration.

(4) The five Objections to the land registration and Objection No. X563 all relate to parts of the Unit land which lie to the west of the line marked DMM or north of the line marked CGDH on the Register map. I was told that the applicants for rights accepted the Objections in regard to those areas, and Mr Gillingham confirmed that

this was so as regards the Rights holders for whom he appeared. They were also accepted by Messrs Nunn and Thomas; as regards Right Entry No. 5, this right is only claimed over a small part of those areas (that to which Objection No. 310 relates), and without proof of the right I am not prepared to accept that it has been established. I shall therefore exclude from the land the area lying to the north of the line CGDE or west of the line marked DNM, (other than a strip which is part of the land lying to the west of the line DNM and which, so far as I can see, was not the subject of any of the objections: this is a strip ("the western strip") on the western boundary of the Unit land, adjoining to the north the part which was the subject of Objection No. X34 and to the east the part which was the subject of Objection No. X33). This exclusion was not opposed by Mr Claydon.

(5) This leaves for consideration Objection No. X976. This is an objection not to the existence of any of the claimed rights, but to the number of animals it is claimed that there are rights to graze. The grounds of the Objection are that the total number of animals is "grossly in excess of the productive capacity of the land involved", which I take to refer to the Unit land. Mr Phillips, appearing for the Objectors told me that he had no evidence to adduce, and in the absence of evidence I cannot estimate the productive capacity of the Unit land so as to arrive at a conclusion as to whether the Objection is well founded. This Objection, accordingly, does not succeed.

(6) The entries in the Ownership section conflict but since they relate to land which I propose to exclude from the registration, it is not necessary to deal with the conflict. There is also a conflict between this registration and another registration (CL 355) - part of the area lying to the north of CGDR was by mistake also included in the CL 355 registration, but with its exclusion from this registration the conflict will no longer exist.

(7) Finally I was asked to exclude from this registration a strip of land ("the boundary strip") on its eastern boundary which lies south of the line K J on the Register Map. This exclusion is sought in order that the boundary will be adjusted to coincide with the river. It was agreed to by all parties present or represented including Mr Claydon for the Ramblers Association and Mr Gill for the Registration Authority. I will therefore exclude this strip.

(8) In the result (a) I confirm the registration at Entry No. 1 in the Land Section modified by excluding from the land (i) the part lying to the north of the line CGDR (ii) the part lying to the west of the line DNM (other than the western strip) (iii) the boundary strip. (b) I refuse to confirm the registration at Entry No. 3 in the Rights Section. (c) I confirm the remaining Entries in the Rights Section.

I am required by regulation 50(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

2 November

1981

L. J. Morris Smith

Commons Commissioner