



COMMONS REGISTRATION ACT 1965

Reference No. 206/U/246

In the Matter of The Greenaway, Trebetherick

DECISION

This reference relates to the question of the ownership of land known as The Greenaway, Trebetherick being the parts of the land comprised in the Land Section of Register Unit No. CL.532 in the Register of Common Land maintained by the Cornwall County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference (1) Brian George Burrows, Linda Lilian Burrows and Aubrey Hills claimed to be the freehold owners of part of the land in question and (2) Barbara Jean Lynam claimed to be the freehold owner of another part.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Bodmin on 23rd October 1990.

The hearing was attended by Mr Martin C Wright representing the Cornwall County Council as registration authority, Mr Worthington Edridge of Macmillans, Solicitors of Wadebridge on behalf of Mr B G Burrows, Mrs L L Burrows and Mr A Hills and also Mr and Mrs Burrows and Mr Hills in person, Mrs B J Lynam and Mr C J Sugden.

The land was registered as common land upon the application of Trebetherick House Owners Association (a body which is now defunct).

There are no entries in the Rights Section of the Register. There are 5 entries in the Ownership Section, all made as a result of a previous ownership inquiry before Chief Commons Commissioner Mr George Squibb on 10th February 1983. There still remained 5 pieces of the Register Unit which were then unclaimed. These are shown edged green on the extract from the Register Map which was supplied to me by the registration authority prior to the hearing. I propose to annex that extract to this Decision. For purposes of identification I have marked the five hitherto unclaimed parcels with the numbers 1 to 5 thereon.

The only claims before me were to parcels 4 and 5, Mrs Lynam claiming No.4 and Mr and Mrs Burrows and Mr Hills claiming No. 5. Parcels No.1, 2 and 3 remained unclaimed.

Parcel No.5. This lies to the south of the parcel of land referred to in Entry No.5 in the Ownership Section of the Register and which is shown on the Register Map Sheet No. 92 D. In his Decision dated 15th June 1983 Mr Squibb decided that Mrs Eileen Alice Drew of Daymer Bay House was the owner of that parcel. Mr and Mrs Burrows and Mr Hills own the next door house to the south, namely Daymer House. These two parcels of the unit land lie between the gardens of the houses and the beach.



Mr Edridge produced the originals and supplied me with a certified Abstract of the following documents:"-

31. 8. 1910	Lease and Counterpart	T Hoskin (1) P H Savage (2)
6.12. 74	Conveyance and Surrender	M J F Hoskin P H Champness N E Gabriel (1) J K Gibbons and D E Ismey (2) S J Allen (3)
2. 4. 85	Conveyance	S J Allen (1) Mr and Mrs B G Burrows and Mr and Mrs A Hills (2)
23. 1. 89	Certified copy Death Certificate	Mrs A L Hills Deceased

The Lease was for a term of 99 years, but this term was merged in the freehold by the Conveyance and Surrender of 1974. The property comprised both in the Lease and in the 1974 Conveyance was about 1½ acres of land at Trebetherick shown on the plans to these deeds respectively, such plans being more or less identical. Under the Conveyance of 1985 this land became vested on the death of Agnes Lilian Hills in 1989 in Brian George Burrows Linda Lilian Burrows and Aubrey Hills.

Such property is shown on the plans divided vertically into two, this division originating from their being parts of different enclosures on the Tithe Apportionment Map. On the eastern part stands the dwelling-house Daymer House, and this part is outside the Register Unit. The western part is clearly within it.

My only concern with regard to the Burrows and Hills' title was that parcel No.5 on the plan annexed hereto is rather more square in shape than the western parcel shown on the plans to their deeds. It seemed to me that there was possibly a strip of unclaimed land between parcel No.5 and the parcel formerly owned by Mrs Drew of Daymer Bay House and shown on Register Map Sheet 92 D.

Mr Brian George Burrows gave evidence that he was joint owner of Daymer House and land with his Wife and Father-in-law. There was no gap between their land and the Daymer Bay House land. There was a Cornish wall between the two. The total length of the boundary was 430 feet- he had measured it himself. At the side facing the beach he had put up a post and wire fence about 5 feet high covering both his and his neighbours land. They had paid about £1,000 each, since April 1990. There had been a complaint from the Beach Cafe owner. The public were kept out. It protected the dunes. The Spring high water mark came almost up to the fence. It was a very popular beach - thousands of people and cars in summer.

On this evidence I am satisfied that Mr and Mrs Burrows and Mr Hills are the owners of parcel No.5.



Parcel No.4. Mrs Lynam read a Statement she had prepared in advance, and produced the original of a Conveyance dated 11th July 1934 in favour of her late husband Jocelyn Humphrey Rickman Lynam. This comprised a substantial area of land to the north of Daymer Bay House and is used as a Car Park. I am satisfied that this Conveyance included parcel No.4.

On the 20th February 1960 Mr Lynam conveyed away a strip of land in the north-west corner of the Car Park to Lady Sheila Walsham. Mrs Lynam produced a copy of this conveyance and I am satisfied that it did not include any part of parcel No.4. In 1960 and 1973 there were other conveyances away, not affecting parcel No.4.

On the 17th October 1967 Mr Lynam executed a Deed of Gift of the Car Park in favour of Mrs Lynam.

Since 1979 the Car Park has been let to a Mr and Mrs Chapman and Mrs Lynam has been in receipt of the rent. The current Lease which follows earlier Leases is dated 19th December 1988.

Parcel No.4 is a very small strip of land in the corner of the Car Park nearest the sea. In her Statement Mrs Lynam said that she was aware that it has the coastal footpath running across it. In her evidence she stated that it was not fenced to the edge of the cliff.

Mrs Lynam concluded her Statement by asking that "any registration of common be withdrawn and her ownership confirmed". As I explained at the hearing the registration of this land as common land has been finally confirmed and cannot now be amended. I am however satisfied that Mrs Lynam is the owner of parcel No.4.

Parcels 1, 2 and 3. Nobody made any claim to nor tendered any evidence as to the ownership of any of these three parcels. They will therefore remain subject to protection under section 9 of the Act of 1965.

I shall accordingly direct the Cornwall County Council, as registration authority, to register Brian George Burrows Linda Lilian Burrows and Aubrey Hills as the owners of parcel No.5 shown on the attached plan and Barbara Jean Lynam as the owner of parcel No.4 shown on that plan under section 8(2) of the Act of 1965. The remaining land will remain subject to protection under section 9 of the Act.

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

5th

day of

November

1990

Matth Rott

Commons Commissioner

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This is the plan referred to in my
Decision dated 5th November 1990

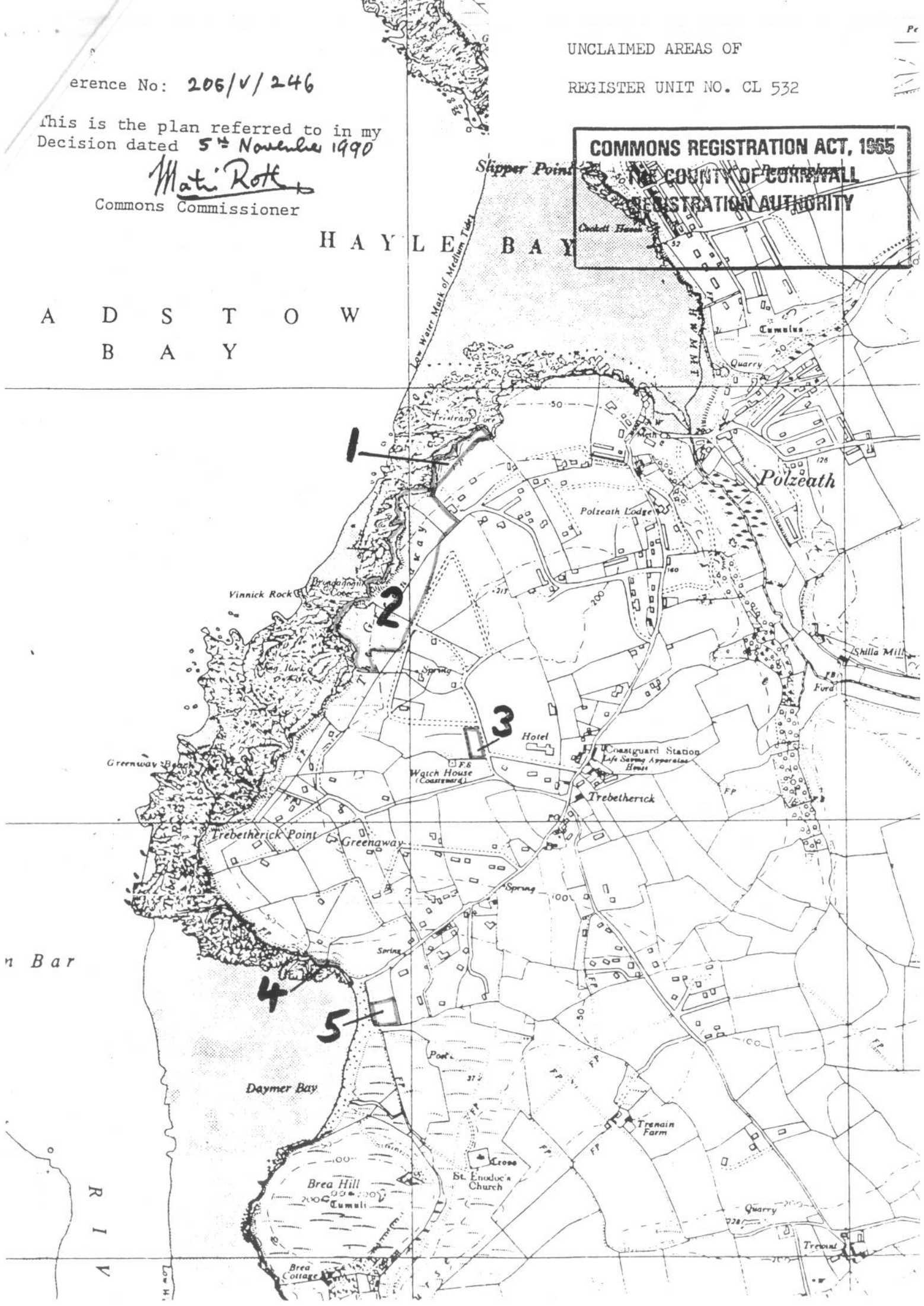
Mati Roth

Commons Commissioner

COMMONS REGISTRATION ACT, 1965
THE COUNTY OF CORNWALL
REGISTRATION AUTHORITY

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