



COMMONS REGISTRATION ACT 1965

Reference No. 8/D/14

In the Matter of land fronting
on Holmesfield Road described
in Holmesfield Inclosure Award
as Allotment No. 22 Holmesfield
Chesterfield R.D., Derbyshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL.12 in the Register of Common Land maintained by the Derbyshire County Council and is occasioned by Objection No. 9 made by Mr. J. G. Thompson and noted in the Register on 2 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Chesterfield on 16 October 1973. The hearing was attended by Mrs. B. Bunker on whose application the registration was made and by Mr. J. G. Thompson. The grounds of objection stated by him in the Objection are:- "I object to the registration of the part which is in my ownership as shown on O.S. Plan SK 3077 & SK 3177, 1959 Parcel No. 4565 because the land was not Common Land at the time of registration."

Mrs. Bunker produced the Holmesfield Inclosure Award dated 10 November 1820, and the map referred to in it. The Award contained an allotment as follows:- "PUBLIC WATERING PLACES. We do allot and award one parcel on Holmesfield Common No. 22 containing ten perches bounded Eastwardly by an allotment No. 23 made to George Bustard Greaves Esquire and others Southwardly by an ancient Inclosure called Upper ... (? illegible) belonging to the said George Bustard Greaves and others and Northwardly by Holmesfield and Stoney Middleton Turnpike road ONE other parcel on Hall Green No. 36 ... which said parcels (meaning I think Nos. 22 and 36) so set off by us as Public Watering Places as aforesaid we do hereby declare to be forever hereafter used exercised and enjoyed as such by all persons whoinsoever and shall be maintained by the Surveyor of the Highways and his successors in the Hamlet of Holmesfield". The Award map shows No. 22 as bounded by three straight lines.

Mrs. Bunker explained that her application for registration was not intended to include any land other than that awarded as above. The Register map marks a piece which is larger than No. 22 on the Award map and which is bounded on the south west by a curved line. She and Mr. Thompson were agreed that there should be removed from the Register all land south west of a straight line the north west end of which is the Mile Stone marked on the Register map (on the Main Road) "Calver 7: Gleadless 7", and the south east end of which is a point on the south east boundary of plot 4565 (shown on the same map) where such boundary is met by the boundary between plots 5961 and 5652.



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As regards the land in this Register Unit on the north east of the said straight line:- Mrs. Thompson had no objection to the registration becoming final; but for his objection it would have become final without any hearing before a Commons Commissioner. In the Award No.22 is described as "on Holmesfield Common", suggesting that it was before the Award and continued to be afterwards Common Land. I inspected the land after the hearing. In my view the said straight line correspond as near as may be to the south west boundary of the land awarded as No.22. It is now roadside waste land apparently at one time a large pond but now, except for a small patch of water on its south west side, entirely overgrown with reeds and other rough vegetation; it appears to be common land within the definition in the 1965 Act. Upon these considerations, I am satisfied that I ought to confirm the registration of this land.

As regards the land in this Register Unit on the south west of the said straight line:- I had no evidence suggesting that it is Common Land; it does not appear to be such. I conclude therefore that I should give effect to the agreement reached by Mrs. Bunker and Mr. Thompson.

For the above reasons I confirm the registration with the modification that there shall be removed from the Register all land south west of a straight line the north west end and the south east end of which are as hereinbefore defined.

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 9th day of November 1973.

A. A. Baden Fuller

Commons Commissioner