



Reference Nos: 209/D/419
209/D/420

In the Matter of part of Hamel Down
and part of Bonehill Down (Manor of
Widcombe) in Widcombe-in-the-Moor,
Teignbridge District, Devon

SECOND DECISION

This second decision is supplemental to a decision dated 22 April 1985 and made by me about 27 registrations in the Rights Section and 2 registrations in the Ownership Section of Register Unit No. CL68 in the Register of Common Land maintained by Devon County Council after a hearing at Exeter on 11 and 13 April 1984.

This decision relates to, and only to the registrations at Entry Nos 34 to 37 inclusive, 56 and 65 in the said Rights Section, particulars of which are shortly stated in the First Schedule hereto.

As to the registrations at Entry Nos 34 to 37 inclusive, my said 1985 decision contains the clerical errors specified in the Second Schedule hereto, and it should accordingly be treated as corrected as stated in paragraph (3) of such Schedule. I have today corrected my copy of it, and the County Council as registration authority are requested to correct their copy similarly. In the result my said 1985 decision will have no application at all to the registrations at Entry Nos 34 to 37 inclusive, and in due course a corrected section 6(2) notice will be sent as stated in the penultimate paragraph of this decision.

As to the registrations at Entry Nos 56 and 65, my said 1985 decision contains an error or omission in that as explained in the Third Schedule hereto I have given no decision at all about these registrations, although at my April 1984 hearing they were in question and I have therefore become obliged to give a decision about them. Pursuant to such obligation, my decision about them is as follows.

As appears from my said 1985 decision and the Third Schedule hereto, at my April 1984 hearing the evidence about these registrations or the lack of evidence about them was in no relevant respect different from the evidence or lack of it about the other registrations specified in Objection Nos 238 and 239. I therefore consider that my decision about them will be the same as such other registrations. For this reason I REFUSE to confirm the registrations at Entry Nos 56 and 65 in the said Rights Section.

Pursuant to section 6(2) of the 1965 Act, a notice dated 14 October 1985 was sent to the County Council as registration authority stating that the registrations in the Rights Section therein specified which included "... 33 to 55 inclusive, ..." had become void and not stating anything about registrations at Entry Nos 56 and 65. In due course a further notice pursuant to such section will be sent stating that the registrations at Entry Nos 56 and 65 have become void requesting the County Council to treat the October 1985 notice as amended by substituting "33, 38 to 55 inclusive", for "33 to 55 inclusive".

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 this decision is sent to him, require me to state a case for the decision of the High Court.



FIRST SCHEDULE

Rights Section registrations to which this second decision relate

No. 34: applicant Thomas Henry Nosworthy: owner; Southway Farm, Widecombe-in-the-moor; graze 50 cows and followers, 50 ewes and lambs, 10 mares and followers over the whole of the land in this Register Unit. At Entry No. 83, recorded as having become final on 1 August 1972. At Entry No. 84 recorded as replaced by Entry Nos 85 and 86. At Entry Nos 85 and 86, applicants Shirley Veronica Durrenberger Crick and Thomas Henry Nosworthy respectively to graze 8 cows and followers, 8 ewes and lambs, 1 mare and follower attached to Southway Farm, and to graze 42 cows and followers, 42 ewes and lambs, 9 mares and followers attached to Lower Southway Farm.

No. 35: applicants George Gibson Hall and Anita Marion Hall; owners; Sheena Tower, Widecombe-in-the-Moor; estovers, to take sand and gravel, to graze 4 cows and followers or 4 ponies and 16 ewes and followers over the whole of the land comprised in this Register Unit. At Entry No. 83 recorded as having become final on 1 August 1972.

No. 36: applicants Patrick Wrayford Coaker and Edith Patricia Coaker; owners; Rowden Farm, Widecombe-in-the-Moor; graze 40 units and followers (NFU Scale) over the whole of the land comprised in this Register Unit.

No. 37: applicants Patrick Wrayford Coaker and Edith Patricia Coaker; owners; Bittleford Farm, Widecombe-in-the-Moor; to graze 40 units and followers (NFU Scale) over the whole of the land comprised in this Register Unit.

No. 56: applicants, Clarence Arthur Wilkinson and Mrs Freda Wilkinson; tenants; Babeny Farm, Lydford; to stray 150 cattle or ponies, 600 sheep from CL164(E).

No. 65: applicant Mrs Vera Ellen Knapman; owner; Hill Farm, South Tawton; turbary, estovers, piscary, to take wild animals, birds and fruit, stone, sand and gravel, rushes, heather and bracken, to graze 70 sheep, 20 cattle and 10 ponies over the whole of the land comprised in this Register Unit.

SECOND SCHEDULE

Errors relating to Nos 34 to 37 inclusive

(1) The April 1985 decision was correct in the following respects: (a) Nos 34 to 37 are not mentioned in the first paragraph of page 1 because the registrations are not specified in any of Objection Nos 238, 239, 465 and 466 therein mentioned, and because the County Council as registration authority did not (there was no reason why they should) specify in these registrations in any notice of reference of disputes to a Commons Commissioner; and (b) Nos 34 to 37 inclusive are not and none of them is mentioned elsewhere in the said decision except as below mentioned.

(2) At page 5 of the said decision appears the sentence:- "So summarising my decision as herein before set out:- I REFUSE to confirm the Rights Section registrations at Entry Nos ... 33 to 55 inclusive, ..."

(3) I consider that the above quoted sentence contains a clerical error in that for "33 to 55 inclusive," there should be substituted "33, 38 to 55 inclusive".



THIRD SCHEDULE
Error or omission relating to Nos 56 and 65

(1) The April 1985 decision is incorrect in the following respects:- (a) No. 56 is not mentioned in the first paragraph on page 1 as it should have been because it was specified in the County Council notice of reference dated 29 December 1976 to a Commons Commissioner as within Objection No. 238 (made by Mr R J Michelmore on behalf of the Lord of the Manor, Mrs M Barnett); (b) No. 65 is not mentioned in the first paragraph of page 1 of my said 1985 decision as it should have been because it is specified in the County Council notices of reference dated 29 December 1976 to a Commons Commissioner as being within Objection Nos 239 (by Mr R J Michelmore on behalf of the Lord of the Manor, Mrs M Barnett) and 465 (by HRH Charles Prince of Wales).

(2) My said decision is correct in that in the last paragraph on page 4 I say that Objection Nos 238 and 239 wholly put in question all the other disputed Rights Section registrations and also that Nos 56 (Lydford) and 65 (South Tawton) are not in the Manor of Widecombe.

(3) Although in such last mentioned paragraph I said: "in the absence of any evidence or argument in support of any of them, my decision is that none was properly made" I did not when summarising my decisions as thereinbefore set out specify either No. 56 or No. 65 is one of those, confirmation of which were refused.

Dated this 7th ————— day of January 1987

A. C. Barker Fuller

Commons Commissioner