



In the Matter of Stidston Commons,
South Brent, South Hams District,
Devon

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 1, 2 and 3 in the Rights Section of Register Unit No. CL 129 in the Register of Common Land maintained by the Devon County Council and is occasioned by Objection No. 756 made by the said Council and noted in the Register on 25 January 1971.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 13 October 1981. The hearing was not attended by any person entitled to be heard.

The documents which I had at the hearing may be summarised as follows:- The Register shows that the land in this Register Unit comprises two pieces together containing about 6 acres: one ("the North Piece") situated about 250 yards northeast of Stidston Cross on the northwest side of and having a frontage of about 130 yards to the road and having a width of about 60 yards; and the other ("the South Piece") situated about 100 yards southeast of Stidston Cross with its east side (about 50 yards long) distant about 50 yards from the road and extending westwards (with a variable width in places 100 yards or more) for about 300 yards. On 3 August 1967, both Pieces were by the County Council as registration authority without any application registered in the Land Section of this Register Unit. On 21, 24, and 26 June 1968, three separate applications for registrations of rights of common were made: (i) by Mr E and Mrs S F Steer for a right attached to Homer Stidston farm to graze 50 cattle 200 sheep 25 horses or 25 pigs once in three years over both Pieces; (ii) by Mrs P R Cleave and Mr F F Coker for registration of a right attached to Middle Stidston Farm to graze 30 cows or 100 sheep once in three years over both Pieces; and (iii) by Mr D N W and Mrs P L Johnstone of a right attached to Stidston Farm of estovers and turbarry and to graze 10 bullocks 5 sheep 2 pigs over the South Piece. On 30 September 1970 Devon County Council made their said objections the grounds therein stated being: "that the land was not common land at the date of registration and that no common rights extend over it". On 10 March 1971 Mrs Cleave and Mr Coker signed a letter addressed to the County Council agreeing to their registrations being "amended/cancelled". On 12 July 1973 Mr and Mrs Steer signed a letter addressed to the County Council agreeing that their registration be cancelled. In a letter dated 17 September 1981 the City Secretary said that he had made inquiries and it is clear that the County Council had no reason to dispute the registration and that they had informed those who claimed common rights accordingly. In a letter dated 19 September 1981, Mrs E Johnstone said that when first applying for registration in 1971, she had a reply to say that their land did not qualify, that this is correct she thought as it is "land commonly owned by a number of people who can sell their shares at any time (3 owners at present)"

On 16 October I inspected these two Pieces. On the South Piece, widely distributed over part (perhaps the greater part) was a number of agricultural machines some apparently derelict and some perhaps still usable; also there was a large stack and a heap of motor tyres and a small shed; around all this there was some grass; the remaining part was dense scrub; the Piece did not appear capable of being grazed by the total number of animals mentioned in the Rights Section registration, and I felt some doubt ~~that~~ it had been or could be grazed at all, in any worthwhile way. The North Piece when viewed from the road appeared to be impenetrable scrub; but because there was no easy access, I cannot say anything about the back part of it; again the Piece did not appear capable of being grazed by the registered number of animals and I felt doubtful about it being capable of being grazed in any worthwhile way.



So in the absence of any certain indication of the documents I have or from what I saw on my inspection as to what persons concerned these Pieces really think about them or would like me to do, my decision is unavoidably somewhat arbitrary. As regards the Land Section registration, I infer that the County Council when they originally made the registration then had some reason for thinking it was in the public interest; in the absence of any indication that this reason is no longer subsisting, I confirm the registration without any modification. As regards the Rights Section registrations, I infer that those who agreed to the cancellation or amendment of the registrations for which they applied only did so by reason of the Objection, and that this Objection having been withdrawn there is no good reason why they should not be put in the same position as they would have been under section 7 of the 1965 Act if the Objection had never been made; accordingly I confirm all the three Rights Section registrations without any modification.

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 30th — day of October — 1981.

a. a. B. Fuller.

Commons Commissioner