



COMMONS REGISTRATION ACT 1965

Reference Nos 209/D/321-322/Q

In the Matter of two pieces of land
at Knowle Wood in Sparkwell and near
Lee Moor Brick and Tile Works in
Shaugh Prior, South Hams District,
Devon

DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section and at Entry Nos 1, 2 and 3 in the Rights Section of Register Unit No. CL240 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objection No. 265 made by English Clays Lovering Pochin & Co Ltd ("ECLP") and noted in the Register on 29 October 1970.

I held a hearing for the purpose of inquiring into the disputes at Plymouth on 18 and 19 October 1983. At the hearing (1) ECLP were represented by Mr G Muskett of their Surveyor's Department; (2) Mr John Francis Lawson of Tor House, Yealmpton as one of the executors of Mr F de M Lawson (he died 23 September 1983) on whose application Rights Section registration at Entry No. 1 was made and as successor in respect of "Firestone" of Dorey & Lawson Ltd on whose application the Rights Section registration at Entry No. 2 was made attended in person on 18 October only; (3) Mr Michael Jeremy Lomax Sayers of Priors Park, Elburton as successor in respect of "Flood" of F Dorey & Lawson Ltd on whose application the Rights Section registration at Entry No. 3 was made was represented by his brother-in-law the said Mr J F Lawson.

The land ("the Unit Land") in this Register Unit is in two pieces: one (the Knowle piece) is about 600 yards long from north to south and no more than about 150 yards wide, and its south side adjoins the north boundary of the land which was but is not now in Register Unit No. CL190 Hentor Warren ... part of Crownhill Down, Shaugh Prior. The other piece (the smaller piece) is about 100 yards long from north-east to south-west and is about 100 yards south-west of the Knowle piece. The Land Section registration was made in consequence of the application for the registration of rights. The grounds of the ECLP Objection No. 265 are "that the land was not common land at the date of registration".

At a hearing which I held about Register Unit No. CL189 (another part of Crownhill Down and part of Headon Down), immediately before this Unit Land hearing I heard evidence about a small piece of land at the north end of Crownhill Down: the CL189 Rights Section Entry Nos 11, 12 and 13 registrations are essentially the same as those in question in these Unit Land proceedings; and in my decision of even date about the CL189 land I have recorded the evidence given not only about such CL189 registrations but also about these Unit Land registrations. Mr J F Lawson because unable to attend on 19 October asked that the evidence which he and Mrs J B Lawson on 18 October gave about the CL189 land be treated as given about the Unit Land.

For the reasons set out in my decision of even date about the CL189 land I conclude that the Unit Land Rights Section registrations were not properly made. There being no evidence that the Land Section registration could be supported if the Unit Land is not subject to any rights of common, I conclude also that it was not properly made. Accordingly I refuse to confirm both the Land Section registration at Entry No. 1 and the Rights Section registrations at Entry Nos 1, 2 and 3.



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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 the 23rd day of March - 1984

a. a. Baden Fuller.

Commons Commissioner