



## COMMONS REGISTRATION ACT 1965

Reference No. 209/D/320

In the Matter of West Down;  
Whitchurch, West Devon  
District, Devon

DECISION

These disputes relate to the registrations at Entry Nos 69 and 70 in the Rights Section of Register Unit No. CL83 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objection No. 954 made by Whitchurch Commoners Association and noted in the Register on 3 February 1972 and Objection No. 1123 made by the Devon County Council and noted in the Register on 11 September 1972.

I held a hearing for the purpose of inquiring into the dispute at Plymouth on 18 January 1984. At the hearing Mr Ivor Phillips on whose application the registrations were made attended in person; and Whitchurch Commoners Association were represented by Mr D M Crocker solicitor of Bellingham & Crocker, Solicitors of Plympton.

The land ("the Unit Land") in this Register Unit is a tract of about 214 acres situated nearly half a mile south of Tavistock having for the most part of its south boundary (about 1 mile long) the River Walkham —————> to where this River joins the River Tavy. In the Rights Section there are 77 original registrations (including the two above mentioned), some of which have been replaced by other registrations, and all of which (except the said two) being undisputed have become final. In the Ownership Section Mrs Lillian Kate Irvine is registered as owner of the east part (about  $\frac{1}{5}$ th of the whole) of the Unit Land; and Mr George Charles Cross is registered as the owner of nearly all the remainder being the west part (about  $\frac{4}{5}$ ths of the whole); there is a comparatively narrow strip between these two parts of which no person is registered as the owner.

This Unit Land hearing followed after two hearings relating to registrations of rights on Whitchurch Down and Shorts Down (Register Unit Nos CL86 and CL56) also made on the application of Mr Phillips, being in all respects (except as to the servient tenement) the same as the said two Unit Land registrations. It was agreed that should treat the evidence and arguments made at the CL86 hearing as having been given and made at this Unit Land hearing; this decision should therefore be read as if my second decisions of even date relating to the said CL86 and CL56 lands was repeated herein. The differences are as next mentioned.

By the shortest road or track route the Unit Land is from Mr Phillips' land at Grenofen at least 2 miles: between them runs the A386 from Plymouth to Tavistock and Oakhampton and much enclosed land; appearances are against there being any right of common appurtenant to such land over the Unit Land. Mr Phillips did not offer any evidence of ever having grazed any animals at any time onto the Unit Land; indeed during the hearing he indicated that he had no clear idea where the Unit Land was situated in relation to his land at Grenofen.



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In my said second decisions of even date about the CL86 and CL56 lands, I refused to confirm the registrations made on the application of Mr Phillips there under consideration . This case as regards the two Unit Land registrations is, if anything weaker than his case as regards the CL86 and CL56 registrations; so my decision is the same.

For these reasons I refuse to confirm the said registrations at Rights Section at Entry Nos 69 and 70.

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 8<sup>th</sup> — day of March — 1984

*A. A. Baden Fuller*

Commons Commissioner