



COMMONS REGISTRATION ACT 1965

Reference Nos 14/D/31 to 36  
Inclusive

In the Matters of Barlins and  
Millhams, Christchurch,  
Christchurch D., Dorset

DECISION NO.2

This decision replaces that previously issued by me and dated 24 October 1975.

These disputes relate to the registrations at Entry No. 1 in the Land Section and Entries Nos. 1 to 18 inclusive and 26, 27 and 28 in the Rights Section of Register Unit No. CL.19 in the Register of Common Land maintained by the Hampshire County Council and are occasioned by Objection No. OB 329 made by Sir George Meyrick and the Trustees of the Meyrick Settled Estates noted on the Register on 19th November 1970, Objection No. OB 4 made by W.H.M. Aldridge and R.H.M. Aldridge noted on the Register on 29th October 1968, Objection No. OB 330 made by Sir George Meyrick and the Trustees of the Meyrick Settled Estates noted on the Register on 23rd November 1970, Objection No. OB 13 made by W.H.M. Aldridge and R.H.M. Aldridge noted on the Register on 5th November 1968, Objection No. OB 4 made by W.H.M. Aldridge and R.H.M. Aldridge noted on the Register on 29th October 1968 and Objection No. OB 698 made by C.F. Taylor (Hurn) Ltd. noted on the Register on 28th July 1972.

I held a hearing for the purpose of inquiring into these disputes at Dorchester on 9th July 1975.

The hearing was attended by Mr. D. Harper senior assistant to the Dorset County Council Solicitor, Mr. P. Samuel on behalf of the Christchurch Borough Council, Mr. D. Milligan agent on behalf of the Meyrick Settled Estates, Mr. R.H.M. Aldridge on behalf of himself and Mr. W.H.M. Aldridge, Mr. P.M. Blandy of Messrs. Blandy and Blandy solicitors for C.F. Taylor (Hurn) Limited, Mr. J.R. Buchanan on behalf of the West Hampshire Water Co., and Mrs. Temple, Dr. Cantlie, Mrs. Allam on behalf of her father, Mr. Shirvell, Mr. Strang, Mr. Pocock and Mr. Almack in person.

It was made clear to me at the commencement of the hearing that Millhams and Barlins, notwithstanding that they are both comprised in Register Unit No. CL.19, are two quite separate parcels of land.

Dr. Cantlie only claimed rights over Millhams, Messrs. Shirvell, Strang and Pocock only claimed rights over Barlins and Mrs. Temple claimed rights over both Millhams and Barlins.

I will deal first with Millhams. Mr. Buchanan produced a Deed dated the 23rd May 1957 made between Alfred Ernest Newman and others (therein referred to as the Commoners of the first part, the County Council of the County of Southampton of the Second part and the Avon and Dorset River Board of the third part, and a Statutory declaration made by one Thomas Henry McArdle on 11th October 1956. The said Deed was made in order to facilitate the construction of the Christchurch By Pass and its effect was that the Commoners as therein defined, surrendered their common rights over the land coloured



- 2 -

green, brown, light blue and yellow on the plan annexed to the said Deed and, as consideration for that surrender, they were granted the right to graze on the land coloured pink on the said plan throughout the year instead of only during the period 12th August to the 14th February.

I have since the hearing had the advantage of seeing the decision of Mr Commissioner Baden Fuller dated 23 October 1975, in the Matter of Town Common, Coward's Marsh and Ogber. It is clear that the rights to which Millhams is subject are the same immemorial rights as those exercisable over Town Common and Coward's Marsh. The evidence given at the hearing before Mr Commissioner Baden Fuller was far more extensive than that given to me. In view of what I have said above I take the view that as regards Millhams I should confirm the Entries in the Rights Section of those applicants, whether they appeared at the hearing or not, whose rights were confirmed by Mr Baden Fuller such Entries to be modified so as to be identical in form with the rights as confirmed by Mr Baden Fuller.

It was agreed by all those attending the hearing that the land edged blue on the plan annexed to this decision was not common land and should be excluded from this Registration.

As regards Barlins, Mr Milligan gave evidence and gave me the benefit of a great deal of research. He produced a copy of the Manor Court Roll of the Manor of Somerford in which was recorded a presentment made on the 11th October 1708 in the following terms:-

"We present Barling (sic) Mead to be a free common to the inhabitants of Street Tithing in every year from Lammas day to Candlemas Day". Mr Blandy took the point that none of the claimants for rights were inhabitants of Street Tithing and produced maps which appeared to support this contention.

Mr Milligan also produced documentary evidence which established that the land now owned by J.F. Taylor (Hurn) Ltd. was never part of Barlins and he further proved that, when he first worked for the Meyrick Estate in 1950, Barlins was let to a Mr Stanley Brown as part of Purewell Cross Farm, the present tenant of that farm being Mr F.K. Bailey. Mr Milligan stated that no common rights had been exercised on Barlins since 1950, though there was a claim to rights in 1965 by a Mr Garrity who did not pursue his claim when it was established that he resided in the Tithing of Bure and not in the Tithing of Street.

Mr Almack presented the best case he could for the claimants for rights on Barlins. He called as a witness Mr H.E. Perry the steward of Millhams. Mr Perry had seen Mr White, Mr Steve Troke, Mr Alec Troke and Mr Vick grazing on Barlins. Alec Troke lived in Ash Tree House. He remembered Mr Brewster and had driven his stock on to Barlins. He remembered George Lander as a tenant of Purewell Cross Farm, but could not say if he took his cattle out at Lammas, but he was sure he would not have let his grazing for horses.



- 3 -

Mr Albert Cook, who owns the Ash Tree riding school, gave evidence. He came to Ash Tree in 1958 and started his riding school in 1960. He asked to turn horses on to Barlins in 1960 and he said Mr Stanley Brown told him he had a right. In cross-examination he said Stanley Brown was a nice kindly man who would help out, but he repeated that he told him he had a right. No payment was asked for or made.

Mrs Allam gave evidence that horses and ponies had been grazed on Barlins and that Mr Shirvell and his father had done so during the period 1912 to 1937 when they ceased to use horses to do their business. Mr Shirvell was the only applicant for grazing rights who provided any evidence of having exercised those rights. Mrs Allam told me that all the horses and ponies turned out on Barlins were working animals and that there had been no horses or ponies turned out since the motor vehicle superseded the horse. In my opinion Mr Shirvell abandoned such rights, if any, as he may have had once he was committed to motor transport in lieu of horse drawn vehicles.

The onus of establishing the rights which they claim lies upon the claimants and no claimant has given evidence of his having exercised any such right other than Mr Shirvell, who has not exercised any alleged right since 1937, and I have come to the conclusion that there are no subsisting rights over Barlins and it follows therefore that it is not common land.

For these reasons

- (1) I confirm the Entry at No.1 in the Land Section of the Register, modified so as to exclude (a) Barlins (b) The land edged blue on the plan annexed to this decision, and (c) any land coloured light blue or yellow on the plan annexed to the above-mentioned Deed.
- (2) I refuse to confirm all the Entries in the Rights Section of the Register other than Entries Nos.1, 8, 13 and 14 made by Mrs Temple, Mr Sirelson, Dr Cantlie and Mr Hewitt.
- (3) I confirm the Entries at Nos.1, 8, 13 and 14 in the Rights Section of the Register modified so as to be exercisable only over the land comprised in Entry No.1 in the Land Section as modified and so as to be exercisable over the land coloured pink on the plan annexed to the said Deed throughout the year and over the remainder of the land from the 12th August in each year until the 14th February in each succeeding year. Such rights being those as exercised from time immemorial by the owners and tenants of residential land in the Old Borough of Christchurch and to be exercisable along with all persons entitled to like rights and under the condition and regulations immemorially applicable.

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 day of December 1975

C. A. LeHG

Commons Commissioners



