



In the Matter of Edmundbyers Common, Edmundbyers,
Co. Durham (No. 2)

DECISION

This dispute relates to the registration at Entry No. 6 in the Rights section of Register Unit No. CL 76 in the Register of Common Land maintained by the Durham County Council and is occasioned by Objection No. 160 made by Mr A J R Collins and others and noted in the Register on

I held a hearing for the purpose of inquiring into the dispute at Durham on 8 October 1980. The hearing was attended by Mr R A Bibby, solicitor, on behalf of Mr J W Dodd, the applicant for the registration, and Mr C J Johnson, solicitor, on behalf of the Objectors.

The registration is of a right to graze 200 sheep over the whole of the land comprised in the Register Unit. The dominant tenement is described as "Shooting Box Farm, Edmundbyers comprising O.S. Parcel Number 195, 200 & 201 for the Parish of Edmundbyers (1921 Edition)." At the time of the registration Mr Dodd was the tenant of Shooting Box Farm, of which O.S. No. 195 formed a part and he was the owner of O.S. Nos 200 and 201. Since the registration Mr Dodd has given up the tenancy of most of Shooting Box Farm, and he is pursuing his application in respect of O.S. Nos 200 and 201 alone.

The grounds of the Objection are that the right claimed should comprise the grazing of only 50 sheep.

The evidence was confined to O.S. Nos 200 and 201 and was directed to the question of the number of sheep from those parcels which could be grazed on the Common, having regard to the principle of levancy and couchancy.

O.S. Nos 200 and 201 have a total area of $6\frac{1}{2}$ acres, of which $5\frac{1}{4}$ acres could be cut for hay. The evidence was directed to two matters, namely, how much hay could be grown on the $5\frac{1}{4}$ acres, and how many sheep that hay could support during the winter.

Mr Dodd has never confined his farming activities entirely to O.S. Nos 200 and 201, so although he has practical experience of growing hay on those fields, his evidence on the basis of levancy and couchancy is to some extent a matter of opinion, as was the whole of the evidence given on behalf of the Objectors.

On Mr Dodd's side the estimate of the possible hay crop was just over 10 tons. On the Objector's side Mr Smart, who spoke as a practical man, put it at 8 tons, and Mr Gray, the Objector's land agent, put it at 6 tons.



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There was equal diversity with regard to the number of sheep which could be kept through the winter on the hay produced on the land. On Mr Dodd's side this was said to be sufficient for far more than 200 sheep. Mr Smart said that he used 10 tons to feed 110 sheep, so on his estimate of 8 tons his figure would be 88 sheep. Mr Gary put it at 100 in an ordinary winter and only 50 to 60 in a bad winter.

In considering these varying estimates I have had in mind that the 200 sheep in the registration was in respect of a dominant tenement which included O.S.195. Making some allowance for this and making the best assessment that I can of the reliability of the various witnesses, I have come to the conclusion that a figure of 130 sheep is not far off the mark, though it is not a matter which is capable of a precise arithmetical calculation.

For these reasons I confirm the registration with the following modifications: namely the substitution of 130 sheep for 200 sheep and the deletion of the references to Shooting Box Farm and O.S. 195.

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

20th,

day of

October

1980

CHIEF COMMONS COMMISSIONER