



## COMMONS REGISTRATION ACT 1965

Reference No.37/D/80

In the Matter of Land at Chuck Hatch and  
Golden Castle, Hartfield, East Sussex (No.1)

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.CL 58 in the Register of Common Land maintained by the former East Sussex County Council and is occasioned by Objection No.9 made by Col.and Mrs R.E.Burton and noted in the Register on 5th December 1969.

I held a hearing for the purpose of inquiring into the dispute at Lewes on 21st November 1974. The hearing was attended by Mr Colin Brodie, of counsel, on behalf of the Hartfield Parish Council, the applicant for the registration, and by Mr A.K.Baird, the successor in title of Col.and Mrs Burton.

The land comprised in the Register Unit consists for the most part of a number of strips at the sides of roads. The Objection relates to only one of these strips.

The strip to which the Objection relates is about 40 ft wide and is bounded on the north-western side by the B.2026 road and on the south-eastern side by the house now owned and occupied by Mr Baird and by a hedge.

Col.and Mrs Burton bought the house and the land behind the hedge about 1969. Before then the house had been what some of the witnesses described as a "play-room" occupied with Chuck Hatch House, which lies to the south-west. Shortly after their purchase Col.and Mrs Burton converted the "play-room" into a house, and they also purchased the land between their property and the road from Lord Buckhurst, the lord of the manor, who still owns most of the rest of the land comprised in the Register Unit. Having purchased the land adjoining the road, Col.Burton erected a barbed wire fence along the side of the road. Mr D.H.F.Armstrong, the Chairman of the Parish Council, told Col.Burton that the land had been registered as a common, but the only reaction of Col.Burton was to replace the barbed wire with plain wire. After erecting the fence Col.Burton cut the grass and planted trees and shrubs on the strip, so that it acquired the appearance of a garden. This state of affairs has continued since Mr Baird purchased the strip with the rest of the property from Col.Burton about three years ago.

Evidence was given by several persons who had lived in the vicinity since the early years of the present century that the whole of the land comprised in the Register Unit had been used for the grazing of cattle by local farmers without any interruption until Col.Burton erected his fence. Since then both Col.Burton and Mr Baird have driven cattle off the strip the subject of the Objection. The farmers whose cattle grazed on the strips had rights of common in Ashdown Forest, which adjoins the strips at several points without any



-2-

boundary fences, and the cattle used the strips on their way to and from the Forest.

The only person claiming to have a right of common who gave evidence was Mr Jack Humphrey, who is 65 years of age and was born in the near vicinity. He remembers cattle from what is now his farm being grazed on these strips as far back as 1914, and he has continued the practice to the present time. Mr Humphrey claims to do this as of right, the strips being waste land of the manor, and he has done so without any interruption until Mr Baird's strip was fenced. It may be that Mr Humphrey's farm has rights of manorial origin attached to it, but in default of evidence as to this I am satisfied that a right of grazing cattle has been acquired under the Prescription Act 1832. Mr Baird did not adduce any serious argument to the contrary, but said that the grazing of cattle on his strip was illogical, unnecessary, and dangerous. These, however, are not matters which I can take into consideration. The question in these proceedings is not whether it is fair as between Mr Baird and the local farmers, and in particular Mr Humphrey, that Mr Baird's land should be subject to rights of common, but whether those rights exist.

On the evidence I am satisfied that before Col. Burton came on the scene the whole of the land comprised in the Register Unit was manorial waste subject to rights of common of pasture and that Col. Burton had no legal justification for enclosing the strip of waste which he purchased from the lord of the manor.

For these reasons I confirm the registration.

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 17<sup>th</sup> day of December 1974

Chief Commons Commissioner