



COMMONS REGISTRATION ACT 1965

Reference Nos. 212/D/215-216

In the Matter of Four pieces of land two near
Wattons Green and two near Bounce Hill,
Navestock, Brentwood

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section and Entry No. 1 in the Rights Section of Register Unit No. CL 154 in the Register of Common Land maintained by the Essex County Council and is occasioned by Objection No. 239 made by the County Council as highway authority and noted in the Register on 9 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Chelmsford on 19 February 1981. The hearing was attended by Mr T R Enkels, by Mrs K J Holmes, and Mr Gardner of and representing Surrey County Council.

The land comprised in the Register Unit ("the Unit land") was registered in the Land Section on the application of Navestock Parish Council, and an application for registration by Miss E H Butcher and Mrs K E Holmes is also noted. Entry No. 1 in the Rights Section was made on the application of members of the Enkels family, among them Mr T R Enkels, and is of a right to graze over the Unit land and part of CL 12. There are no other Entries in the Rights Section.

The Unit Land consists of two separate sections, one ("the northern section") near Bounce Hill and the other to the south ("the southern section"), near and to the east of Watton Green. As to the northern section, Mr Enkels said he was not interested and did not claim any rights. From the Register map it appears that the southern section comprises two strips forming the verges on each side of a road. At the western end of the southern section the road continues past Watton Green which, I understand, forms part of another Register Unit, CL 12, which includes strips of land extending to the western end of the Unit land.

Mrs Holmes, who lives at Watton Green, appeared to be more concerned with her rights in respect of CL 12 and did not give any evidence relevant to the status of the Unit land. Mr Enkels told me that in the 1930s cattle were tethered on the verges in the southern section and grazed on them, but not since the war: and he said that Fairview, (to which the right is claimed to be attached), doesn't have grazing rights there.

Mr Gardner submitted that the evidence did not establish the existence of the rights registered. He called Mr M J Smith an officer on the staff of the County Surveyor. By an Inclosure Award of 1770, the Commissioners made an award of a highway containing sixty feet wide and upwards: this included the line of the roadway in the southern section. Mr Smith produced a modern plan, and the roadway in this section including the verges varies in width from 55 to 95 feet. The modern roadway is about 16 feet wide so that in parts the verges are of some considerable width: Mr Smith said that they are generally rough grass and weeds and at one part overgrown with brambles.

In the light of the Inclosure Award some part at least of the verges appears to have been highway. It is not however necessary to make a finding as to this since, in my opinion, the evidence does not establish the rights claimed,



nor was there any evidence adduced to suggest that the Unit land is waste land of a manor. For these reasons I refuse to confirm the registrations in the Land Section and the Rights Section.

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

24 March

1981

L. J. Harris Smith

Commons Commissioner