



In the Matter of Buckholt Wood in the
Parish of Cranham in the County of
Gloucester

DECISION

This dispute relates to the registration at Entry Nos. 1-84 in the Rights Section of Register Unit No. CL 79 in the Register of Common Land maintained by the Gloucestershire County Council and is occasioned by Objections made by Peter Dearman Birchall and noted in the Register.

I held a hearing for the purpose of inquiring into the dispute at Gloucester on 29 April 1981. The hearing was attended by Messrs Pavey (1), Raine (31), Dodd (32), Bass (34), Daniels (76) and Alden (84) in person in support of their respective application and by Mr B N Gibbs, F.R.I.C.S. for the objector.

Mr Pavey said that he had lived at Millfield Common since 1969. The house had been built in 1953 and faces Buckholt Wood. Rights of estovers and to graze two animals were included in his Conveyance and the Particulars of Sale which he received in 1969 referred to estovers and grazing rights. He had never exercised the grazing rights but he had collected wood from the time when he went into possession in 1969.

In cross-examination the witness admitted that he received a notice of objection in 1972 and that 20 years before that his house did not exist.

Mr Raine said he had lived at Rainbow End since 1952. Previously he had lived for three years in the house next door. His present house had been built in 1923. He had exercised the right to estovers all the time that he had lived at Rainbow End and he knew that the previous occupiers Mr Jones and his family had exercised the same right. Mr Overs had given evidence that his parents who lived in the house from 1930-46 had also exercised the right.

In cross-examination he said that he knew Mrs Drake and her daughter (previous occupiers) and they collected wood. He had once seen Mr Gibbs in the woods putting up notices.

Mr Dodd said that he was content to limit his claim to estovers.

Mr Bass said that he had lived at Rushbrook Cranham since 1959. His house was built on a site which was shown on the Tithe Map as 'Inclousure from Common and Cottage'. The stable had been built before 1923 and was still in use in 1959.

Mr Daniels said that he and his family had lived in New Bungalow since 1942. New Bungalow was built in 1925 and his wife had lived there since 1927 and she and her parents had lived there since 1936. He had only seen Mr Gibbs in the woods on one occasion.

In cross-examination he said that he was not pursuing his claim for a right of turbarry. He used to collect wood about once a week and last year he had been in the woods for that purpose on 39 occasions but only saw Mr Gibbs once. He saw the contractor regularly in the woods.



Mr Alden said that his house Monks Ditch had been leased from the Hicks Beech family in 1910 and the freehold had been sold in 1935. He had purchased the house in 1972 and gone into possession and had collected firewood from the woods on either side of his house regularly over a week.

Mr Gibbs for the objector said that he had been appointed agent for Buckholt Wood in 1956 by Major Birchall and his mother, who had since died. He first visited the wood in December 1956. Since his appointment he had always challenged persons collecting firewood, beech mast or leaf mould there or dumping rubbish, lighting fires or taking motor vehicles into the wood. He remembered challenging the then owner of Millfield Common in 1964 when he was collecting leaf mould and more recently Mr Drake, Mr Pockett, Mr Daniels and Mrs Bryce Smith. In addition he had challenged a considerable number of other persons who turned out to be living outside the village. He had never found anyone fishing or taking soil, gravel, sand or turf in the wood. He had only twice seen animals in the wood, a horse near the bridge leading to the open common about 20 years ago and some cattle about five years later a few hundred yards to the north-west of where he had seen the horse.

Normally he visited the wood about once every two weeks. His records for the years 1957, 1962, 1967, 1972, 1976, 1978 and 1980 showed that he had made 162 visits in these years, 39 of them in 1980. He had never given any one permission to exercise a right to estovers in the woods.

He produced an Order from the Ministry which made it illegal to take turf or to drive vehicles into the woods. He challenged Mr Berry's evidence.

With two exceptions the claims made with regard to Buckholt were registered by reference to identical claims in respect of Register Unit CL 12 Buckle Wood, Cranham Wood and Cranham Common and Saltbridge Woods (CL 116), and it was conceded that unless some further evidence emerged the claims which succeeded in the case of Unit CL 12 would succeed in this case too.

Of the 84 applications which were entered on the Register, 15 were cancelled at the request of the applicants and Mr Chamberlayne at Entry No. 9 withdrew his shortly before the hearing.

For these reasons I confirm the registration of the applications the Entry Nos. of which are set out in the First Schedule with such modifications as are there mentioned and I refuse to confirm the registration of the applications the Entry Nos. of which are set out in the Second Schedule.

The First Schedule
Part 1

Entry Nos. of applications confirmed without modification 5, 15, 18, 19, 21, 23, 26, 27, 28, 29, 31, 33, 34, 35, 37, 46, 47, 48, 55, 56, 57, ~~58~~, 61, 63, 65, 66, 67, 70, 71, 73, 80, 81, and 83.



Part II

Entry Nos. of the applications confirmed with modifications:-

No.	Modification
22	Exclude right to graze one pony
30	Limited to estovers
32	Limited to estovers
38	Limited to estovers
39	Limited to estovers
40	Limited to estovers
41	Limited to estovers
43	Limited to estovers
51	Limited to estovers and to the properties Northwood and Beechwood
59	Limited to estovers
62	Limited to estovers
76	Limited to estovers

Second Schedule

Entry Nos. of applications which are not confirm^{ed}~~ed~~ 1, 2, 3, 7, 9, 14, 16, 20, 24, 25, 42, 44, 49, 50, 53, 60, 64, 68, 74, 75, 78, 79.

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

6th

day of

July

1981

Commons Commissioner