



COMMONS REGISTRATION ACT 1965

Reference No. 259/D/3

In the Matter of High Street,
Chislehurst, Bromley,
Greater London.

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 126 in the Register of Common Land maintained by the Greater London Council and is occasioned by Objection No. 54 made by the London Borough of Bromley and noted in the Register on 16th December 1971.

I held a hearing for the purpose of inquiring into the dispute at Watergate House, WC 2 on 30th March 1976. The hearing was attended by Mr A L Drage, Secretary of the Chislehurst Residents Association, the applicant for the registration, and by Mr J C Richards, solicitor, on behalf of the Objector.

The land comprised in the Register Unit consists of a long narrow strip between the carriage-way and the footpath in front of a row of shops and houses. The strip has some trees growing in it. The surface is covered with tar macadam, but no traffic passes over it, apart from vehicles which are parked on it. It appears from a nineteenth century photograph that grass may then have been growing on it. Mr Drage relied on unsworn statements by elderly local residents, the accuracy of which was not contested by Mr Richards, that the land in question had been used over the years for a variety of purposes, such as loading and unloading at frontagers' premises, parking of vehicles, selling goods from stalls, political and religious meetings, and periodic visits of a band. Old photographs produced by Mr Drage show that the land may well have been used as a market place. Mr Drage contended that these activities show that the land is for the unfettered use of the public and therefore common land. The definition of "common land" in Section 22(1) of the Commons Registration Act 1965 does not, however, include land which is used by the public for such activities.

Mr Drage contended in the alternative that the land in question falls within the second limb of the definition of "Common Land" in Section 22(1) of the Act of 1965 because it is waste land of a manor not subject to the rights of common. It appears that the land lies within the manor of Chislehurst and Scadbury, but Mr Drage had no evidence that it is now in the ownership of the lord of the manor.

Mr Richards contended that even if the land were waste land of the manor, it would be excluded from the definition of "common land" by forming part of a highway.

There is in law a presumption that all the land between a carriage-way and the fences or buildings on either side of it is part of the highway. This presumption is rebuttable, but in this case there is no rebutting evidence. If the land was formerly a market place, that is consistent with its being part of the highway, for markets are frequently held on highways. I am not satisfied on the evidence before me that this land is waste land of the manor. Furthermore, I am satisfied that it is part of the highway.



For these reasons I refuse to 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 2nd day of April 1976.

A handwritten signature in dark ink, appearing to read 'J. S. Quilley', written over a horizontal line.

Chief Commons Commissioner