



In the Matter of part of Monstone Edge
Common, Rochdale

DECISION

(1) These disputes relate to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 2 in the Register of Common Land maintained by the Greater Manchester County Council and is occasioned by (i) Objection No. 1 made by Mrs A Wild (now Mrs A Glaiser) and noted in the Register on 2 August 1972. (ii) Objection No. 4 made by Mr J R Lynch and noted in the Register on 4 August 1972.

(2) I held a hearing for the purpose of inquiring into the dispute at Salford on 4 April 1979. The hearing was attended by Mr M G M Brogden, Solicitor of the Registration Authority; Mr C Crawshaw, an officer of the East Lancs Commons Association, on whose application the registration was made; Mrs A Glaiser, Mr Lynch, and Mrs H Mitchell, a neighbour of theirs.

(3) Objection No. 1 The ground of the Objection is that part of the land comprised in Entry No. 1 ("The Register Unit") was not common land. Mrs Glaiser is the Leasehold owner of No. 13 Healey Stones on the northern side of which is a lane or track used by the local residents and others. No 13 was demised by an Underlease dated 17 October 1960 for a term of 1798 years to Mr Wild (Mrs Glaiser's former husband): this was assigned to her in 1972 and is now vested in herself and Alan Glaiser and their title is registered under the Land Registration Acts as a good leasehold title. I have seen a copy of the land certificate with its annexed plan.

Giving evidence Mrs Glaiser said that when the property was acquired in 1960, on the southern side of the house was a walled-off garden and on the north side was open space around which in 1961 Mr Wild built a wall with some fences: and that about 1967 a porch was built on to the house which extended into the open space.

Objection No. 2 The ground of the Objection is that part of the Register Unit was not common land. Mr Lynch is the leasehold owner of No. 15 Healey Stones, which is the east of and adjoins No. 13, for an expired term of 1778 years and acquired the property in 1963. This title is registered under the Land Registration Acts as a good leasehold title and I have seen a copy of the Land Certificate with its annexed plan.

Giving evidence Mr Lynch said that when he acquired the property it was already fenced off on the northern side and inside the fence was a garden in which he subsequently erected a shed. In the space on the eastern side of the property he put up a garage about 1964, to which there was access from the lane at the north: this was done with the consent of the steward of the Manor, and he agreed to pay a yearly rent of £1 to the Lord of the Manor. There is only room in the space for the garage and on its eastern side there is his neighbour's garden and fence which go up to the lane.

Mr Crawshaw offered no evidence and was himself unaware of the circumstances in



which the registration was made. From statements made by Mrs Glaiser, Mr Lynch and Mrs Mitchell it appeared that the registration was made on information given to the Association by a resident in the neighbourhood.

(4) No rights of common are registered, so that the registration can only be upheld on the ground that it is waste land of a manor. I was told that Mr J P Dearden, who is registered (provisionally) as the owner of the Register Unit, is the Lord of the Manor, so that the Register Unit may at some time have been waste land. I am not satisfied, in the absence of evidence, that it is: if it was, then in my view it could not have continued to be waste land (which has been judicially defined as the "open, unoccupied and uncultivated" land of the manor) as regards any part of the Register Unit which is in the occupation of either of the Objectors. On the evidence I heard and which I accept, this means that any part of the Register Unit which is or includes (a) any part of No. 13 Healey Stones including the open space referred to by Mrs Glaiser (whether or not that open space is comprised in her registered title) or (b) any part of No. 15 Healey Stones as comprised in Mr Lynch's registered title or the garage site should not continue registered as common land, and I shall refuse to confirm the registration as regards any part of the Register Unit which comprised (a) or (b).

(5) The Register Unit is a small and narrow area of land and even with the assistance of Mrs Glaiser and Mr Lynch, I find it not possible to identify in relation to the Register Map the areas mentioned in (a) or (b) above which are within the Register Unit. It may be possible for the Registration Authority, in the light of what I have said, to make the identification on an enlarged plan of the Register Unit; in which case my direction could be by reference to such a plan. This would be much more satisfactory than a direction on the lines of (a) and (b) above, which I would be reluctant to give: and it would be very helpful if the Registration Authority would consider this question of satisfactory identification in the direction and make its comments. If it should emerge that the two areas mentioned in (a) and (b) together constituted a substantial part of the Register Unit, I should be prepared to refuse confirmation as regards the whole Register Unit.

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

21st

August

1979

L. J. Morris Smith

Commons Commissioner