



COMMONS REGISTRATION ACT 1965

Reference No. 214/D/179-186

In the Matter of Bramshill Common,
Bramshill, Hampshire

DECISION

These disputes relate to (A) the registration at Entry No. 1 in the Land Section of Register Unit No. CL 165 in the Register of Common Land maintained by the Hampshire County Council and is occasioned by the following Objections: (1) No. OB 48 made by Mr and Mrs Hollist noted in the Register on 23 April 1969, (2) No. OB 1 and No. OB 141 (which is a duplicate of No. 1) made by Mrs M N Moorhead and noted in the Register on respectively 18 October 1968 and 1 April 1970, (3) No. OB 18 made by the Trustees of the John Corbin Trust and noted in the Register on 15 November 1968, (4) No. OB 17 made by the Trustees of the Bramshill Mineral Trust and noted in the Register on 15 November 1968, (5) No. OB 41 made by the Minister of Agriculture, Fisheries and Food and noted in the Register on 20 March 1969, (6) No. OB 44 made by Mrs M J Spratt and noted in the Register on 20 March 1969: (B) the registration at Entries No. 4, 5, 6 and 8 in the Rights Section occasioned by the Objections referred to in (A) above: (C) the registration at Entries No. 4, 6 and 8 in the Rights Section occasioned by Objection No. OB 39 and made by Mrs M J Spratt and noted in the Register on 18 March 1969.

I held a hearing for the purpose of inquiring into the disputes at Winchester on 12 February 1980. At the hearing Mr N Jenkinson of Messrs Shentons, Solicitors appeared on behalf of Mr and Mrs Hollist: Mr R F W Ungeod-Thomas on behalf of the Objectors making Objections Nos. OB 18, OB 17 and OB 41: and Mrs Taylor, who with her husband is the applicant for registration of the right at Entry No. 6, appeared in person.

The registration as common land was made on the application of Bramshill Parish Council which by letter dated 8 February 1980 stated its wish to withdraw support to the registration.

Objection Nos. OB 48, OB 1, OB 141 and OB 44 all related to small areas of the land in question ("the Unit land") of which the Objectors respectively claimed ownership. These Objections were not resisted and I shall refuse to confirm the registration as common land of the areas to which the Objections relate. Objection No. 39 to certain rights was concerned only with the exercise of the rights over one of these areas and does not now call for separate consideration.

Objection Nos. OB 18, OB 17 and OB 41 were all on the ground that the Unit land was not common land at the date of registration. These Objections involved an objection to the rights registered and unless the claims to those rights, or any of them, are upheld there is no basis in this case for confirming the registration as Common Land. There are four outstanding registrations of Rights: in regard



to two of these (Nos. 4 and 5) the applicants (or their successors) were not present at the hearing and in the absence of evidence to support these two registrations, I refuse to confirm them. In regard to No. 8 the applicant had written to say he was not pursuing the registration, which accordingly I refuse to confirm. This leaves No. 6, a right of estovers over the Unit land, registered on the application of Mr E D Taylor and Mrs V Taylor and claimed to be attached to Springwater Cottage.

Mrs Taylor giving evidence said that they had lived at Springwater Cottage for some 13 or 14 years and had always taken the dead wood and trees from a strip of the Unit land on the side of the road since about 1967, and she thought that their predecessors at the Cottage had done so in the three or four years prior to them. She was now only claiming the right over this strip. This evidence, which I accept, is in any view insufficient to establish a right by prescription at the date of registration. Mr Ungoad-Thomas produced the particulars of a sale by auction of the Bramshill Estate in 1952, from which it appeared that the Unit land and the Cottage were then in common ownership so that the period for acquisition of a prescriptive right could not have commenced until 1952, and there was no evidence of the exercise of the right except for some 4 years prior to registration. In these circumstances I refuse to confirm the registration of this right.

As none of the claimed rights has been established and there is no suggestion that the Unit land is waste land of a manor, I also refuse to confirm the registration as common land: in the case of the four areas I have already excluded, this is an additional reason for refusing to confirm the registration of those areas.

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

10 March

1980

L. J. Morris Smith

Commons Commissioner