



COMMONS REGISTRATION ACT 1965

Reference Nos 215/D/262 to 267 inclusive
215/D/280

In the Matters of (1) Backbury Common and Backbury Waste, and (2) a part of the said Common at its east end, both in Mordiford, South Herefordshire District, Hereford and Worcester

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section, at Entry Nos 1, 2 and 3 in the Rights Section and at Entry No 1 in the Ownership Section of Register Unit No 107 in the Register of Common Land maintained by the Hereford and Worcester County Council, and to the registration at Entry No 1 in the Rights Section of Register Unit No 207 in the said Register, and are occasioned (CL. 107) by Objection Nos 400, 401 and 402 made by the Public Trustee and noted in the Register on 19 January and 2 November 1971, (CL. 107) by Objection Nos 436 and 437 made by Mr Andrew Thomas Foley and noted in the Register on 7 January 1972, and (CL. 207) by Objection No 450 also made by Mr Foley and noted in the Register on 17 January 1972.

I held a hearing for the purpose of inquiring into these disputes at Hereford on 8 February 1978. At the hearing, (1) Mr Foley (in addition to being a CL. 107 and the CL. 207 Objector as above mentioned, the CL. 207 Land Section Entry was made on his application and he is in the CL. 107 and CL. 207 Ownership Sections registered as owner of all the lands) was represented by Mr J W King solicitor of Bannister & King, Solicitors of Stourbridge; (2) Mordiford Parish Council (CL. 107 Land Section Entry was made on their application) were represented by Mr G H Davies solicitor of Beaumont Smith & Davies, Solicitors of Hereford; (3) the Public Trustee (in addition to being one of the CL. 107 Objectors as above mentioned, the CL. 207 Rights Section Entry No 1 was made on his application), (4) Major R T Hereford of Sufton, Mordiford who is tenant for life under the trust applicable to the lands relevant to these proceedings and owned by the Public Trustee, (5) Mr Patrick Henry Lea and Mrs Susan Lea (the CL. 107 Rights Section Entry No 1 was made on their application), (6) Mr Dudley Charles Secrete Elms and Mrs Prudence Elms of Punchbowl (formerly Yew Tree Cottages), Checkley, Hereford (as successors in title of Mr R Whittall-Williams on whose application the CL. Rights Section Entry No 2 was made), and (7) Mr Frank Holland (the CL. 107 Rights Section Entry No 3 was made on his application) were all represented by Mr V T Jordan solicitor of Gwynne James & Eland, Solicitors of Hereford.

Mr Jordan said that the Public Trustee withdrew Objection No 400, so that there was now no objection to the CL. 107 Land Section. Mr Davies asked me to confirm such registration accordingly.

Mr Jordan and Mr King were agreed that the CL. 107 and CL. 207 Rights Section Entries should be confirmed with the modifications set out in the Schedule hereto. Because Mr Foley is the registered owner of both the CL. 107 and CL. 207 land, and



Mr Jordan as part of the agreement withdrew the Public Trustee's Objection to the CL. 107 Ownership registration (the CL. 207 Ownership registration being undisputed has become final), I consider that I can properly give effect to this agreement, because it is made on the part of all those who have any interest in this land.

In the circumstances above set out, I confirm the CL. 107 Land Section registration without any modification, I confirm the CL. 107 Rights Section registrations Nos 1, 2, and 3 with the modifications set out in the Schedule hereto, I confirm the CL. 107 Ownership Section registration without any modification, and I confirm the CL. 207 Rights Section registration. Entry No 1 with the modification set out in the Schedule hereto.

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.

SCHEDULE

(Modifications of the CL. 107 and CL. 207 Rights Section registrations)

Part I

- (1) The CL. 107 Rights Section Entries are to be modified so that they become one combined Entry made on the application of all the persons now named in column 1, being an Entry of four separate rights as set out in Part II of this Schedule.
- (2) The CL. 207 Rights Section Entry is to be modified so that it becomes four separate rights as set out in Part II of this Schedule.
- (3) Where in Part II of this Schedule the words "and over the whole of the land in Register Unit No ", appear, after the words "Unit No" should be inserted either the number "107" or the number "207" as may be appropriate, and for the purpose of giving clarity to the new words in column 5, new maps should be prepared as may be appropriate.

Part II

Column 4

The right to graze (a) 24 sheep, or (b) 6 cattle and a right to estovers (limited to kindling wood and cutting bracken and long grass for litter) over the whole of the land comprised in

Column 5

Land comprising OS Parcel Nos 266,...
(continue as in column 5 of the now existing CL. 107 Rights Section Entry No 1)



this Register Unit and the whole of the land comprised in Register Unit No _____, so that these two lands shall be regarded for numerical purposes as one common

The right to graze 2 sheep and a right of estovers (limited to kindling wood and to cutting bracken and long grass for litter only) over the whole of the land comprised in this Register Unit and the whole of the land comprised in Register Unit No _____, so that these two lands shall be regarded for numerical purposes as one common

Known as Yew Tree Cottage, Checkley...
(continue as in column 5 of the now existing CL. 107 Rights Section Entry No 2)

The right to graze 10 sheep or 1 head of cattle and a right to estovers (limited to kindling wood and to cutting bracken and long grass for litter only) over the whole of the land comprised in this Register Unit and the whole of the land comprised in Register Unit No _____, so that these two lands shall be regarded for numerical purposes as one common

Known as Haycroft, Checkley, Mordiford...
(continue as in column 5 of the now existing CL. 107 Rights Section Entry No 3)

The right to graze 100 sheep or 8 cows or 8 ponies and a right to estovers (limited to kindling wood and to cutting bracken and long grass for litter only) over the whole of the land comprised in this Register Unit and the land comprised in Register Unit No _____, so that the two lands shall be regarded for numerical purposes as one common.

Properties known as follows:- (1) Pump Orchard
... (continue as in the now existing CL. 207 Rights Section Entry No 1)

Dated this 28th day of February —

1978

a. a. Bate Jille

Commons Commissioner