



COMMONS REGISTRATION ACT 1965

Reference Nos 215/D/1-5 inclusive

In the Matter of Arkstone Common,
Kingstone and Thruxton, South Hereford
District, Hereford and Worcester

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry Nos 1, 2 and 3 in the Rights Section of Register Unit No CL. 17 in the Register of Common Land maintained by the Hereford and Worcester County Council and are occasioned by Objections nos O/321, O/322 and O/323 made by Mr W A Watkins and noted in the Register on 4 December 1970 and by Objection No 365 made by Sir Charles Clore (then Mr C Clore) and noted in the Register on 18 December 1970.

I held a hearing for the purpose of inquiring into the disputes at Hereford on 10 November 1976. At the hearing (1) Mr L H Pearce, who applied for Entry No 1 in the Land Section, who applied as owner (jointly with Mrs C V Pearce) for Entry No 1 in the Rights Section and who applied as tenant (solely) for Entry No 2 in the Rights Section was represented by Mr A M Davies solicitor of Beaumont, Smith & Davies, Solicitors of Hereford, (2) Mrs C V Pearce, who as owner (jointly with Mr L H Pearce) applied for Entry No 1 in the Rights Section was also represented by Mr A M Davies, (3) Mr W A Watkins who made the said Objection Nos O/321, O/322 and O/323 and who applied for Entry No 3 in the Rights Section was represented by Mr W D Matthews solicitor of T A Matthews & Co, Solicitors of Hereford, and (4) Sir Charles Clore who made the said Objection No O/365 and who applied for Entry No 1 in the Ownership Section (this Entry not having been disputed is now final) was also represented by Mr Matthews.

The land in this Register Unit comprises (according to the Register map) three pieces: OS Nos 241, 242 and 243 containing 4.162 acres, 1.409 acres and 0.348 acres. The grounds of Objection no 323 (to the Land Section Entry) are (in effect) that OS No 243 is not common land, and the grounds of Objection Nos 321 and 322 (to the Rights Section Entries Nos 1 and 2) are (in effect) that these rights do not extend to OS Nos 242 and 243. The grounds of Objection No 365 (to the Rights Section Entry Nos 1, 2 and 3) are (in effect) that the rights are not exercisable over OS No 242.

Mr Davies and Mr Matthews said that those they represented had agreed that all the Objections succeeded and requested that both OS No 242 and OS No 243 be removed from the Register. On my pointing out that although objection had been made particularly to the Rights Section Entries both as regards OS 242 and OS 243 there had been no particular objection to the Land Section Entry as regards OS 242, Mr Davies and Mr Matthews said that those they represented were agreed that OS 242 was not only not subject to rights of common but was not common land.

There are no Entries in the Register which have not been made on the application of one of the persons represented by Mr Davies or by Mr Matthews. In view of the agreement reached as outlined above, I consider that I can and should under rule 26 of the Commons Commissioners Regulations 1971 allow the grounds of Objection No 323



to be enlarged by including OS No 242, and then give effect to the agreement that all the Objections succeed.

For the above reasons I confirm Entry No 1 in the Land Section with the modification that there be removed from the register OS No 242 (1.409 acres) and OS No 243 (0.348 acres) as marked on the Register map, and I confirm Entry Nos 1, 2 and 3 in the Rights Section without any modification other than that which is necessarily consequential on the removal of OS Nos 242 and 243 from the Land Section. It is not necessary for me to give any decision as to Entry No 1 in the Ownership Section (which now extends to OS Nos 241 and 242) because so far as it relates to OS 242 it will as a consequence of my decision in relation to the Land Section have to be cancelled under section 6(3) of the 1965 Act.

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 16th day of November ————— 1976

a. a. Barker Fuller

Commons Commissioner.