



In the Matter of Henley Common, Acton Scott,
Salop

DECISION

These disputes relate to the registration at Entries No. 1, 2 and 3 in the Rights section of Register Unit No. CL 50 in the Register of Common Land maintained by the Salop County Council and ~~is~~ occasioned by Objections numbered respectively 0.17, 0.26 and 0.27 made by Mrs J S Acton and noted in the Register on 17 September 1970.

I held a hearing for the purpose of inquiring into the disputes at Ludlow on 23 January 1979 and at Shrewsbury on 27 March 1980.

The hearing at Ludlow was attended by Mr D G H Salt of Wace Morgan and Salt, Solicitors, who was appearing on behalf of Mrs J S Acton ("the Objector"); and Mr Wilfred Morris the brother of Miss C S Morris (the applicant for registration of Right No. 1) appeared. Right No. 1 is to graze 50 cattle and 500 sheep and is stated to be attached to land known as The Firs (formerly The Further Sitches) Henley Common. The Objection is on the ground that The Firs is not within the Manor of Acton Scott, and Henley Common is Common land of that Manor only: and further that even if any rights of depasturage were appurtenant to The Firs, the rights claimed are excessive.

The Firs land adjoins the southern boundary of Henley Common.

Mr Salter produced an English translation of a 1695 Boundary Roll and maps and copy Terriers of the 19th century, with a view to establishing that the Common has formed part of the Manor of Acton Scott: and I am satisfied that this was the case. Mrs Acton, the Objector, who has been Lady of the Manor since 1920 and, apart from a period of four years, has lived on the Manor, gave evidence to the effect that the only persons who exercised grazing rights on the Common in her time were tenants of properties forming part of the Manor.

Mr Morris gave evidence on behalf of Miss Morris, in her absence. He produced a number of deeds and other documents relating to the title to her property The Firs (formerly known as the Further Sitches) which she purchased in 1956. On a purchase in 1923 by her predecessor in title, in an answer to a requisition on title the then Vendor's Solicitors stated that "the property carries the right of grazing in common with two adjoining land owners in Henley Common". Miss Morris purchased the property at an auction sale, the particulars of which contained the statement that "a valuable asset is the adjoining Henley Common which extends to 15 acres and the right of turn out is included in the Title to this property in common with two other land owners". Neither the 1923 conveyance nor that in 1956 to Miss Morris specifically included such rights in the parcels.

Mr Morris, who does not live at The Firs but at Hargrove Farm, Wallchurchstone, said in evidence that Miss Morris exercised grazing rights from 1956 to about 1973 and at any time of the year she turned out 4 or 5 cattle on the Common: he did not know of the exercise of grazing rights by any previous owner of the Firs. Asked as to the registration of the right by Miss Morris of a right to graze 50 cattle and 500 sheep he said that whoever registered that right must have been mad.



This evidence does, in my view, establish that a right of grazing is attached to the Firs but I think the number of animals claimed is excessive, and I confirm the registration of the right modified to a right to graze 5 cattle.

Right No. 2 is a right to graze 50 ewes or 20 cattle, registered on the application of Mr P Sagar. At the adjourned hearing at Shrewsbury Mr N Stott, of the firm of J C H Bowdler and Sons, Solicitors, appeared on behalf of Mr Sagar and Mr Salt appeared on behalf of the Objector. The Manor Farm, Alcaston, to which the right is claimed to be attached, was purchased by Mr Sagar in 1968: the Conveyance dated 31 October 1968 was of the manor or lordship of Alcaston Cum Henley as well as of the Manor Farm itself, and the particulars of sale stated that the manorial rights attached to Alcaston Manor will pass to the Purchaser. No evidence was adduced of the origin or exercise of the claimed right, and in my view the manorial rights referred to were, in the context of a conveyance of the manor, as well as of the farm, rights of the lordship not grazing rights. I do not think the right claimed has been established and I refuse to confirm its registration.

The registration of Right No. 3 was made on the application of Mr T Fellows, whose successor is Mr F W Thomas. Neither was present or represented at either hearing and in the absence of evidence in support of the right I refuse to confirm its 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

21st April

1980

H. J. Harris Smith

Commons Commissioner