



In the Matter of Chobham Common, including Little Heath
and Dunstall Green, Chobham, Surrey (No. 2)

DECISION

These disputes relate to the registrations at Entry Nos 1, 3, 4, and 6 in the Rights section of Register Unit No. CL 326 in the Register of Common Land maintained by the Surrey County Council and are occasioned by Objection No. 493 made by the former Surrey County Council and noted in the Register on 27 February 1971, Objection No. 720 also made by the former Surrey County Council and noted in the Register on 2 August 1972, and Objection No. 529 made by British Railways, and noted in the Register on 2 February 1972.

I held a hearing for the purpose of inquiring into the dispute at Guildford on 22 January 1981. The hearing was attended by Mr R G Burrows, the applicant for the registration at Entry No. 4, Mr B H Cotter, solicitor, on behalf of the Surrey County Council, and Mr D Ransome, an officer of British Railways, and I gave leave for Mr M J Savage, the applicant for the registration at Entry No. 6, to be represented by his wife, Mrs G M B Savage. There was no appearance by or on behalf of Ms M. O. Jones, the applicant for the registration at Entry No. 1 and Mr R J Coleman, the applicant for the registration at Entry No. 3.

The registration at Entry No. 4 is of the right of turbarry, the right of estovers (heather and trees up to 7 inches diameter), the right to graze 3 cows, 5 goats and poultry (20 chickens, 5 geese or ducks) and the right of piscary over a part of the land comprised in the Register Unit known as Old Slade, Gracious Pond, attached to a smallholding at "Beesholme", Gracious Pond.

"Beesholme" has been in the Burrows family for many years, Mr R G Burrow's father having been born there in 1885. Mr Burrow's memory goes back to 1922.

Mr Burrows's grandfather took turves and wood for fires from Old Slade, his father took turves, heather, and wood, and Mr Burrows himself has taken turves, heather and wood within a mile of "Beesholme" without being challenged by anyone. So far as livestock are concerned, Mr Burrows said that his grandfather kept cows, chickens, pigs and ducks, his father kept chickens and up to 5 goats, but Mr Burrows himself has never grazed animals and does not intend to do so in the near future. Mr Burrows's brother, Mr F W H Burrows, who lived in one of the houses on the holding from 1930 until 1980, used to take wood, and he remembers helping his father to remove turf in the 1930's. The evidence regarding piscary is very slender; Mr R G Burrows fished in the pond once, and Mr F W H Burrows went fishing with his father in the 1920's.

I have come to the conclusion that there is sufficient evidence to support a prescriptive right to turbarry, estovers, and the grazing of 5 goats attached to "Beesholme".

The registration at Entry No. 6 is of the right of herbage for 4 horses or ponies and 10 cattle, the right of estovers (including trees up to 9 inches in circumference) the right of turbarry and the right of piscary, attached to Stanner's Hill Farm.



Stanner's Hill Farm formed Lot 5 in a sale by auction on 15 July 1819. It is stated in the particulars of sale that "The Estate is entitled to Common Rights". Unfortunately there is no documentary evidence to show of what the common rights consisted. The only evidence of the exercise of any such rights was that given by Mrs Savage, whose husband bought the farm in 1959 or 1960. Mrs Savage said that she had taken pea-sticks, bean-poles, and small trees for logs and had fished in the pond and that no animals had been grazed in her time because of the traffic on the roads.

On this evidence I cannot find that the common rights attached to Stanner's Hill Farm in 1819 included either grazing rights or a right of turbary.

For these reasons I confirm the registration at Entry No. 4 with the following modifications, namely, the deletion of the words "3 cows", "and poultry (20 chickens 5 geese or ducks)", and "the right of piscary (use of fish pond)", and I confirm the registration at Entry No. 6 with the following modifications, namely, the deletion of the words "The right of herbage for 4 horses or ponies and 10 cattle" and "The right of turbary", and I refuse to confirm the registrations at Entry Nos 1 and 3.

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

6th

day of

February

1981

Chief Commons Commissioner