

In the Matter of Horsell Moor
(part south of Brewery Road),
Woking Borough, Surrey

DECISION

This dispute relates to the registrations at Entry Nos 1, 2 and 3 in the Rights Section of Register Unit No CL 112 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objection No 120 made by Woking Urban District Council and noted in the Register on 22 July 1970.

I held a hearing for the purpose of inquiring into the dispute at Guildford on 8 November 1978. At the hearing Woking Borough Council were represented by Mr R A Payne their Principal Solicitor.

The disputed registrations were made on the application of: (1) Mr A J Seymour (2) Mr H Davies, and (3) Mr S J Fidler, and they are all of rights attached to properties in Bullbeggars Lane. The grounds of the Objection are:-
"That the right does not exist at all".

On my file I have letters from Mr Fidler (dated 20 August, 12 October and 19 November 1976) from which I infer that he having in October 1976 sold his property (Westview) in Bullbeggars Lane to Mr P Hogbin now wishes to withdraw the registration made on his application. Mr Hogbin has not replied to a letter written to him by the Clerk of the Commons Commissioner.

Mr P C Shipp, who is Assitant Secretary of Woking Borough Council, has been employed by the Council (or their predecessor) since 1941 and has lived at Horsell since 1960 and before that elsewhere in Woking, in the course of his evidence said (in effect):- He had never known any one exercise any right over Horsell Common such as is specified in these registrations. From the land in this Register Unit, Bullbeggars Lane is about $\frac{1}{2}$ mile north-west. Mr Davies and Mr Seymour were friends. Some time ago he discussed with Mr Seymour the possibility of an agreed decision and he said he would inform Mr Davies, but nothing happened. Last year Mrs Seymour appeared in person at a Commons Commissioner's inquiry and unsuccessfully claimed she had a right over another part of Horsell Common. Some time ago, Mr Davies moved from

the area and he has since died.

141

As a general rule, I can I think in the absence of any evidence in support of a Rights Section registration properly conclude that it should not have been made. The mere circumstance that the land to which the right is attached has since the registration been assigned, does not I think make the case exceptional, because the Commons Commissioners Regulations 1971 expressly provide that a successor in title shall have a right to be heard although they confer on him no right to notice of the proceedings. Having regard to the situation of the land over which these rights are claimed, and of the properties to which they are said to be attached, and to the nature of the rights themselves, and having regard also to the evidence summarised above of Mr Shipp I see no reason for not applying in this case the general rule, and accordingly I conclude that these registrations should not have been made.

For these reasons I refuse to confirm the registrations.

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 28th day of November 1978

ac. B. F. F. F.

Commons Commissioner