



In the Matter of Merrow Common, West Clandon,  
Guildford B

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DECISION

This reference relates to the question of the ownership of land described above being the part of the land comprised in the Land Section of Register Unit No. CL 6 in the Register of Common Land maintained by the Surrey County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner and which is not registered freehold under the Land Registration Acts.

Following upon the public notice of this reference the personal representatives of Lord Onslow claimed to be the freehold owners of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Guildford on 21 June 1983.

At the hearing Mr T Seymour, of Counsel, appeared on behalf of the claimants ("The Onslow Trustees").

There is no Entry in the Ownership Section of this Register Unit, but some areas of the common (the land comprised in CL 6) are registered freehold under the Land Registration Acts. The remaining areas, which are the ones with which this inquiry is concerned, are (1) a considerable area ("the A area") lying between the railway at the north<sup>west</sup> to the boundary of one of the registered areas (SY 480501) and (2) a narrow piece ("the B piece") on the western side of another registered area (SY 464354).

Mr Seymour based his clients' claim partly on a paper title, partly on evidence of acts in relation to the areas and partly on records in the Archive Office at Guildford.

The Paper Title.

This title starts with the Will of the fourth Earl of Onslow and continues with a number of documents including Disentailing Deeds, a Resettlement, appointments of new trustees, Probates and two Vesting Deeds. By the first Vesting Deed dated 10 May 1926 there were declared to be vested in the fifth Earl a number of manors in Surrey including the Manor of Merrow. By the second Vesting Deed dated 12 December 1946 these manors were vested in the sixth Earl of Onslow. The Onslow trustees are the special personal representatives of the sixth Earl by virtue of a grant of Probath dated 17 April 1972 in their favour limited to settled land.

It is not, I think, necessary to refer in further detail to the documents of title on which I am satisfied as to the ownership by the Onslow Trustees of the manor of Merrow. So far as those documents go, however, there is no description or plan which enables me to find that the two areas are within that manor. On this point however, I was referred to two other documents: one a Conveyance dated 3 July 1883 whereby the then Earl of Onslow conveyed to the London and South<sup>West</sup>, Railway Company for the purposes of a railway line a long strip of land which included a piece which appears to be at the northern boundary of the A area: the second an Order of Exchange made by the Department of the



Environment on 31 May 1939 to the effect that a strip of land part of Merrow Common should be given by the Onslow Trustees by way of exchange. In addition evidence was given by James W Morris, a law student, that he had recently inspected the Manorial Records in the Guildford Archive Office and that the Records from 1849 to 1863 show Merrow Common as in the ownership of the Onslow family and rents being paid to the Earl of Onslow. It also appears from letters from the Public Record Office and the District Valuer at Guildford that the Earl of Onslow is recorded as owner of the A area in the Valuation records made pursuant to the Finance Act 1910.

The present Earl of Onslow gave evidence. He lived at Clandon Park until 1955, when he was seventeen, and again in Temple Court Clandon since 1971 when his father died. The area is deciduous woodland with several paths and tracks across, and the A area is fenced on its eastern and northern boundaries. They had exercised shooting rights over it and had used it for drives until 1979/1980 when the Merrow development took place - 3 or 4 drives each year, in November, December and January. They employed a gamekeeper who looked after the pheasants, which were kept on the north side of the railway until their release on to the area. They were put in a release pen at the end of June and the Keeper went on the area to feed them. The Keeper also cleared the rides on the area. During the drives there were 8 or 9 guns and about 12 Keepers and staff.

On this evidence I am satisfied that the Onslow Trustees are the owners of the two areas and I shall accordingly direct the Surrey County Council, as registration authority, to register them as the owners under section 8(2) of the Act of 1965.

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 ~~at~~ 3 October 1983

*L. J. Morris Smith*

Commons Commissioner