



In the Matter of part of Shalford Common,
Shalford.

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.252 in the Register of Common Land maintained by the Surrey County Council of which no person is registered as owner under section 4 of the Commons Registration Act 1965 or under the Land Registration Acts.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question or 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 5 July 1985. At the hearing, Guildford Borough Council was represented by Mr R Lingard, Solicitor, and no other claimant appeared. Shalford Common has been and is administered pursuant to a Scheme made in 1939 under the Commons Act 1899 by the then Guildford Rural District Council, to which the Borough Council is successor authority. The bulk of this part of Shalford Common is registered under the Land Registration Acts and, I understand, is now in the Borough Council's ownership, but there are three small areas not so registered, and it is with the ownership of these areas that this inquiry is concerned.

The Scheme provided for the management of the Common by the Rural District Council, and Mr Lingard told me that the three areas have continued to be managed along with the main area under the Scheme. The Scheme made no provision as to ownership and, as is usual in Schemes of this nature, recognised the possibility of ownership of the soil being vested in other persons (see paras. 3, 9 and 12 of the Scheme). It would no doubt be desirable that the ownership of the three areas should be vested in the Borough Council, but the evidence does not in my opinion establish the existence of such ownership. The exercise of control and management over the areas is attributable to the powers arising under the Scheme, and cannot I think be regarded as evidence of adverse possession so as to establish a possessory title.

In the circumstances I am not satisfied that the Borough Council or any other person is the owner of the land in question: it will therefore remain subject to protection under section 9 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

31 July 1985

L. J. Morris Smith

Commons Commissioner