



In the Matter of Westmore Green, Tatsfield,  
Tandridge D

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights Section of Register Unit No. CL 56 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objections No. 219 made by Godstone Rural District Council and No. 446 made by Mr R H G Leveson-Gower noted respectively in the Register on 15 September and 16 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Dorking on 28 October 1981. The hearing was attended by Mr R C Wilson, Solicitor, appearing on behalf of Tandridge District Council, (successor Authority to Godstone Rural District Council): by Mr G A Reeve, Chairman of and representing Tatsfield Parish Council: and by Mrs A M Geary, the applicant for registration at Entry No. 1. I was told that the Parish Council was the owner of the land comprised in this Register Unit ("the Unit land") as successor in title to Mr Leveson-Gower. Mr Wilson was content that the submissions in support of the Objections should be made by Mr Reeve.

The Entry is of a right, attached to 2 Pond Cottages, for six water fowl to range over the whole of the Unit land. Mrs Geary gave evidence. No. 2 Pond Cottages ("the Cottage") is situated on the edge of the Green: she came to live in Tatsfield about 1919 when there were ducks on the pond which came from the garden of the Cottage, then the home of Mr and Mrs Honey. When they moved, their successors, Mr and Mrs Shrubbs, and after them Mr and Mrs Higgs continued to keep ducks on the pond; when they went in 1961, Mrs Geary bought the Cottage and she also has kept ducks on the pond. Mrs Geary said that the ducks are regarded as belonging to the children of the village, and the villagers have ~~submitted~~ <sup>subscribed</sup> money for the restoration of the pond and the replacement of ducks.

Mr Reeve said that while the pond was being restored there were no ducks on it for a period of something like a year. In fact the Parish Council supports the whole enterprise and has recorded in its minutes that Mrs Geary is entitled to put ducks on the pond. But, he said, no express rights to do so have ever been granted. This may be so, but I am satisfied on the evidence that a right has been acquired by prescription. It is unusual, I think, for such a right to be claimed as a right of common, but I do not see why it should not qualify as such: and I confirm the registration but modified (to conform with the facts) to read as a right for six ducks to range.

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

19 November

1981

*L. J. Morris Smith*  
Commons Commissioner