



In the Matter of Whitmoor Common,  
Worplesdon, Guildford District,  
Surrey

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DECISION

This reference relates to the question of the ownership of part ("the Referred Part") hereinafter defined of the land which is known as Whitmoor Common, Worplesdon, Guildford District and which is the land comprised in the Land Section of Register Unit No. CL 158 in the Register of Common Land maintained by the Surrey County Council. The Referred Part is the part of the said land which is not registered at HM Land Registry under Title Nos. SY 164738, SY 311468 and SY 345269 and of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

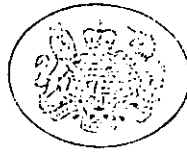
Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Guildford on 28 November 1979. At the hearing Surrey County Council were represented by Mr B Cotter a Principal Solicitor with the Council.

The land ("the Unit Land") in this Register Unit contains (according to the Register) 124.929 hectares (308.7 acres). In the Rights Section there are 10 registrations of grazing and other rights of common. The Unit Land is crossed by the main road from Woking to Guildford and by another (perhaps less important) public road, and according to the Register Map the Unit Land includes parts of these roads. The SY 164738 land on both sides, adjoins these parts and comprises all the remainder of the Unit Land except the SY 311468 and SY 345269 lands which are comparatively very small and both some distance from the roads.

Mr Cotter said that the Surrey County Council are the registered owners of the SY 164738 land, this part of the Unit Land being one of the extensive Commons (about 2,500 acres) acquired by them from the Earl of Onslow, and that the roads above mentioned are clearly highway.

Because the parts of the roads are registered as common land under the 1965 Act, I am by section 8 required to consider their ownership. If they are highway, they are not within the section 22 definition of "common land", which expressly excludes "any land which forms part of a highway". Many large areas of land have been registered under the 1965 Act, and because it would be troublesome or expensive to exclude the highways crossing them (many might be footpaths or tracks whose highway status was difficult to establish), many highway authorities have made no objection, being content to rely on section 21(2) of the 1965 Act which provides that the conclusive nature of a registration established by section 10 should not be applicable for the purpose of deciding whether any land forms part of a highway. Further it may be that notwithstanding that the SY 164738



Land Registry Map does not include the roads, such Title No may include these parts of the roads as a result of the presumption that highway belongs to the adjoining landowner or by the operation rule 273 of the Land Registration Rules 1925.

So the circumstances of this inquiry are artificial, it being uncertain on what basis I should proceed. Mr Cotter offered no evidence; sensibly I think because I cannot imagine how it can be of any consequence to anyone what I may say. In the absence of any evidence I am not satisfied that any person is the owner of the Referred Part and it will therefore remain subject (if it ever was 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 this

14<sup>th</sup>

day of

April

1980

a. a. Baden Fuller

Commons Commissioner