



COMMONS REGISTRATION ACT 1965

Reference No. 278/D/317

Register Unit No. CL1(S)

In the matter of a tract of land comprising about 94.639 acres known and situate at Mynydd Bach-y-Glo, Waunarlwydd, Swansea (“Mynydd Bach-y-Glo”)

And in the matter of a conflict between registrations in Register Unit No. CL1(S)

DECISION

1. This reference relates to an outstanding conflict between registrations at Entry No 1 in the Land Section and Entry No 9 in the Rights Section in the Register of Common Land of the Register Unit No. CL1(S) maintained by The City and County of Swansea as the Registration Authority. The parcel of land in question that is the subject matter of the dispute is a nib of land forming part of Field No. OS 0060. This nib of land is coloured red on the plan annexed to this Decision (“the Red Land”).
2. By two Notices of Reference (Dispute) dated 5th February 2001 the Registration Authority referred the disputed registrations to a Commons Commissioner.
3. On 26th September 2002 I held a hearing for the purpose of inquiring into the question. At the hearing Mr G O Smith, the current freehold owner of Login Fach Farm, attended. Mr Brian Humphreys represented the Registration Authority.

4. The historical background to this dispute is as follows – in the late 1980s a conflicting registration was discovered between Entry No 1 in the Land Section and Entry No 9 in the Rights Section in the Register. Mr Samuel Hale, who then owned Login Fach Farm, was registered in the Rights Section of the Register as having the benefit of right of common over CL1(S). The rights were recorded as being attached, inter alia, to O.S. Field Nos. 9566 and 0060. However, when the boundary of the common land was plotted on a large scale map (1:2500) it was discovered that there was an overlap and that Field No 9566 had been included as part of the land registered as common land.
5. In short it transpired that Field O.S. 9566 had been provisionally registered both as part of the common land and as part of the dominant land to Entry No 9 in the Rights Register.
6. Accordingly, the matter was referred by the Registration Authority to the Chief Commons Commissioner, Mr Peter Langdon-Davies. An Inquiry was held in Swansea in relation to this and other disputes on 26th July 1988. On 23rd February 1989 his Decision was issued. In the Decision he stated that all parties had agreed that O.S. 9566 formed part of the dominant land to Entry No. 9 and not part of the common land. He accordingly confirmed Entry No 1 in the Land Section with the modification that O.S. 9566 should be omitted from that Section on final registration. He confirmed Entry No. 9 in the Rights Section without modification. Notice of Final Disposal of Disputed Registration was given on 25th May 1989.
7. However, it was subsequently discovered that the Red Land forming part of O.S. 0060 had been overlooked in the reference to, and the Decision of, the Chief Commons Commissioner. Precisely the same position arises for consideration in that hitherto the Red Land has been registered both as part of the common land and as part of the dominant land to Entry No 9 in the Rights Register.
8. No other claim was made or evidence produced at the Inquiry to cast doubt on this position. Indeed the parties present at the hearing agreed that O.S. 0060

forms part of the dominant land to Entry No. 9 and not part of the common land.

9. I am therefore satisfied that the Red Land should not have been included in the Land Section of the Register of Common Land. In so far as it may necessary to do so (if indeed I have the power to do so - this having been ordered by Mr Langdon-Davies) I re-confirm Entry No. 9 in the Rights Section without modification.
10. I shall accordingly direct The City and County of Swansea as the Registration Authority to delete the inclusion of the Red Land in the Land Section of the Register of Common Land of Register Unit CL1(S).
11. 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 the notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 15th day of November 2002



Chief Commons Commissioner

This is a copy of the annexed plan referred to in paragraph 1 of the decision dated 15/11/2002.

Signed *Catherine Burnett*
Assistant Clerk to the Commons Commissioners

CL1(S)

