



COMMONS REGISTRATION ACT 1965

Reference Nos. 238/D/177-180

In the Matter of Chilgrove Hill (parts),
 West Dean, West Sussex

DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 172 in the Register of Common Land maintained by the West Sussex County Council and are occasioned by Objection No. 95 made by Mr E Bray and noted in the Register on 21 November 1969, Objection No. 104 made by Mr O C Otteway and noted in the Register on 20 March 1970, Objection No. 463 made by the former County Surveyor and noted in the Register on 22 March 1971, and Objection No. 555 made by the Trustees of the Edward James Foundation and noted in the Register on 19 June 1972.

I held a hearing for the purpose of inquiring into the dispute at Chichester on 14 May 1980. The hearing was attended by Mr L L Ware, of Counsel, on behalf of Mr T C C Barkworth, the applicant for the registration, Mr J H J Bass, Solicitor, on behalf of Mr Bray and Mr R B Minton, Solicitor, on behalf of the Trustees of the Edward James Foundation.

The land comprised in the Register Unit adjoins certain land, known as Chilgrove Hill and Chilgrove Common, comprised in Register Unit No. CL 71, which became final on 12 September 1975. Mr Ware's case was that the land comprised in the Register Unit and that comprised in Register Unit No. CL 71 are indistinguishable from each other and that therefore the registration ought to be confirmed.

In my view, this contention is unsound. There is no entry in the Rights Section of the Register Unit, so that the land in question can only fall within the definition of "Common Land" in Section 22(1) of the Commons Registration Act 1965 if it is waste land of a manor. Therefore, whether the land is waste land of a manor is the only matter for me to consider.

Mr Bass produced the Land Certificate for Title No. SX 11108. This shows that the whole of the land comprised in the Register Unit was registered as freehold land on 30 May 1942. There is nothing in the Land Register to indicate that this land was held with the Lordship of any manor. I can only conclude that if the land was ever the waste land of any manor, it became severed from the lordship of that manor on or before 30 May 1942. It therefore follows that it is not now waste land of the manor: see In re Box Hill Common, (1979) 2 W.L.R.177.

For these reasons I refuse to confirm the registration.

Mr Bass and Mr Minton applied for costs in the event of their clients' objection being successful. Mr Barkworth has no proprietary interest in the matter and made the registration, as he thought, in the public interest. There is no suggestion that he was not acting in good faith or any criticism of his conduct



of the proceedings, and I do not consider this to be a proper case for an award of costs.

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

5th

day of

June

1980

Chief Commons Commissioner