



COMMONS REGISTRATION ACT 1965

Reference No. 238/D/47

In the Matter of Selham Common, GraffhamDECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No. CL.189 in the Register of Common Land maintained by the West Sussex County Council and is occasioned by Objection No. 30 made by The Cowdray Trust Ltd and The Dickinson Trust Ltd and noted in the Register on 28 January 1969.

I held a hearing for the purpose of inquiring into the dispute at Chichester on 30 January 1979.

Mr Stafford appeared for the objectors who are also the owners of the land in question and Mr Godman-Derrington and Mr Bruce-Todd appeared for the Graffham Parish Council.

Mr Bruce-Todd told me that a title map disclosed that in 1847 the land was common land and not subject to titles.

Mr Stafford confirmed that such was the case he produced a tenancy agreement made in 1836 whereby the adjoining farm was let to Eli and Alfred Smith together with grazing rights over the common, then in the ownership of Lord Egremont. However, in 1870 this common was included in the lease to Eli and Alfred Smith who thereafter used the land not as commoners but as tenants. By 1944 the land formerly in the occupation of the Smith family had come into the ownership of the Cowdray Estate who by leases dated 1944 and 1958 let it to Richard Comber and in 1969 let it to Roger Comber. Two portions of the former common are now in the occupation of the Cowdray Estate and have been planted with trees for forestry cultivation. The remainder of the land is now cultivated and occupied by Roger Comber.

The land is now occupied and cultivated and fenced save where it adjoins other land in the occupation of Roger Comber, and it is therefore not "waste" defined in A G U Hammer 27LU ch 837 as land which is open, unoccupied and uncultivated and therefore even if as Mr Stafford conceded was the case the lordship is owned by the objectors or one of them the land is not waste of a manor and therefore not common land as defined in Section 22 of the Act of 1965.

For these reasons I refuse to confirm the registration.

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

12th

day of March

1979

Commons Commissioner