



COMMONS REGISTRATION ACT 1965

Reference Nos 203/D/68
203/D/69

In the Matter of Brill Common,
Brill, Aylesbury Vale District,
Buckinghamshire

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section and at Entry Nos 1 to 19 inclusive in the Rights Section of Register Unit No CL. 109 in the Register of Common Land maintained by the Buckinghamshire County Council and are occasioned by Objection No 59 made by Mr Ivor Sydney Healey and noted in the Register on 21 October 1970.

I held a hearing for the purpose of inquiring into the disputes at Aylesbury on 7 March 1978. At the hearing Brill Parish Council (the Land Section Registration was made on their application) were represented by Mr R Shipperley their chairman and by Mrs K Broome their clerk, and the following persons on whose application Rights Section Entries have been made: Mr Donald Thomas Pointer (No 5), Mr Ronald Thomas Pointer (No 7), Mrs Edna Dover (Nos 9, 10, 11, 12 and 13) and Mrs Margaret Daisy Evans (Nos 18 and 19) attended in person. An application (among others) by Mrs M D Evans is noted in the Land Section.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) about 74.08 acres. The part ("the Central Area") consists of a reasonably compact area about half a mile long and between 200 and 100 yards wide situated near to and on the northwest and west side of the Village; the remaining part consists of numerous strips by the side of roads and lanes, including a strip about $1\frac{1}{2}$ miles long known as Span Green, Pikkle Lane and Nashway Lane. The grounds of objection are: "That the extent of the land included in the registration is in error and part thereof shown coloured pink on the plan attached hereto is not common land"; this part ("the Objection Land") is (as I scale the plan) about 35 yards long and nowhere more than about 6 yards wide; it is a little to the south of where Windmill Street joins the east side of the Central Area. Of the 19 Rights Section Entries Nos 14, 15, 16 and 17 which relate to rights previously registered at Nos 9, 10, 11, 12 and 13 were deleted by the registration authority as contrary to regulation 9(5) of the Commons Registration (General) Regulations 1966. The other Rights Section Entries are of rights to graze varying numbers of animals, Nos 1, 2, 3, 4, 5, 6, 7 and 8 being over all the Unit Land and Nos 9, 10, 11, 12, 13 (Mrs Dover), 18 and 19 (Mrs Evans) being over Span Green with Pikkle Lane and Nashway Lane. The rights at Entry Nos 3, 4, 5, 6 and 7 are not attached to any land but are stated to be "a right for all the inhabitants of Brill Parish". The rights at the other Entry Nos are attached to specified land and there is in relation to them no reference to the right being for all the inhabitants. In the Ownership Section the Parish Council is the registered owner of all the Unit Land.



I have letters dated 4 and 13 October 1976 from Charles Lucas & Marshall, Solicitors of Wantage saying that Mr & Mrs Lennon for whom they were acting, had purchased Ochre House which fronts on the Objection Land. At the hearing in the absence of anyone present to support the Objection, there was some discussion as to the meaning and effect of the registrations as they now stand in the Rights Section, it being said that having regard to the grass available the number of animals mentioned in the Rights Section is excessive (if these numbers be added together, the total exceeds 900!) and also said that the words "for all the inhabitants of Brill Parish" might lead to difficulty.

By section 5(7) of the 1965 Act any objection to the registration of any land shall be treated as being an objection to any registration of any rights over the land; so technically the Objection of Mr Healey notwithstanding that it relates only to a very small part of the Unit Land puts in issue all the rights registered. So I have I suppose jurisdiction to modify the Rights Section Entries in any way. But if I were to modify them in some of the ways suggested during the discussion, I would be going far beyond the scope of the grounds of the Objection which apparently show Mr Healey was only concerned to exclude if he could the Objection Land from the registration. In the absence of agreement by all concerned, I conclude that I ought not to extend these proceedings in this way; none of those who might be concerned to prove their rights, would know the sort of case they had to meet; the 1965 Act contemplates that a registration however absurdly expressed may in the absence of any objection to it become final, and it is not I think for me to attempt to avoid this result; particularly as in this case I am not persuaded that the difficulties mentioned could not in the circumstances of this case be easily resolved in a practical way by those concerned.

Mrs Broome, who has lived in the Parish "off and on" for 16 years, in the course of her evidence said (in effect):- On the east side of (but not on) the Objection Land there is a newly built house (Ochre House) owned by Mr & Mrs Lennon. Its garage door fronts on or very near to the boundary of the Objection Land. It has no front garden. The general appearance of the Objection Land is that it is still part of the rest of the Common; it is not in any way fenced off and there is a green verge which slopes down to the southwest. The Objection Land is crossed diagonally towards the southeast corner where there is a gate into a field, by a track used by Mr D T Pointer (present at the hearing) for access to the field of which his father is the tenant. She can say that Mr Lennon knows of the hearing because she about 3 weeks ago spoke to him about it.

But for the Objection, all the registrations would by the operation of section 7 of the 1965 Act have become final; upon the evidence of Mrs Broome and in the absence of any evidence in support of the Objection, I conclude that I should produce the same result. Accordingly I confirm the registrations without any modification, such confirmation to be without prejudice to the deletion of the registrations at Entry Nos 14, 15, 16 and 17 made as above mentioned by the registration authority pursuant to the 1966 Regulations.

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 16th day of March 1978

a. a. Baden Fuller

Commons Commissioner