



COMMONS REGISTRATION ACT 1965

Reference Nos. 209/D/391
209/D/392

In the Matter of Swine Down,
Manaton, Teignbridge District,
Devon

DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section and at Entry Nos. 1 to 7 inclusive in the Rights Section of Register Unit No. CL105 in the Register of Common Land maintained by the Devon County Council and are occasioned by Objections Nos. 423, 429 and 430 made by Eric Thomas West Biggs and Pearl Biggs and noted in the Register on 30, 26 and 26 November 1970 respectively.

I held a hearing for the purpose of inquiring into the disputes at Exeter on 13 March 1984. At the hearing (1) Mr and Mrs T W Corkery as owners of Wingstone Farm, Manaton in succession to the said Objectors were represented by Mr D M Morris solicitor of Anstey & Thompson, Solicitors of Exeter; (2) Manaton Parish Council were represented by their chairman Miss M Bindloss; (3) Mr Herbert Hugh Whitley on whose application as owner (with Harold George Retallick as tenant) the registration at Entry No. 1 was made, attended in person (4) Mr Gilbert George Shilston on whose application a registration at Entry No. 5 was made, attended in person; (5) Mrs Jane Gillian Beeson on whose application the registration at Entry No. 7 was made was represented by her husband Mr Christopher W R Beeson.

The land ("the Unit Land) in this Register Unit is a tract of about 51 acres, approximately a triangle, its south end being the road junction at Swallerton Gate; it is between Hountor Down on the southeast and Cripdon Down on the north-west. The grounds of the Objections are (in effect) that the Unit Land was not common land at the date of registration, that the rights at Entry No. 4 do not exist at all and that the right to graze at Entry Nos. 1, 2, 3, 4 and 5 do not exist at all or should comprise fewer animals. Notwithstanding the limited grounds stated in the Rights Section Objections Nos. 429 and 430, all the Rights Section registrations are wholly in question under the Land Section Objection No. 423 by the operation of subsection (7) of section 5 of the Commons Registration Act 1965.

Mr Morris who in the course of his oral evidence produced the documents specified in the Schedule hereto, said (in effect):- His clients Mr and Mrs T W Corkery purchased Wingstone Farm on 18 December 1970 from Mr and Mrs Biggs, the Objectors; shortly before he made the declaration, DMM/1. Shortly after 1971, Mr and Mrs Corkery fenced the Unit Land which had up to then been unfenced. The Unit Land is not in the Tithe Apportionment Award or on the Tithe Map described as common land. The documents he produced were to the effect that those concerned with the registrations at Entry Nos. 1, 2, 3, 4 and 5 did not claim rights, that neither the County Council nor the Parish Council supported the registrations and that the Unit Land for some time had been considered to be part of Wingstone Farm.



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Miss Bindloss confirmed that the Parish Council had no objection to the registrations being cancelled; Mr Corkery had left space round the Unit Land so people could walk and ride around the outside along the Footpath and bridle path there.

Mr Whitley said:- He and his tenant Mr Maurice Harold Rettallick (as successor to Mr Harold George Retallick now deceased) withdraw their registration at Entry No. 1.

Mr Shilston said:- He withdraws his registration at Entry No. 5. He remembered the Unit Land 46 years ago when it was part of the Heatree Estate and when there was a wall round it; this wall gradually got worse and then fell down; the Unit Land was a separate piece of land.

Mr Beeson said:- His wife withdraws the registration at Entry No. 7.

I have a copy of a letter dated 16 May 1972 written by Mr M J Bowden to the County Council withdrawing his "claim for stray rights" (Entry No. 6).

In the absence of any evidence or argument in support of the registrations, having regard to the matters above set out, I refuse to confirm them.

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.

SCHEDULE

DMM/1	23 November 1970	Statutory declaration by E T W Biggs quoting conveyance dated 23 March 1962 made by Ernest James Lee of Wingstone Farm including "Swine Down OS Nos. 420, 423 and 427" and giving other information.
DMM/2	25 April 1972	Letter from Devon County Council to T W Corkery.
DMM/3	2 March 1984	Letter from Devon County Council to Anstey & Thompson.
DMM/4	14 June 1971	Copy letter from Manaton Parish Council to Devon County Council.
DMM/5	6 March 1984	Letter from Manaton Parish Council to Anstey & Thompson.
DMM/6 to 10	--	Consents signed by Maurice Harold Rettallick as owner of Bagtor Barton & Crowley Park, by William Roy Greenaway as owner of Park Kendon, and by Gilbert George Shilston.



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DMM/11 1842 Extract from Tithe Apportionment Award.

Dated the 3rd — day of August — 1984.

A. A. Baden Fuller.

Commons Commissioner