



In the Matter of Hamble Common (part),
Hamble, Hampshire

DECISION

This dispute relates to the registration at Entry No. 3 in the Land Section of Register Unit No. CL 119 in the Register of Common Land maintained by the Hampshire County Council and is occasioned by Objection No. OB 348 made by the Warden and Scholars Clerks of Saint Mary College, Winchester and noted in the Register on 27 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Winchester on 6 July 1983. The hearing was attended by Mr J W Pickford, Solicitor, on behalf of the Eastleigh Borough Council, the successor authority of the former Winchester Rural District Council, the applicant for the registration, and by Mr J A E Gorst, Solicitor, on behalf of the Objectors.

There is no entry in the Rights Section of the Register Unit, so the land comprised in it could only fall within the definition of "common land" in Section 22(1) of the Commons Registration Act 1965 if it were waste land of a manor.

The matter was first set down for hearing before me on 24 February 1977. On that occasion I acceded to an application on behalf of the Borough Council for an adjournment. It was next set down for hearing before the late Mr Commissioner Settle on 5 May 1978, when it was again adjourned because the Borough Council and the College were engaged in negotiations. From time to time during the following years the Clerk of the Commons Commissioner was informed by letter that it was expected that the negotiations were progressing and were expected to come to a conclusion in the near future. With the production of a consent application, on 2 June 1982 it was stated by the Borough Council that it was expected that the matter could be concluded within a period of two months. By 26 November 1982 it was not expected that a further six months would see the end of the matter. Setting down the matter for hearing on 6 July 1983 produced an application by letter for a further adjournment of "say, twelve months". This application was repeated orally at the hearing.

I was informed that it was proposed that the College should convey the land in question to the Borough Council, but that it was not proposed that the conveyance should include the lordship of any manor. Therefore, even if the land is at present waste land of some manor, it would be severed from the lordship of the manor and thereby cease to be common land. Mr Pickford, however, suggested that the negotiations between the Council and the College would be facilitated if the land were to remain provisionally registered as common land. This does not appear to me to be a proper reason why I should not perform the duty imposed on me by section 6(1) of the Act of 1965 either to confirm the registration, with or without modification, or to refuse to confirm it. The reference was dated 17 December 1974, so the duty has remained unperformed for 8½ years. Nothing put forward by either side at the hearing persuaded me that the duty should remain unperformed any longer.

Since Mr Pickford was unable to produce any evidence that the land is waste land of a manor, 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

26th

day of

July

1983

Chief Commons Commissioner