



In the Matter of Shortheath Common,
Selborne and Kingsley, East Hampshire D

DECISION

These disputes relate to the registration at Entry No. 3 in the Land Section and the Entry Nos. 2, 3, 6, 10, 11, 14, 17, 18, 19, and 20 in the Rights Section of Register Unit No. CL. 109 in the Register of Common Land maintained by the Hampshire County Council and is occasioned by Objection No. OB 276 made by the Secretary of State for Defence and noted in the Register on 22 October 1970 and the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. VG. 124 in the Register of Town or Village Greens maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Winchester on 4 March 1976. The hearing was attended by Mr Barlow, counsel, instructed by the Treasury Solicitor, and Mr John Ellis on behalf of the Broxhead Commoners Association.

Mr Barlow and Mr Ellis were both content that I should confirm the Entry in the Land Section modified so as to exclude all the land registered as a village green under Unit No. VG. 124 as originally registered and that all rights of common which I confirm shall be applicable only to the modified Entry in the Land Section. Mr Barlow was content that I should confirm the Entry Nos. 6, 17, 18, 19 and 20 in the Rights Section and that I should confirm the Entry Nos. 2, 3 and 10 in the Rights Section modified as follows:-

- Entry No. 2 the rights to be limited to the right to graze 1 cow and 2 calves and rights of estovers and turbary
- Entry No. 3 the rights to be limited to a right to graze 1 horse or 2 goats and rights of turbary and estovers
- Entry No. 10 the rights to be limited to a right to graze 1 horse or cow and two calves and rights of estovers and turbary and a right to take sand.

There remained in issue Entry Nos. 11 and 14; neither of the applicants Mr Wright and Mrs Searle respectively gave evidence. Mr Ellis gave evidence on their behalf. As regards Entry No. 11 he said the size of Mr Wright's holding was 0.4 of an acre, there were no facilities for keeping either a cow or a horse but he personally knew of goats having been pastured by the family having known the common since the early 30's and lived in the area all his life. He had heard of a meeting about the pond and as a result of that meeting the fishing on the pond was reactivated and the angling club took a lease.



Mr I J Cook the Secretary of the Oakhanger Angling Club gave evidence on behalf of the Ministry of Defence. The Angling Club took a fishing lease of the pond in 1968. Prior to the meeting referred to by Mr Ellis the pond was very acid due to rotting vegetation and the vegetation was encroaching on the pond. There were a few fish. Since then the Club has moved the encroachment, changed the acidity of the water and stocked the pond. Membership of the Club is £3.15 per annum and Mr Wright would be admitted to membership if he wished to join. He knows of a Mr Wright but as far as he is aware he has never fished the pond since the Club was formed or come near the Club or its members.

Mr B R C Freeland gave evidence on behalf of the Ministry of Defence. He had visited Mr Wright's premises and said there was $\frac{1}{2}$ acre down to grass and a stable block for 2 built about 82 years ago.

In the absence of any evidence by Mr Wright I reject his claim to a right of piscary which is entirely without merit in that by putting this claim forward he is seeking to obtain the benefit of the good work done by the Club without contributing the modest annual subscription. In the light of the evidence as to grazing I will confirm the Entry No. 11 limited to a right to graze 2 goats and I will confirm rights of estovers, turbary. In the absence of any evidence I shall not confirm a right to take sand.

As regards Entry No. 14, the rights claimed are alleged to be appurtenant to a cottage standing on 0.17 of an acre, an area insufficient to maintain any livestock. Mr Barlow conceded a right of estovers.

For the reasons given above I confirm the Entry 3 in the Land Section modified so as to exclude all the land originally registered under Unit No. VG. 1211 and I confirm the Entries at No. 6, 17, 18, 19 and 20 in the Rights Section.

I confirm Entry No. 2 in the Rights Section modified so as to be limited to a right to graze 1 cow and 2 calves and rights of turbary and estovers.

I confirm Entry No. 3 in the Rights Section modified so as to be limited to a right to graze 1 horse or 2 goats and rights of turbary and estovers.

I confirm Entry No. 10 in the Rights Section modified so as to be limited to a right to graze 1 horse or 1 cow and 2 calves and rights of estovers and turbary and to take sand.

I confirm Entry No. 11 in the Rights Section modified so as to be limited to a right to graze 2 goats and rights of estovers and turbary.

I confirm Entry No. 14 in the Rights Section modified so as to be limited to a right of estovers.



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 18th day of March 1976

C A. Lett

Commons Commissioner