



COMMONS REGISTRATION ACT 1965

Reference No. 276/D/211

Register Unit No. BCL 069

In the matter of a tract of land known as Hay Common, Hay, Brecknockshire, in the County of Powys

And in the matter of an application for registration of a right of common

And in the matter of notice of reference of a dispute

DECISION

1. On 22nd December 2003 Notice of Reference in Form 36 was made by Powys County Council to the Commons Commissioners. This relates to the question of the final registration of certain rights of common over a tract of registered common land known as Hay Common, and situate in Hay, Brecknockshire, in the County of Powys ("the Common"). Powys County Council is the Registration Authority for the area and the registration of the Common is maintained by it in the Register of Common Land. I should state that there had been an earlier Notice of Reference made by Powys County Council on 19th March 1980. As this has never been the subject of a final registration in the Register it was not strictly necessary for the December 2003 Notice to have been submitted.
2. It is not necessary to mention *in extenso* the details of the history of the registration of the Common as common land and the concomitant registration of rights and ownership – suffice it to state that the registration of the Common as common land became final on 1st October 1970. The registration of the Glanusk Estate as owner of the Common became final on 1st August

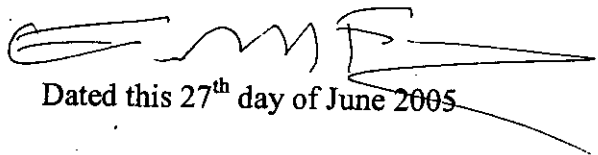
1972. The Register also indicates that Entry Nos. 1, 3, 4, 5, 6, and 7 in the Rights Section became final at various stages up to 1997.

3. Entry No. 2 in the Rights Section, however, remains a provisional registration. The reason for this seems to stem from an objection (Objection No. 461) made by the Glanusk Estate as long ago as 24th September 1970. Paragraph 8 of Form CR Form 26 (Objection Form) contains the following statement – “No area is given so that it is impossible to assess whether the amount of sheep registered is proper”. I should state that this Objection relates to an application (Application No. 1093) made on 17th June 1968 by Mr Guy Llewellyn Davies of “Oakfield”, Hay-on-Wye, for registration of a right of common over the Common for grazing rights for 6 cattle or 24 sheep in favour of “Oakfield” as the dominant tenement. The number of cattle sought to be registered in the original application appears to be wrongly recorded as 5 in the provisional registration in the Rights Section and not the 6 as originally sought.
4. On 26th July 1983 Mr George Hesketh, a Commons Commissioner, held a hearing at Brecon in order to inquire into the registration of Entry Nos. 1, 2, 4, and 5 in the Rights Section of the Register which at that stage remained provisional as there were existing disputes. His Decision is dated 15th August 1983. It can be seen that at the hearing various agreements were made relating to all these disputes bar that relating to Entry No. 2. The Decision confirmed the registrations at Entry Nos. 1, 4 and 5 and became final. Entry No. 2, however, for reasons which are unexplained, was adjourned. Hence this Entry still remains provisional. For the sake of completeness I should state that as Entry No 3 was undisputed it became final on 1st August 1972.
5. The current position is that in order to resolve the dispute the new owners of “Oakfield” have proposed that the registration of their rights to graze 24 sheep or 5 cattle over Hay Common should be the subject of a reduction in the stocking density in the number of sheep to 8 and cattle to 2. Thus Entry No 2 on final registration should therefore be confirmed with the following modification - “To graze:- 8 sheep or 2 cattle”. This proposal has been the

subject of agreement between themselves and the Glanusk Estate as the owners of Common. I refer to the letters dated 17th July 2003 from E. Ann Davies & Davies for the owner of "Oakfield" and the letter dated 29th July 2003 from the Glanusk Estate to Powys County Council. I also refer to recent further correspondence relating to the reduction of the number of cattle from 5 to 2 (see the letter from E Ann Davies & Davies dated 24th February 2005, and the letter from Knight Frank dated 8th March 2005).

6. It has also been agreed between the parties that as they are *ad idem* on the issue there is no need for a formal hearing into the dispute (see their respective letters dated 13th February 2004). I have concurred with this course of action, subject to the parties seeing my Decision in draft before it was promulgated and manifesting their consent to its terms. If these terms were acceptable to the parties I stated that I would accordingly direct the Registration Authority to confirm the agreed terms of the proposed registration at Entry No 2 of the Rights Section of Register Unit No. BCL 069 with the necessary modification. In May 2004 I produced a Draft Decision. This was then the subject of further correspondence (to which I have made reference in paragraph 5, above). The parties have now confirmed their agreement that Entry No 2 should be in the following terms - "To graze:- 8 sheep or 2 cattle".

7. I give this decision by consent in accordance with my powers to do so pursuant to section 6(1) of the Commons Registration Act 1965 and Regulation 30(2) of the Commons Commissioners Regulations 1971. I should also state that I am satisfied that every person who would have been entitled to be heard has consented in writing to the proposed terms (see Regulation 31 of the Regulations).



Dated this 27th day of June 2005

Edward F Cousins
Chief Commons Commissioner