

In the Matter of (1) St Johns Lye
and (2) a part of St Johns Lye,
Woking Borough, Surrey

DECISION

These disputes relate to the registrations at Entry No 1 in the Rights Section of Register Unit Nos CL 116 and CL 53 in the Register of Common Land maintained by the Surrey County Council and are occasioned by Objection Nos 122 and 114 made by Woking Urban District Council and noted in the Register on 22 July 1970.

I held a hearing for the purpose of inquiring into the disputes at Guildford on 8 November 1978. At the hearing Woking Borough Council were represented by Mr R A Payne their Principal Solicitor.

The land ("the CL 116 Land") in Register Unit No CL 116 comprises a number of connected or adjoining pieces of land south of the Basingstoke Canal and north of the Railway which together are about a mile long. The land ("the CL 53 Land") in Register Unit No CL 53 is a comparatively very small area which is north-west of the north corner of the CL 116 Land. In both Rights Section there has been registered on the application of Mr T A McLaurin and Mrs M J McLaurin rights attached to South Close to graze one horse, 25 geese and 25 chickens, of Pannage for to 2 pigs and one litter together with a right of estovers.

Mr Payne said (in effect):- The whole Common (that is the CL 116 Land and the CL 53 Land) is in the ownership of the Borough Council (as successor of Woking Urban District Council) and is regulated under a scheme of management made under the Commons Act 1899. The Common includes a cricket ground (with pavilion), a football ground (with tennis courts) and a playground; The substance of the Council's objection was that they did not wish the registered right to be exerciseable so as to interfere with the recreational activities on these parts of the Common. Mrs McLaurin is now deceased, the Council has reached an agreement with Mr McLaurin as set out in a letter (produced) dated 2 November 1978 written by his solicitor W Davies & Son Solicitors of Woking to the Clerk of the Commons Commissioners.

I consider I should give effect to the said agreement, and accordingly confirm the registrations with the modification (the same in each case) that for the words in column 4 there be substituted: "the following rights sufficient for one household (a) right to graze domestic animals, (b) right to take bracken, pea sticks and bean poles, (c) right to take turf without green sward, (d) right to take clay for walling, (e) right to take kindling wood including dead Birch trees, (f) right to take roof timbers from trees up to 9 ins trunk diameter, and (g) right to stack cord wood for domestic use on ground adjacent to the eastern boundary of South Close over the whole of the land comprised in this register unit and in register unit No ... (so that this blank space be completed by the registration authority by inserting "CL 53" in the CL 116 registration and "CL 116" in the CL 53 registration).

I shall not modify column 3 by deleting the name of Mrs McLaurin as apparently contemplated by the said agreement because in my view this column being an historic statement of the origin of the registration has not become incorrect by the death of Mrs McLaurin. Nor shall I modify the description in the Register of the land comprised in these Register Units (~~not~~), as also appears to be contemplated by the said agreement, because the Land Section registration has become final and I have no jurisdiction to alter it.

I am required by relation 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 28th day of November 1978

A. A. Bavin *Bavin*

Commons Commissioner