



COMMONS REGISTRATION ACT 1965

Reference Nos 236/D/201 to 206
inclusive

In the Matter of Dunsfold Common
and Dunsfold Green, Dunsfold and
Bramley, Waverley District, Surrey

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section of Register Unit No CL. 162 in the Register of Common Land maintained by the Surrey County Council and at Entry No 1 in the Land Section of Register Unit No VG. 108 in the Register of Town or Village Greens maintained by the said Council and are occasioned by Objection No 38 made by Mr Alfred John Brewer and noted in the Register on 21 January 1970, by Objection No 205 made by Surrey County Council and noted in the Register on 10 September 1970 and by Objection No 310 made by Mr Charles William Oakley and noted in the Register on 8 October 1971 and by the said two registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Guildford on 23 May 1978. At the hearing (1) Waverley District Council (both the registrations were made on the application of their predecessors Hambledon Rural District Council) were represented by Mr A Hart their solicitor; (2) Surrey County Council were represented by Mr P W Pilgrim articulated clerk to their Deputy Clerk; (3) Mr C W Oakley attended in person; (4) Dunsfold Parish Council were represented by Major W A M Miller their chairman; (5) Mr Rodney Bernard Remnant and Mrs Krystyna Gunowefa Remnant of Gatehouse Cottage, Loxhill, Surrey were represented by Mr D Graham-Smith solicitor of Helman, Graham-Smith & Co, Solicitors of Godalming, and (6) Mrs Olive Medcalfe of was represented by Mr M C Strathdee articulated clerk to Mr C M C Campbell of Barlows, Solicitors of Godalming.

The land ("the VG Land") in Register Unit No VG. 108 is about 1 mile long from north to south and of very variable width, being in one place over 200 yards wide in its north part (Dunsfold Green) and in places over 500 yards wide in its south part (Dunsfold Common); it is all open to the road which runs north-south through the Village. The land ("the CL Land") includes all the VG Land except a small area ("the South Small Area") which is within the south part and which is hereinafter particularly mentioned. The rest of the CL Land comprises strips by various roads leading from the VG Land: (a) west (Hookhouse Road and Church Road) to St Margaret's Church including an open area by the Church, (b) southwest (Wrotham Hill) to Loxley Bridge, (c) southeast (Common House Road) nearly to Old Ruckhurst including a triangular open area beyond, (d) northeast (Dunsfold Road) nearly to Painshill Farm, including a triangular area at the junction of this road with the Godalming road and some strips by the side of a short length of the High Loxley road.

At the beginning of the hearing Mr Hart said that he understood that the VG registration was made by the Rural District Council at the request of Dunsfold Parish Council. Mr Miller said that the Parish Council are agreeable to the VG registration being avoided and to the CL registration standing. Except as regards



the parts of the CL Land hereinafter particularly mentioned, no person at the hearing contending otherwise, I said I would avoid the VG registration unless later during the hearing it appeared (it did not) that there was some reason who I should not.

Mr E W M Holliday who is the Countryside Officer of Waverley District Council in the course of his evidence produced a Scheme dated 29 December 1950 and made by Hambledon Rural District Council under the Commons Act 1899 for the regulation of (among other land) Part of Dunsfold Green in Bramley (about 4.2 acres), the remainder of Dunsfold Green in Dunsfold (about 45 acres) and Dunsfold Common in Dunsfold (about 57.4 acres) as shown on the deposited plan therein referred to.

Mr Pilgrim produced a map (in this decision called "the County Council Map") about 4 feet by 3 feet (scale 1/2500) based on the Ordnance Survey of 1973 on which the CL Land was edged green and on which the parts of the CL land included in the deposited plan mentioned in the Scheme were hatched brown. He contended that the roadside verges as shown edged red on the County Council map should not be included in the registration and this was agreed by Mr Hart and Major Miller.

As regards the South Small Area, Mr Strathdee said this was owned by Mrs Metcalfe and produced the Land Certificates for Title Nos SY 454833 and SY 460103 which showed her as having been registered as owner on 30 July 1976 and 8 February 1977 of land edged red and blue on the plan ("the Loom House Plan") which he produced and which appeared to be based on the Land Registry filed plan for Title No SY 454833. Mr Hart said that the land so claimed was not included in the CL Land and that he did not claim that it should be included; to this Major Miller agreed. After some discussion as to whether the boundary of the lands of which Mrs Metcalfe in the Land Certificates appears to be the owner exactly correspond with the boundary of the South Small Area as shown on the Register map, it was agreed that the part (if any) of the land edged red and blue on the Loom House Plan which was included in the CL 162 registration should be removed from the Register.

The grounds of Objection No 38 (Mr Brewer) are (among others) that the manorial waste of land outlined in blue on the plan attached was an integral part of his property. The land so outlined includes a small part of the CL Land northeast of and near to St Margaret's Church. With regard to this, evidence was given by Major Miller who has lived in the Parish since 1940 and has been chairman of the Parish Council for about 9 years (before that he was a member); he said (in effect):- Mr Brewer used ~~to~~ own No 1 Church Cottage which he used as a weekend residence; the objection seems to be made for the benefit of this cottage and possibly also of the adjoining cottage No 2. Mr Brewer has died and he (Mr Miller) was in touch with the present owner of No 1 Church Cottage who knew of this hearing but did not wish to support Mr Brewer's Objection.

On the evidence summarised above, and in the absence of any evidence supporting the Objection, my decision is that it fails.

The grounds of Objection No 310 (Mr Oakley) are: "This part of my farm which is included in my deeds. The area objected to is as shown on the attached plan dotted line A-B". The land ("the Oakley Objection Land") as shown (not precisely the plan being rough) is the part of the CL Land on the northwest side of Dunsfold Road and lying between (approximately) Pratts Corner (the junction with the Godalming road) on the northeast and the east corner of the close on the County Council map called "Keelesdale on the southwest. Mr Oakley in the course of his evidence said that he had not his deed with him and indicated that he was primarily



concerned to establish his ownership of the Oakley Objection Land. After some discussion in the course of which I said that in these proceedings I was concerned to determine whether the Oakley Objection Land was properly registered as common land, and that if it was the question of its ownership would be the subject of other proceedings under the 1965 Act, and Mr Hart said that on the understanding that the Oakley Objection Land did not extend further to the southwest than the east corner of the said close marked on the County Council map as "Keelesdale", ~~that~~ the District Council whom he represented would not in any such subsequent proceedings claim to be the owners of the Oakley Objection Land and Mr Miller said that the Parish Council on the same understanding would not in any such subsequent proceedings claim ownership, Mr Oakley said that he would withdraw his Objection.

In the foregoing circumstances, my decision is that this Objection fails.

In accordance with rule 23(5) of the Commons Commissioners Regulations 1971, I took evidence of Mr Remnant. He produced a conveyance dated 27 April 1978 by which Mr J N Courtney and others conveyed to him and his wife the freehold piece of land delineated on the plan attached and an abstract dated "197-~~8~~" of the executors of his Grace the Duke of Westmorland the freehold land being part of the Park Hatch Estate. He identified the land comprised in the 1978 conveyance with a dwelling house now known as Gate House Cottage and the small area of land surrounding it (on the map marked as 0.57 ha) situate north of the junction of the Dunsfold road and the Godalming road, and said that he had been informed by the occupier that this cottage was formerly called Pratts Cottage.

The abstract produced included a subsidiary vesting deed dated 26 June 1951 by which Major J Godman and his trustee conveyed to Hugh Richard Arthur Duke of Westminster the Park Hatch Estate containing 928.8378 acres as described in the First Schedule and delineated on the plan; the Schedule included "Pratts Corner Cottage".

Mr Graham-Smith said that these documents were prima facie evidence that the land comprised in the 1977 conveyance was a cottage with land held therewith and was therefore ~~not~~ properly registered as common land. Major Miller on behalf of the Parish Council said he had no objection to the land comprised in the 1978 conveyance being removed from the Register. Mr Hart said he was not authorised to say that the District Council did not object to its removal but he did not propose to challenge the evidence given by Mr Remnant.

The grounds of Objection No. 205 (the County Council) are: "That the land at the date of registration was not common land"; these grounds are general although they might be taken as limited by the accompanying plan (not referred to in the grounds); such plan includes all the CL. Land at or around Pratts Corner including that comprised in the 1978 conveyance of Mr Remnant. In these circumstances I consider that I can properly treat the question whether any part of Pratts Corner area was properly registered to be directly in issue in these proceedings and these is no reason why I should not give effect to Mr Remnant's evidence.

On such evidence I am satisfied that the 1978 conveyance land should not have been included in the registration, and it being in the public interest that the Register should be correct, my decision is that this land as well as the land which Mr Pilgrim (as above stated) contended should be so removed, should be removed from the Register.



In the above circumstances I refuse to confirm the VG 108 registration and I confirm the CL. 162 registration with the modification that there be removed from the Register (1) the land edged red on the County Council map (2) the land at Pratts Corner edged red on the plan annexed to the said 1977 conveyance and (3) the part (if any) of the land now in this Register Unit which is edged red or green on the Loom House Plan. I understood at the hearing that I need not annex copies of these maps to this decision; however I record that copies of them have been signed by me and will be retained in the office of the Commons Commissioners and will be available for inspection, so this decision will take effect by reference to such copies.

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 June 1978

a. a. Baden Fuller

Commons Commissioner