



COMMONS REGISTRATION ACT 1965

Reference No. 36/U/14

In the Matter of Gosden Common
(part), Shalford, Guildford District,
Surrey

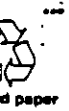
DECISION

This reference relates to the question of the ownership of land known as Gosden Common (part), Shalford, Guildford District being the land comprised in the Land Section of Register Unit No. CL 290 in the Register of Common Land maintained by the Surrey County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Guildford Borough Council said (their clerk's letter of 13 March 1975) that the land was then managed by the Council as successor to the former Guildford Rural District Council under a scheme of management pursuant to the Commons Act 1899 (relating also to Shalford Common, Peasmarsh, Tilthams Green and Cranleigh Heath), that the Council were not the freeholders but during the last two years they and the former Rural District Council had been continuously trying to find the freeholders and had been having discussions for this purpose with the solicitors acting for the estate of the late Felix Fenston who claimed the ownership of the remainder of the Commons in the Shalford Group. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

Commons Commissioner Mr C A Settle QC held a hearing for the purpose of inquiring into the question of the ownership of the land at Guildford on 25 March 1975. At this hearing Mr Settle on the application of Mr D Watts who as their clerk and solicitor was then representing the Guildford Borough Council, adjourned the proceedings without hearing any evidence.

Mr Settle held an adjourned hearing at Guildford on 11 November 1976. Before this hearing Guildford Borough Council said (their clerk's letter of 27 October 1976) that although considerable new evidence as to the ownership of the Commons in the Shalford Group had come to light, there were still a number of additional enquiries which had to be made concerning such matters as manorial boundaries and that unfortunately certain manorial records had been lost in recent years and it was therefore a considerable task to piece together the situation. At the hearing Mr Settle at the request of the Guildford Borough Council again adjourned the hearing. After Mr Settle had again held a hearing on 13 February 1979, I held a hearing at Guildford on 29 November 1979. At this hearing Surrey County Council were represented by Mr B Cotter a principal solicitor with the Council, (2) Guildford Borough Council were represented by Mr A M Pearson assistant solicitor with the Council, and (3) Shalford Parish Council was represented by Mr D Gould their clerk.





This hearing was held soon after a hearing relating to part of Shalford Common, (Register Unit No. CL 237) as to which I have given a decision of even date (Reference No. 255/D/323-330). In the course of such proceedings, Mr Pearson produced a copy of a conveyance dated 24 September 1979 (the original is with HM Land Registry) by which Mr S Morris as executor of Mr F D Fenston (he died 13 September 1970) conveyed to the Guildford Borough Council first the Manor of Emeboeuf or Braybiefe including the ruins of St Catherine's Church and the land which surrounds them and Fourthly all his estate and interest in the land coloured green on the plan annexed 554/1/3 "being commons or wastelands known as part of St Catherine's Hill, Peasmarsh, Tilthams Green, Trunley Heath, Gosden Common and part of Shalford Common (all of which are parcel of the said Manor and are included in this conveyance as such) ...". Mr Pearson said that before the conveyance was made on behalf of his Council investigations were made of documents in the Museum showing the extent of the Manor and also some very old perambulations which Mr Fenston's executor was able to produce and concluded that title was shown to all the land comprised in the 1979 conveyance.

(Handwritten mark) Bearing in mind that Mr Cotter and Mr Gould representing the only other local Councils concerned with this land accepted the claim of Guildford Borough Council, I need not personally consider investigation which Mr Pearson mentioned as above stated. Accordingly, on his evidence as outlined above I am satisfied that Guildford Borough Council are the owners of the land, and I shall accordingly direct the Surrey County Council, as registration authority, to register Guildford Borough Council as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 50(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 1st day of April 1980

a. a. Backen Fuller

Commons Commissioner