



COMMONS REGISTRATION ACT 1965

Reference No. 236/D/649

In the Matter of Land on south side of Chapel
Road, Tadworth

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 390 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objection No. 240 made by Banstead Urban District Council and noted in the Register on 15 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Dorking on 11 June 1981. The hearing was attended by Mr D B Easton, the applicant for registration and by Mrs Wilcock, Solicitor of Reigate and Banstead Borough Council, the successor authority, to Banstead B.D.C.

The ground of the Objection is stated to be that the land is not shown as common on the Commons Map of 8 April 1921, signed on behalf of the Minister of Agriculture, Fisheries and Food. There are no rights of common registered, so that the validity of the registration depends on whether the Unit Land was waste land of a manor.

The Unit land is a small triangular piece of land, the north western side of which adjoins Chapel Road, the south western side adjoins land on which the workhouse stood, and the eastern side adjoins a property called Rogate. Mr Easton referred me to manorial records, in particular a memorial of 13 June 1854 recording that one George Orgles was admitted tenant to premises in the Manor of Banstead. The premises were described as a parcel of ground lately enclosed from the waste of the manor containing 40 rods and abutting on land belonging to the workhouse of the Parish of Banstead. In a Conveyance of 1852 to George Orgles the premises had been described as a parcel in the manor of Tadworth. Mr Easton said these premises were the Unit land, but the same description was used of premises enfranchised by a Deed of 1 December 1909 which Mr Easton said was a Deed of Enfranchisement relating to Rogate. A plan to Rogate as conveyed in 1947 to a Mr Douglas shows the land abutting on its south western side, ie. the Unit land, as "common land". On the 1843 Tithe Map there is shown unenclosed and untithed a small piece of land which appears to correspond, in part at least, with the Unit land.

There was no dispute between the parties that the Unit land is open and uncultivated, and they agreed that it was in the manor of Tadworth. Mrs Wilcock told me that the common land in the area is metropolitan common land, regulated by a Scheme made under the Metropolitan Commons Acts 1866 to 1873 which applied to the pieces of land therein described and referred to as "the Commons". The Unit land was not included in the Scheme and Mrs Wilcock submitted that the Scheme was definitive of the common land in the area, so that the Unit land was



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not common land then and should not have been registered under the 1965 Act. I do not think this is so: no doubt the omission of the Unit land from the Scheme is some indication that it was not then regarded as a common for the purposes of the Scheme, but for the purposes of the 1965 Act the question, in this case, is whether at the time of registration the Unit land was waste land of a manor. The Unit land, Mrs Wilcock told me, was purchased by the Banstead Urban District Council in 1959 for the purposes of the Open Spaces Act 1906: I have seen a copy of the Conveyance dated 20 March 1959 which was by the trustees of the will of Ellen, Lady Russell and which conveyed to the Council the Manor or Lordship of Tadworth "which Manor comprises seventy acres of commons and waste lands" delineated on the plan annexed to the Conveyance. The plan on the copy Conveyance does not reproduce the colouring of the seventy acres but if, as Mrs Wilcock told me, these included the Unit land it was part of the areas described as "commons and waste lands", and as the lordship of the manor was also conveyed it was not severed from the manor. The fact that it was purchased for the purposes of the Open Spaces Act does not, in my view, preclude it from being at the same time waste land of a manor. It is in fact an open space and upon the evidence I find it was waste land of a manor at the time of registration.

For these reasons I confirm the registration.

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

13 July

1981

L. J. Harris Smith

Commons Commissioner