



In the Matter of Outwood Common, Nr Bletchingley,
Burstow, Tandridge D

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights Section of Register Unit No. CL 92 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objections No. 421 made by Surrey County Council and No. 709 made by the National Trust, respectively noted in the Register on 19 August 1970 and 1 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Dorking on 27 October 1981. The hearing was attended by Mr B Cotter, Solicitor, of the Surrey County Council, by Mrs G A Shipp, representing the National Trust; and by Mr G B F Thomas.

The application for registration at Entry No. 1 was made by Mr Thomas and his brother of the Old Mill, Outwood Common, and the rights registered are rights over the whole of the Common ("the Unit land") to graze 2 horses, 12 sheep, 1 donkey and 2 cows, and rights of pannage for 6 pigs, turbarry, estovers, piscary and common in the soil. They are registered as rights in gross. The Unit land comprises several pieces of land and at its south-eastern end there is a triangular shaped piece, on part of which the Old Mill is situated, the Mill itself not being included in the Unit land. The Mill was built over 300 years ago and is held on a lease for 500 years, granted in 1665 and acquired by the Thomases in 1960.

In evidence Mr Thomas said that he and his brother lived at the Mill with the then owner, a Mr Jupp, from 1948 - his brother had lived there for a few years before that. There had been grazing on the common from the Mill during those years and until they purchased it in 1960. They had continued to graze, but only two horses and three sheep: the Mill is a working Mill, but attracts visitors and the sheep are kept to interest visiting parties of children. The animals graze on average about two hours a day, the horses being tethered or held by hand, and there are not more than three animals at a time.

Mr David Baldock, who has been the National Trust Warden and has lived on the edge of the common since 1956 said that he has sometimes seen 1 or 2 horses of the Thomases grazing on the common: he had seen the Thomases holding the horses as other people did, and the horses were sometimes tethered.

I do not think that the evidence establishes the rights as registered or that there were rights acquired by the Thomases in gross. It seems to me probable however that there were grazing rights attached to the Mill, and I accept Mr Thomas' evidence as to grazing from the Mill by him and his brother since 1948,



and by his brother before then. It was explained to me that the National Trust, which owns the common, likes commoners to have rights, if it is satisfied that rights do exist.

Objection

The County Council's relates to grazing on the verges abutting the roadway running along the edges of the common, and Mr Thomas said that there was no grazing on the verges.

In these circumstances I shall confirm the registration with modifications. The modifications are as follows:- (1) for the rights as registered there will be substituted "a right to graze 2 horses or 3 sheep for a period not exceeding two hours on any one day (the horses to be tethered or held by hand) over the triangular piece of land on which the Old Mill is situated but not over the verges (to a width of 6 feet) adjoining the roadway", (2) in column 5 of the Entry for the words "In gross" there will be substituted "Outwood Mill, Outwood Common".

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 19 November 1981

L. J. Morris Smith

Commons Commissioner