



In the Matter of Part of Lingsfield
Common including the West Heath and
the Golf Course, Village Green,
Tandridge D

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and Entries Nos. 1 to 3 and 5 to 10 in the Rights Section of Register Unit No. CL 416 in the Register of Common Land maintained by the Surrey County Council and are occasioned by three Objections and also by the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. VG 112 in the Register of Town or Village Greens maintained by the Council. The three Objections are No. 724 by Surrey County Council noted in the Register on 2 August 1972 and Nos. 447 and 598 by Mr R H G Leveson-Gower noted in the Register respectively on 16 October 1970 and 5 June 1972.

I held a hearing for the purpose of inquiring into the disputes at Oxted on 24 June 1981. The hearing was attended by Mrs A Williams, Solicitor, of Lingsfield Parish Council, the applicant for registration in the Land Section: by Mr B E H Cotter, Solicitor, of Surrey County Council: by Mrs G A Shipp of the National Trust: and by three applicants for registration in the Rights Section in person Mr W Edwards (Entry No. 7), Mrs A H Edwards (Entry No. 8) and Miss E P Quigly (Entries Nos. 9 and 10). Mrs Williams also appeared on behalf of another such applicant, Mr B R Hebert (Entry No. 3).

The County Council's Objection No. 724 is to the registration in the Land Section (also involving an objection to the registrations in the Rights Section) but relates only to a small area of the common which I understand, is claimed by the County Council to be highway; negotiations on the dispute occasioned by this Objection are taking place and at the request of the parties concerned I adjourned the hearing of this dispute to a future hearing. As regards the conflicting VG registration, I have in my decision on VG 112 (Ref: 236/D/522-525) refused to confirm that registration.

I now proceed to consider Objections Nos. 447 and 598. These are Objections to the Rights Entries, and the National Trust has succeeded to Mr Leveson-Gower's interest as owner of the Common. As regards Entries Nos. 1, 2 and 6, there was no appearance by or on behalf of the applicants, and in the case of Entries Nos. 1 and 6 communications had been received from the applicants or their successors withdrawing their applications. As regards Entry No. 2, I was told that the applicant was now deceased. I refuse to confirm the registrations at these three Entries.

Entry No. 3 is of rights of estover and turbary. It was agreed that this should be modified so as to exclude turbary and limit the right of estovers to one cord per annum of deadwood. I confirm the registration modified accordingly.

As regards Entry No. 5, the original Entry was apparently modified in 1973 to read "the right of common for 1 bullock and 1 horse together with the right of estovers" and in this modified form is accepted by the National Trust, and I confirm the registration as so modified.



Entries Nos. 7 and 8 are "the Edwards right" and Entries Nos. 9 and 10 are "the Quigly rights" which I considered in my Decisions on CL 415 (Ref: 236/D/421-425) and CL 419 (Ref: 236/D/408-414). In evidence as regards this common, Mrs Edwards said that in the past she had taken herbage away for her rabbits, had picked blackberries and helped her husband to get firewood: and that other people did the same on the common. Mr Edwards said that since 1945 he had gone on to the common to get firewood on days when he had nothing else to do, but had not exercised the other rights registered. Miss Quigly said that her father had lived at Alancote since 1909 and that he, ^{and} after his death in 1953, her mother, had exercised the rights 'symbolically' by picking flowers and what else was available, and that since her mother's death in 1960 she had taken firewood and flowers. In my opinion in no case did the evidence establish the rights registered on the basis of prescription or otherwise and on this evidence and for the reasons given in the two Decisions above referred to, I refuse to confirm these four registrations. I should add that this common was also subject to the Order of 16 December 1938 referred to in the CL 415 Decision.

The confirmation (with modifications) of the registrations at Entries Nos. 3 and 5 will result in the confirmation of the registration in the Land Section, subject to any modification of the area which may result from the decision to be made on the adjourned dispute occasioned by the County Council's Objection.

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

27 July

1981

L. J. Morris Smith

Commons Commissioners

