



In the Matter of Wheeler End Common,
West Wycombe Rural, Bucks

DECISION

These disputes relate to the registration at Entries Nos. 3, 4, 5, 6, 7 and 8 in the Rights Section of Register Unit No. CL 74 in the Register of Common Land maintained by the Bucks County Council and are occasioned by Objection No. 113 made by Sir Francis Dashwood and noted in the Register on 25 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 25 April 1979. The hearing was attended by:- Mr A J Plumridge, Mr A Niblock, Solicitor of the firm of Winter-Taylor, Mr D O Butler, and Mr H E Zorab, of the firm of Smith Woolley and Co, Chartered Surveyors and Agents to Sir Francis Dashwood.

1. Mr Plumridge and his brother Mr L Plumridge are the successors to their mother Mrs D M Plumridge, the applicant for registration of Entry No. 3, which is a right of common to pasture 2 cattle, 1 horse, 6 sheep and 10 geese. Mr Plumridge attended not only on his own behalf, but also as the authorised representative of Miss L Sexton, the applicant for registration of Entry No. 4, which is in the same terms as Entry No. 3. Sir Francis Dashwood, the Objector, is the owner of the land in question ("the Unit Land"), and the Objection (which is the same to all the Entries) is on the ground that the rights do not exist at all.

Wheeler End Common is an area of some 36 acres. Park View Cottages, of which the Plumridges own Nos. 1 and 2 and Miss Sexton Nos. 3 and 4, are on the north-western edge of the Common and on the Register Map appear to occupy an area of land of some 7 acre. Mr Plumridge produced a Conveyance dated 18 December 1828 to a Mr Avery of the four cottages, therein described as 'newly erected'. The parcels including the words "together with all Houses - - - - Commons Common of Pasture - - - - to the same premises belonging used or appertaining". No other documents were produced, but Mr Plumridge informed me that his grandfather, Stephen Plumridge purchased the four cottages about 1903, that they were subsequently acquired by Jane Plumridge, and that under her will Nos. 1 and 2 passed to his father and Nos. 3 and 4 to Miss Sexton in about 1944.

Mr Plumridge stated that he had been told by the older people of the village that his grandfather had used his grazing rights for his horse, cattle and geese and that this continued with the rest of the family. His own family moved into the cottages in 1936-7 when he was six years old, and during his time the rights had been exercised by taking grass of the Common once a year, which had been used to feed and bed their poultry.

Mr L Plumridge, who lives in one of the cottages, confirmed this evidence as to the collecting of grass during at least the last twenty years.

Miss Sexton did not give evidence, but Mr Plumridge stated that she had not exercised any rights, as she was a schoolteacher in London and kept no animals.

No evidence was called on behalf of the Objector.



On the evidence given, I am not satisfied that the rights of Common claimed by the applicants in these two cases were acquired by grant or prescription or otherwise, and I refuse to confirm the registrations.

2. Entry No. 5. The applicant for Registration Mr A G L Leach did not appear, but it had been agreed between him and the Objector that the registration should be confirmed with a modification to which I refer below.

3. Entry No. 6. Mr Niblock appeared on behalf of the applicants; he had only recently been instructed and asked for an adjournment, which was not resisted by Mr Zorab and I granted.

4. Entry No. 7. The applicants for registration Mr and Mrs Harris did not appear but it had been agreed between them and the Objector that the registration should be confirmed with a modification, referred to below.

5. Entry No. 8. The applicant for registration M/S D O Butler appeared in person. It had been agreed between her and the Objector that the rights claimed should be modified to read "To graze 2 cows and 1 goat, and a right of pannage over the whole of the land comprised in this register unit".

The modifications mentioned in (2) and (4) above involved no alteration to the rights but the addition of a reference to other Common Land over which the same rights are claimed, the object being to make it clear that the specified rights are exercisable over one land area made up of two (or more) registered areas of Common and are not rights exercisable separately and in-dependently over each of several registered areas of Common. The modification suggested is that in column 4 after the existing words descriptive of the land over which the rights are exercisable viz, "over the whole of the land comprised in this register unit", there be added "and Register Unit No. CL 77" to Entry No. 5 and "Register Units Nos: CL 77 and CL 214" to Entry No. 7. This, I understood, is acceptable to the Registration Authority, and I see no objection in principle to the addition of a reference to give effect to what is agreed, though I cannot make any corresponding modification of the Entries in Register Units 77 and 214. It does seem to me however that the suggested additions may still leave some ambiguity on the point, and I suggest that after the suggested addition there be further added the brackets and words "(each right being a right exercisable over the area made up of the lands comprised in this Register Unit and Register Units(s) No. ~~CL 77~~ CL 77 (and CL 214) and not a right exercisable separately and independently over each of the said lands)". This assumes (and I was so informed) that rights identical to Entries Nos 5 and 7 are registered in respect of CL 77 and in the case of No 7 in respect of CL 214. If the parties prefer their agreed additions without more, I will direct a modification accordingly, but, subject to any comments made by the parties or the Registration Authority, I shall direct confirmation of the two registrations with modifications embodying the agreed additions plus, the further added brackets and words.

In the result (a) I refuse to confirm the registrations at Entries Nos 3 and ⁴(b) I confirm the registrations at Entries Nos. 5 and 7, with modifications as indicated above (c) I confirm the registration at Entry No. 8 with the modification stated in paragraph (5) above. (d) The hearing of the dispute relating to Entry No. 6 is adjourned to a date and place to be determined.



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

31 May

1979

L. J. Morris Smith

Commons Commissioner