



Reference No. 205/L/30

In the Matter of Caldicott
Green, Caldicott, Shocklack
Oviatt and District Parish,
Chester District, Cheshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 88 in the Register of Common Land maintained by the Cheshire County Council and is occasioned by Objection No. 81 made by Mr James Heyworth and noted in the Register on 25 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Chester on 4 June 1980. The hearing was attended by Mr James Heyworth in person.

The land ("the Unit Land") in this Register Unit is a strip about $\frac{1}{4}$ of a mile long from east to west and nowhere more than about 30 yards wide from north to south. The Objection has been misplaced, so the County Archivist with a letter dated 29 December 1977 enclosed a copy of a supplemental map ("the December 1977 letter map") showing hatched red the part ("the Objection Land") of the Unit Land to which the Objection related. Mr Heyworth at the hearing produced a copy of the Objection from which it appeared that the Objection Land was therein described as "the land edged red on the attached plan"; he agreed that this plan showed edged red the land hatched red on the December 1977 letter map. The grounds of the Objection are (in effect):- (1) The Objection Land was not common land at the date of registration. (2) If the remainder of the land is common land, the occupant of Caldicott Farm possesses the right to cross and pass along it with animals, equipment and vehicles in connection with the working of the farm.

Mr Heyworth in the course of his evidence produced a copy of a plan from a conveyance dated 30 July 1965 and made between (1) H Darlington, (2) the Agricultural Mortgage Corporation Ltd, (3) E Darlington, and (4) J Heyworth ~~and~~ and his wife; and also a framed photograph taken from the air showing the Objection Land and much of the surrounding land. Mr Heyworth said (in effect):- He and his wife bought Caldicott Farm (about 90 acres) in 1965. Shortly afterwards he arranged for the aerial photograph to be taken. At the time of their purchase, the Objection Land was as is apparent from the photograph, and still is garden and orchard enclosed and apparently part of the Farm. The conveyance plan shows it as part of the Farm thereby conveyed. Subject to his right to cross and pass along the remainder of the Unit Land, he did not object to the registration provided the Objection Land was removed from it.

As to the ground of objection numbered (2):- In these proceedings I am concerned only with ownership, in the 1965 Act defined as "ownership of a legal estate in fee simple" see section 22(2). So I am not concerned with and cannot therefore either confirm or prejudice in any way any claim Mr and Mrs Heyworth may have to cross and pass over the remainder of the Unit Land. But I draw attention to regulation 24 of the Commons Registration (General) Regulations 1966 which mentions "easements"; and it may be that they would derive some advantage by completing and sending to the County Council as registration authority form 16 in such Regulations mentioned.



In the absence of any evidence in support of the registration of the Objection Land and having regard to the evidence above summarised of Mr Heyworth, I confirm the registration now disputed with the modification that there be removed from the Register the land hatched red on the December 1977 letter map. Miss Y Jones of the County Archivist's Department who attended the hearing for the purpose of representing Cheshire County Council as registration authority, confirm any decision of mine reference to such ~~matter~~ ^{matter} would be precise enough for their purposes.

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 24th — day of June 1980.

A. A. Baden Fuller

Commons Commissioner