

Broxhead Commoners Association

Founded 6th June 1968



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Dear Countryside Team at Hampshire County Council.

Application under Section 19(2)(a) to Correct the Register of Common Land CL147 Broxhead Common

This is a covering letter to accompany the notes taken from the Opinion of George Laurence QC, Lincolns Inn, 2015. But please also note that we advise that Mr Whitfield should be subject to Full Disclosure for the documents which he supplied to register ownership of Broxhead Common with the Land Registry, as from what we can see there is nothing of substance to support his ownership.

The following and attached is an excerpt from Elizabeth Derrington ICR's Report.

In addition it seems that when Mr Whitfield eventually registered his title with the Land Registry in 2002, ALRI (assistant Land Registrar) noted on 6th December 2000 "...where the applicant owns land on both sides of rivers and roads, the whole width of the river bed and soil of the road will be included in the registration, but, as regards road, a verbal entry along the following lines will be made "The roads and footpaths in this title are subject to public rights of way". The alternative would have been for us to serve notice on the local highway authority in respect of long lengths of road, with consequent further delay". Part of the land had been conveyed for the seller's estate, right and interest and evidence had been lodged in the form of a 1962 Statutory Declaration. He asked for an up-to-date declaration to be provided. Part of the land for which they had applied (identified on one of the plans to the letter) fell within the fenced extent but did not fall within any of the title deeds (except the 1970 conveyance) and no Statutory Declaration of any age had been lodged – if the solicitors wished the necessary wording

could be included in the up-to-date declaration he had already asked for; *“As Broxhead Common or at least part of it, forms part of your application, notice has been served on the County Council as registration authority under the Commons Registration Act 1965 in accordance with the established procedure. Once I have the Declaration/s requested above, and provided they are satisfactory, the mapping of your application can be completed fairly promptly, whereupon your application will be referred for executive examination, which may give rise to further requisitions”.*

It seems the solicitor at AJG became ill and the matter was taken over by a colleague. There was a long delay in providing a full response to ALR1's letter and correspondence passed between AJG and Land Registry while the new solicitor familiarized herself with the case. In one of her letter dated 31st May 2001, she asked whether *“with regard to Broxhead Common, please advise us as to whether you have received any communication from the Local Authority.”*

In his letter dated 4th June 2001, ALR1 replied to this point.

The Registry has heard nothing back from the County Council about Boxhall[sic] Common, but we would not expect to. As I understand it the procedure is a one-way notification by the Registry to the Council of the fact of the registration of the title to the land under the Land Registration Acts.”

Following further correspondence AJG provided a Statutory Declaration made by Mr M R Porter on 6th December 2001 who had been the Estate Manager since 1962.

I have a copy of that Declaration where it states *“with regard to the land edged green...having made the searches of the estate records and enquiries, I confirm that neither Mr Whitfield nor I hold any deeds or documents to the land in question...”*

There is much to show that evidence in this declaration is false, e.g. Headley Wood Estate had not owned the land for centuries. Broxhead Common can be found in the Headley 1847 Tithe awards as *‘having no Proprietor and used by Sundry people’*

However it occurs to me that Hampshire County Council may not have been properly made aware of the public nature of all the roads and footpaths or whether they were properly advised at the time of the registration of ownership?

It should also be remembered that there are seventeen other Commoners who all have rights over the whole of CL147. (See Rights decision of Mr Squibb 22/11/1974).

Maureen Comber

Hon. Sec.

For and on behalf of Broxhead Commoners Association (BCA)