

# Broxhead Commoners Association

---

Founded 6<sup>th</sup> June 1968



Chairman: MR. Richard Ellis,  
Headley Mill,  
BORDON,  
Hants  
GU35 0LL

Secretary: Mrs Maureen Comber  
The Old Cottage,  
BORDON,  
Hants  
GU35 0QS  
m.comber@btinternet.com

Mr. John Pownall  
Land Registrar,  
Land Registry  
Weymouth Office  
Melcombe Court  
1 Cumberland Drive  
WEYMOUTH  
DT4 9TT

3<sup>rd</sup> February 2014

Your ref: SH6984/A/239/JP/WY CT6

Dear Mr Pownall,

**Headley Wood Estate, Linsted Lane, Headley, BORDON, GU35 8SG**

Please will you pass my thanks to Greg at OC2 for sending me the complete copy of the Consent Order from the Court of Appeal 24<sup>th</sup> May 1978, and other documents. I could not have hoped for a better service.

This case never seems to fail to provide a new twist to the strange arrangements which were made with regard to Broxhead Common and its registration as common land.

The Appeal Court must have been more than happy to see the case dismissed out of that court because it knew full well that the agreement the parties had come to could not take place. A result for the Court because it enabled the withdrawal of Mr Whitfield's appeal which in turn secured the final decision of the Chief Commons Commissioner!

Having again carefully read through the Consent Order and the Lease agreement between Hampshire County Council and Mr Whitfield, I have discovered an additional twist. On page 4 of the *Court of Appeal* document, it says:

*"....the said County Council shall not pursue its provisional registration of the said area as common land and the Respondents jointly and severally consent to the amendment or withdrawal by the said County Council of its provisional registration pending before the Commons Commissioner of the said area so as to exclude all reference to the said area on the Commons Register and shall further consent to and support any Application by the said Anthony Gary Peter Whitfield or his successors in title to the Secretary of State regarding the said fences under Sec 194 of the Law of Property Act 1925."*

From which one would assume that Mr Whitfield would make the application for the illegal fencing to the Secretary of State. However on the lease agreement para 3.ii *"That in the event of the Landlord consenting to the execution by the Council of any operations referred to in clause 2(iv) hereof the Landlord will further consent to and support **but at the expense of the Council any application by the Council under Section 194 of the Law of Property Act 1925.**"*

It therefore appears as if Mr Whitfield expects the Council to make the application to the Secretary of State for the unauthorised fencing.

As you will see from the attached they could not do this with any prospect of success since both Headley and Kingsley Parish Councils had objected to the proposal which had been put to them by the County Secretary in September 1977.

I would be obliged if you would acknowledge receipt of this and my letter of 20<sup>th</sup> January 2014.

Yours sincerely,

Maureen Comber

Hon Sec BCA