



In the Matter of Chalk Pit at the Rear of the Red Lion
Public House, Bledlow, Bledlow-cum-Saunderton,
Buckinghamshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 119 in the Register of Common Land maintained by the Buckinghamshire County Council and is occasioned by Objection No. 90 made by Lord Carrington and noted in the Register on 6 May 1971.

I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 29 June 1978. The hearing was attended by Mr J A Gibson, Clerk to the Bledlow-cum-Saunderton Parish Council, the applicant for the registration, and by Mr Patrick Talbot, of counsel, on behalf of the Objector.

Mr Gibson wished to contend that the Parish Council is the owner of the land comprised in the Register Unit, but that question is irrelevant in these proceedings.

There is no registration in the Rights section of the Register Unit, so the land comprised in it can only fall within the definition of "common land" in section 22(1) of the Commons Registration Act 1965 if it is waste land of a manor not subject to rights of common.

The land in question was allotted by the Inclosure Award made 14 August 1812 under the Bledlow Inclosure Act of 1809 (49 Geo. III, c.cv) to the Surveyors of the Highway of the former parish of Bledlow for the purpose of getting materials for repairing the roads and ways within the parish as also for the purpose of the owners and occupiers of lands and tenements within the parish getting materials for their own private uses in repairing and making good their homesteads, yards, gateways, drains, bridges, and other necessary purposes. While the land may formerly have been waste land of the manor of Bledlow, it clearly lost that status when it became the property of the Surveyors of Highways.

For this reason I refuse to confirm the registration.

Mr Talbot asked for an award of costs. Since costs in proceedings under the Commons Registration Act 1965 do not necessarily follow the event, it is necessary to consider the Parish Council's conduct of the proceedings which it initiated.

Mr Gibson said that there should be no order as to costs because the registration was made in good faith, but it is to be observed that the Parish Council was claiming to have a proprietorial interest in the matter. Although such a claim was ill-founded in that it was not within my jurisdiction, *prima facie* an unsuccessful claimant to a proprietary right should suffer the usual fate of an unsuccessful litigant. Furthermore, on 21 August 1975 Mr Gibson's predecessor in the Parish Council clerkship wrote to the Objector's agents a letter in which, after contending that the title to the land was vested in "the local authority" as successor to the Surveyors of Highways, he said:-

"It should be noted that the rights conferred by the Award on owners
"and occupiers in Bledlow to take materials from the pits, the lands are



"not Common Land for the purposes of the Commons Registration Act 1965.
"Accordingly the Commons Commissioner, if the matter comes before him
"should refuse to confirm the registration, but such refusal would not
"affect the rights of the parish which are given by the Inclosure Award
"and the subsequent highway Registration."

Notwithstanding the imperfect construction of the first sentence of this extract, it is clear that the writer realised that the registration was insupportable. In these circumstances I shall order the Parish Council to pay the Objector's costs on County Court Scale 4.

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

6th

day of

July

1978:

CHIEF COMMONS COMMISSIONER