



COMMONS REGISTRATION ACT 1965

Reference No. 205/D/10

In the Matter of the piece of land at the junction of Altrincham Road and Mobberley Road, Morley near Wilmslow, Macclesfield District, Cheshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 91 in the Register of Common Land maintained by the Cheshire County Council and is occasioned by Objection No. 71 made by Wilmslow Urban District Council and noted in the Register on 30 November 1971.

I held a hearing for the purpose of inquiring into the dispute at Stockport on 29 October 1979. At the hearing Macclesfield Borough Council as successors of Wilmslow Urban District Council (as yet there is no Wilmslow Town or Parish Council) were represented by Mr R L Cole one of the solicitors with the Council.

The land ("the Unit Land") in this Register Unit is a triangular piece containing about an acre. The registration was made on the application of Mr D F Kerr and an application made by Mrs C A Farrington is noted in the Register. The grounds of the Objection are (in effect) that the Unit Land was not common land at the date of registration.

I have letters dated 15 and 30 May, 26 September, and 15 October 1979 from Slater Heelis & Co., Solicitors of Macclesfield written on behalf of Mr P J FARRINGTON (son of the said Mrs C A Farrington) saying that she has died and that their client wishes the application which was instituted on behalf of his mother to be withdrawn, and that the decision has been reached in the light of a letter received from Macclesfield Borough Council stating that the Unit Land is comprised in a deed of grant dated 4 August 1938.

Mr Cole produced: (1) a deed dated 4 August 1938 by which Sir Humphrey Edmund de Trafford at the request of Wilmslow Urban District Council dedicated the Unit Land (and also another plot of land elsewhere) to the use of the Public as an open space for the benefit of the public at large, and the Council covenanted with him (among other things) to fence the land as therein mentioned; (2) a letter dated 28 September 1979 from Mr Kerr to the Borough Council in which he said he withdraws his registration, and (3) a copy of a letter dated 31 July 1979 to Slater Heelis & Co (being that referred to by them as above stated).

Mr Kinder who is now and has been since 1974 senior assistant Parks Cemeteries and Crematoria Superintendent of the Borough Council and who worked for Wilmslow Urban District Council from 1964, in the course of his evidence said (in effect):- The Unit Land is now fenced from the road by an oak post and iron pipe fence. He understood that this was erected in or before 1946 to prevent its use by gypsies and others for camping. This fence does not prevent public access (there is a public footpath along the north side); however the Unit Land is not much used by the public (as apparently contemplated by the 1938 deed) possibly because very few people live in the area, so in the result the Unit Land appears somewhat derelict.



In my opinion the history of the Unit Land as it appears from the 1938 deed and evidence summarised above is against it ever having been at any relevant time within the definition of "common land" in the 1965 Act. In the absence of any evidence in support of the registration I conclude that it should not have been made, and accordingly I refuse to confirm the registration.

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 with notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 16th — day of November 1979.

a. a. Baden Fuller

Commons Commissioner