



COMMONS REGISTRATION ACT 1965

Reference No: 205/D/34

In the Matter of the recreation allotment
in Gravel Lane and South Oak Lane, Wilmslow,
Macclesfield District, Cheshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 25 in the Register of Town or Village Greens maintained by the Cheshire County Council and is occasioned by Objection No. 70 made by Wilmslow Urban District Council and noted in the Register on 3 April 1971.

I held a hearing for the purpose of inquiring into the dispute at Stockport on 31 October 1979. At the hearing Macclesfield Borough Council as successors of Wilmslow Urban District Council were represented by Mr J A Porter one of the solicitors with the Council, and Cheshire County Council as registration authority were represented by Miss E Jones one of their archivists.

The land ("the Unit Land") in this Register Unit contains (according to the Register) about 0.826 hectares (about 2 acres). The grounds of Objection are that: "the land or some part thereof was not common land at the date of registration". Mr Porter produced a conveyance dated 2 August 1957 by which there was conveyed to Wilmslow Urban District Council a plot of land ("the Disputed Plot") containing 241 square yards and said that his Council were only concerned to exclude the Disputed Plot from the registration.

The Commons Open Spaces and Footpaths Preservation Society on whose application the registration was made, in a letter dated 19 October 1979, after setting out an extract from the Fulshaw Common Inclosure Award dated 13 November 1854, said (in effect) that as the Council had agreed to withdraw the Objection save as to a small part of the Unit Land, the Society accepted that its registration should be modified to exclude that area.

Miss Jones produced the said 1854 Inclosure Award from which it appears that the piece of land numbered 15 on the map annexed thereto had been allotted to the churchwardens and overseers of the poor of the parish of Wilmslow to be held by them in trust as a place of exercise and recreation for the inhabitants of the said parish and neighbourhood. The map so annexed showed Number 15 as a piece approximately rectangular save that the north side was indented so as to exclude an area corresponding closely with the disputed Plot as delineated on the 1957 Conveyance Plan. My copy of the Register map includes an indentation corresponding closely with that shown on the 1854 Award map. A copy of the 1957 conveyance plan, save that the land edged red on the original is on the copy edged with a thick black line, forms page 2 of this decision. When comparing the 1957 conveyance plan with my copy of the Register map, I incline to the view that the registration as it now stands does not include the Disputed Plot; but so as to remove any doubt I shall, Mr Porter agreeing, modify the registration as specified below. The 1854 Award shows that the registration was and is in all other respects regular; ~~therefore~~ I confirm the registration with the modification that there be removed from the Register so much of the land delineated on the plan on page 2 of this decision and thereon surrounded by a thick black line as is now comprised in the registration.



Although Mr Bourne apparently failed to appreciate the importance of the legal points made by the Society against the Parish Meeting, they appear to have failed to appreciate the practical difficulties of the Parish Meeting in administering the trust established by the allotment. Mr Mackay during the course of the hearing said that the Society is not in dispute about the letting of the Unit Land and agrees that it can be used for some purposes; and conceded (rightly I think) that the Parish Meeting had not abandoned the land.

In the absence of any evidence or suggestion that either Mr Bourne apart from not always answering letters, or the Parish Meeting have actually done anything irregular on or to the Unit Land, I consider that the somewhat technical inaccuracies in Mr Bourne's letters not enough to render him or the Parish Meeting liable for costs.

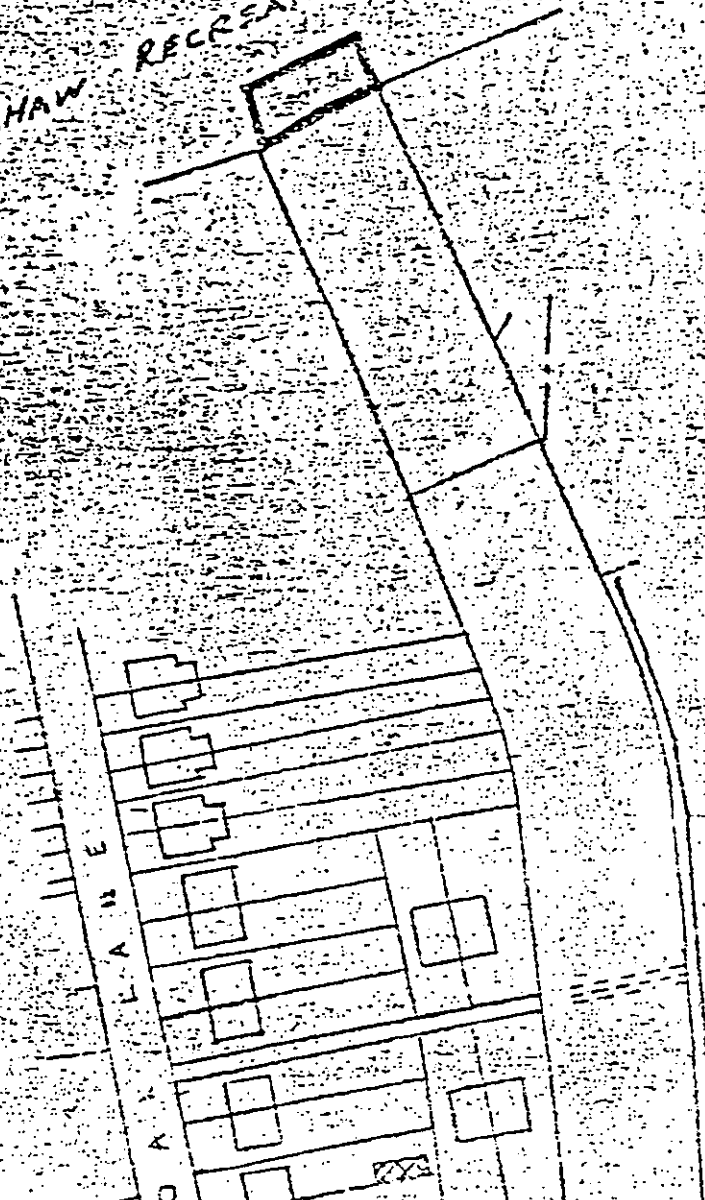
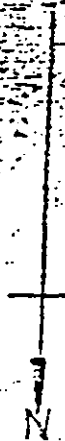
I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this — 22nd day of July — 1980.

a. a. Baden Fuller

Commons Commissioner

FULSHAW RECREATION GROUNDS



Scale 1:1250

AREA OF LAND COLOURED PINK = 241 SQ YDS. (OR THEREABOUTS)

Commons Registration Act 1965

Re: Recreation allotment in Gravel Lane and South Oak Lane, Wilmslow, Macclesfield District, Cheshire.

Ref No:- 205/D/3A

This copy of the plan annexed to a conveyance dated 2 August 1957 is page 2 of the decision dated 16 November 1979 and made by the Commons Commissioner in this matter.

a. a. Baden Fuller

Commons Commissioner

THE PLAN REFERRED TO:-