



COMMONS REGISTRATION 1965

Reference No: 205/D/29

In the Matter of Windyharbour,
Withington, Macclesfield District,
Cheshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No CL 73 in the Register of Common Land maintained by the Cheshire County Council and is occasioned by Objection No. 1 made by Mr Lawrence Daniel Lacey and noted in the Register on 2 January 1969.

I held a hearing for the purpose of inquiring into the dispute at Stockport on 31 October 1979. At the hearing Cheshire County Council (they as registration authority made the registration without application) were represented by Mr P Johnson one of the solicitors with the Council; and (2) Mr Thomas Gordon Boulton and Mrs Margaret Boulton both of Dunscoth, Windy Arbour, Siddington were represented by Mr J N Oldroyd Solicitor with Harold Chaffe & Co., Solicitors of Stockport as agents for RS & EN Rigby, Solicitors of Winsford.

The land ("the Unit Land") in this Register Unit is south of and for about 100 yards is next to the Macclesfield to Holmes - Chapel Road (35392); its east and south sides are each about 200 yards long. The grounds of Objection are:- "The land hatched red in Plan A annexed is not common land but is part of the premises belonging to Dunscoth (previously Windy Arbour Farm); the plan (a sketch) shows a strip the north end of which is about 25 feet from the 35392 road and which has a length of about 110 feet and an irregular width of between about 20 and 30 feet.

Mr Oldroyd said that Mr and Mrs Boulton were successors of Mr Lacey. Mr Johnson said that his Council conceded that the land shown on the Objection plan was wrongly registered, but with a view to giving this matter greater precision produced a deed of grant dated 25 May 1973 and made by his Council to Harry Fairhurst and Ellen Fairhurst which he said happened to have an accurate plan of the land intended to be registered being that thereon edged orange. Mr Johnson and Mr Oldroyd were agreed (as I at their request record) that such plan accurately shows the pieces of land which Mr Lacey by his Objection intended to be excluded. However it was not suggested that I should in the operative part of this decision refer to any plan other than that annexed to the Objection.

In view of the said concession made by Mr Johnson and accepted by Mr Oldroyd, I confirm the registration with the modification that they be removed from the Register the land hatched red on the said Objection plan.

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 16th — day of November — 1979.

A. A. Baden Fuller

Commons Commissioner