



In the Matter of Land to the North-west of and
adjoining Higher Predannack Downs, Mullion,
Cornwall (No 2)

DECISION

This dispute relates to the registration at Entry No 1 in the Rights section of Register Unit No CL 486 in the Register of Common Land maintained by the Cornwall County Council and is occasioned by Objection No X192A made by the former Cornwall County Council and noted in the Register on 17 January 1973.

I held a hearing for the purpose of inquiring into the dispute at Truro on 14 December 1977. The hearing was attended by Mr T H Rowse, solicitor, on behalf of Mr and Mrs A B Thomas, the applicants for the registration, and by Mr D M Gill of the Commons Registration Department of the County Council.

The land comprised in this Register Unit consists of a green lane leading from the main road to the land known as Higher Predannack Downs comprised in Register Unit No CL 472. There is no gate at either end of the lane and the basis of the application for the registration is that there is grass in the lane and that it must be regarded as subject to the same rights of common as Higher Predannack Downs. By my decision in In the Matter of Higher and Lower Predannack Downs (No 2) (1978), Ref. No 206/D/476-478 I confirmed the registration of a right to graze 45 head of cattle attached to Teneriffe Farm, the property of the applicants.

While the lane is used as a means of access to Higher Predannack Downs, it is not a highway and so is not thereby excluded from the definition of "common land" in section 22(1) of the Commons Registration Act 1965. Mr Thomas, however, described it as a "muddy lane" and, while cattle passing along it no doubt occasionally eat any grass which may happen to be growing there, it seems unrealistic to describe it as land used for grazing. Any grazing there may be is incidental to the use of the lane as a means of access to the land on which there is a right to graze.

For these reasons 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 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 10th day of February 1978


CHIEF COMMONS COMMISSIONER