

COMMONS REGISTRATION ACT 1965

Reference No. 231/U/55

In the Matter of The Cliffe, Ruyton-xi-Towns and Little Ness

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 5 in the Register of Common Land maintained by the Salop County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Mr R B Warmer and Viscount Newport each claimed to be the freehold owner of part of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Shrewsbury on 26 March 1980.

At the hearing Mr G H K Brown, Solicitor of the firm of H W Hughes and Son, appeared on behalf of Mr Warmer: Viscount Newport was represented by his agent, Mr R Higginson and Ruyton-xi-Towns Parish Council, on whose application the Unit land was registered as common land, was represented by its Chairman, Miss M Edwards-Jones.

The Cliffe is a tract of land of some 52 acres, the eastern boundary of which is about 1000 yards long and adjoins land known as Vales Wood which was acquired by Mr Warmer in 1951. Mr Warmer claims ownership of a section of the Cliffe, approximately two thirds of and forming the northern section of the whole. The ownership of the remainder - the southern section - is claimed by Viscount Newport. There is a pathway between the two sections.

Mr Warner claims to have acquired a possessory title to the northern section. There is a roadway over the Cliffe running from north to south which had become overgrown and which in about 1952 Mr Warner opened up and has since used and maintained. It has also been used for access to the site of a reservoir and by the public for access to and enjoyment of the Cliffe. From 1952 to 1965 sheep kept on Vales Wood strayed on to the Cliffe: and since 1951 Mr Warner has kept down vermin on the Cliffe by shooting or gassing rabbits, crows, magpies and pigeons. In cross-examination by Miss Edward-Jones, Mr Warner said that he keeps down vermin on the Cliffe in order to protect Vales Wood from vermin, which otherwise would overun his property. Since about 1955 he has brought pheasants on to the Cliffe and has reared them for shooting, and from time to time he has removed rubbish left by the public.

Miss Edwards-Jones gave evidence to the effect that the Farish Council and the District Council had taken steps to keep the Cliffe tidy when rubbish was dumped.



- 2 -

On the evidence the claim by Mr Warmer had not in my opinion, been established. The acts done by Mr Warmer are referable to the protection and enjoyment of his adjoining property and to the exercise of facilities available to and enjoyed by other persons, and are not attributable to an intention to possess the northern section — an area of some 33 acres — as owner.

As regards Viscount Newport's claim to the southern section, (which was not challenged by Miss Edwards—Jones), Mr Higginson had no evidence of ownership but said that it could be established by title deeds. I have since been furnished with documents relating to the title. It appears that in 1950 the then Viscount Newport purchased from the executors of William Everall, the estate or interest (if any) of the Vendors in the manor of Ruyton—xi—Towns together with the mineral rights in and the tenants rights of turning out on Cliffe Hill and Quarry in the Parish of Little Ness Nos. 195 on the 0.S. Map (1901 edition) and all manorial rights (if any) of the Vendors in connection with the Manor of Little Ness. The original of the Conveyance is not available, but I have seen a copy of a draft in which the date (8 March 1950) and the executions have been added. A Conveyance in the terms of the draft does not, as I construe it, purport to convey the soil of but only the mineral and other rights in Cliffe Hill and Quarry.

Ey a Conveyance dated 6 April 1936 made between the Earl of Bradford and Viscount Newport and others and Knockin Estates Limited, ("the Company") property forming part of the Knockin Estate ("the Knockin property") was conveyed to the Company. In 1949 following the liquidation of the Company the Knockin and other property was by a Conveyance dated 5 August 1949 conveyed to Viscount Newport. In neither of these Conveyances is it possible to identify the Cliffe as part of the property conveyed.

As appears from an examined Abstract of Title, by a Deed of Exchange dated 25 April 1958 made between the Earl of Bradford (formerly Viscount Newport) and Trustees of a Settlement, after reciting (inter alia) the above-mentioned Conveyances of 6 April 1936 and 5 August 1940 and that the Earl was entitled to the Knockin property in fee simple, the Earl conveyed the property therein. described to himself upon the trusts of the settlement. This property included the estate interest and rights of the Earl in the Manors of Ruyton-mi-Towns and Little Mess and in pieces or parcels of land described in Part III of the Schedule: these included part of the Cliffe 0.5 195 area 18.622 acres, which is the southern section. A subsequent Vesting Deed of 31 December 1965 repeated this description. The title of the present Viscount Newport to the Knockin property is, I think, satisfactorily deduced by the subsequent abstracted documents: but I am not satisfied that that property included the soil of the southern section. As I have said the purchase in 1950 by the then Viscount Newport was no more than a purchase of mineral and other rights in Cliffe Hill: the property conveyed to him in 1949 does not appear to have included the Cliffe: and accordingly there is no evidence that his "estate and interest and rights" in the Cliffe, included in the property comprised in the Deed of Exchange, extended to fee simple ownership of any part of the Cliffe.



- 3 -

In the result I am not satisfied that any person is the owner of any part of the land comprised in the Register Unit and it will therefore remain subject to protection under section 9 of the Act of 1965.

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

10 July

1981

L.J. Maris Smith

Commons Commissioner