



COMMONS REGISTRATION ACT 1965

Reference Nos. 205/U/28
205/U/42
205/U/43
205/U/48Land
on
AbbeyIn the Matter of (1) Blackbank Hollow,
Middlewich Road, (2) Gresty's Waste,
Chester Road, (3) Marl Pit, Eddisbury Hill, and (4)
Abbey Hill, all in Delamere, Vale Royal
District, CheshireDECISION

These references relate to the question of the ownership of lands known as (1) Blackbank Hollow, adjoining Middlewich Road containing about 0.243 hectares, (2) Gresty's Waste adjoining Chester Road containing about 0.369 hectares, (3) the Marl Pit, Eddisbury Hill (otherwise Black Hills) containing about 0.295 hectares and (4) land on Abbey Hill containing about 0.642 hectares all in Delamere, Vale Royal District being the lands comprised in the Land Section of Register Unit (1) No. CL 48, (2) No. CL 45, (3) No. CL 44 and (4) No. CL 46 in the Register of Common Land maintained by the Cheshire Registration Act 1965 as the owner.

Following upon the public notice of this reference Vale Royal District Council *claimed* (letter dated 22 May 1980) to be the owners of the lands in question and no other person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Chester on 3 June 1980. At the hearing (1) Delamere Parish Council were represented by Mr R W K Wood their chairman, (2) Vale Royal District Council were represented by Mr T F Wakeford their solicitor and deputy secretary, and (3) Cheshire County Council were represented by Miss Y Jones of their County Archivist's Department.

Miss Jones produced from the County Archives the Delamere Forest Inclosure Award dated 31 December 1816 and made under the Delamere Forest Inclosure Act 1812 (52 Geo.3 c.cxxxvi relating to 8,750 acres, such Act being subsequently amended by 1814 and 1818 Acts). By the 1816 Award 15 parcels of land were allotted "to the Surveyor and Surveyors for the time being of the highways of the several townships within which the same parcels of land respectively lie for the general use and accommodation of His Majesty and His lessees and tenants and of all other proprietors of land to whom any allotments have been made under the said Acts and their lessees and assigns for the time being for the purpose of getting stone marl or clay for brick gravel, sand and earth to be used upon the land lying within the limits of the said forest and for the repair of the turnpike roads and public highways and private roads and paths within the said forest that is to say ...".

Mr Wood describes^d the lands, and two days after the hearing I walked over them. Gresty's Waste (CL 45; about 0.912 acres) is on the south side of the A54 road from Chester to Middlewich (and beyond to the Potteries) and also by the A558 road to Northwich); it includes a picnic site and parking place for motor cars; and there is a glazed notice board containing a map of the locality and a map of the Sandstone Trail (footpath of about 30 miles from near Helsby on the north to near Malpas on the south) and a statement that the site is maintained by the Countryside and Recreation Division of the Cheshire County Council; it is a convenient place for which to start



A walk on the Sandstone Trail either northwards or southwards. Blackbank Hill (CL 48, about 0.6 acres) is waste land on the north side of the A04 road (to the east of Gresty's Waste and after the A558 Northwich road has branched off it); about 10 years ago as a result of an Environmental Improvement Scheme ~~was~~ it there was some levelling and tree planting; it is now an attractive place for a picnic although there is no car park or layby by it; it is by the public used much less than Gresty's Waste. The land on Abbey Hill (CL 46, about 1.586 acres) is on the north side of the A558 road and is mostly trees and scrub accessible but not obviously so, from the road. The Marl Pit, Eddisbury Hill, (CL 44, about 0.730 acres) is of the ~~3~~ pieces the most secluded being on the south side of the side road leading off B8162 road which itself runs from the A558 road to Kingsley; It is on or near the top of Eddisbury Hill and appeared at one time like the other 3 pieces, to have been worked as a pit; it is of interest, so Mr Wood said to conservationists (for its wild plant and bird life and possibly also for its badgers and foxes).

Mr Wood and Mr Wakeford and Miss Jones identified these lands with those described as allotted by the words above quoted from the 1812 Award and which were therein described as containing 1/2 acre for Gresty's Waste, 3 roods, 15 perches for Blackbank Hollow, 1 acre 1 rood 32 perches for land on Abbey Hill and 3 roods 22 perches for the Marl Pit Eddisbury Hill. These correspond closely enough to those given in the Register kept under the 1965 Act for the CL 44, CL 45 and CL 48 lands. As to the CL 46 land on Abbey Hill, the area given in the 1816 Award is considerably smaller than that given in the Register kept under the 1965 Act; and the discrepancy greater if regard be had to the sealed Award dated 31 December 1952 mentioned by Mr Wakeford under which part of the Pit land was used for the improvement of the A558 road. But during my inspection it was apparent that the CL 46 land ~~was~~ registered under the 1965 Act was one piece of land and that at one time had been worked as a pit for some considerable distance from the road; in these circumstances I conclude that in the working of the pit there has been some locally accepted encroachment from the land as originally allotted in 1812 so that I can ~~describe~~ describe to the whole of the CL 46 land ~~in~~ the ownership established by the 1816 Award.

As regard all 4 land Mr Wakeford drew attention to sections 25 and 67 of the Local Government Act 1894 under which rural district councils became successors to the Surveyors of Highways and to sections 117 and 118 of the Local Government Act 1929 under which quarries did not pass to the County Councils as the then new highway authority unless they so desired. The present appearance of the land makes it unlikely that the County Council ever so desired and Miss Jones on their behalf ~~made~~ ^{said} at the hearing made no claim to them. I ~~conclude~~ therefore, that all these lands are now vested in the district council as the successor of Northwich Rural District Council who were themselves successors of the Surveyors of Highways, and I shall accordingly direct the Cheshire County Council as registration authority, to register Vale Royal District Council as the owners of the lands under section 3(2) 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 this 23rd ——— day of June ——— 1980

a. a. Basil Fuller