



COMMONS REGISTRATION ACT 1965

Reference No 52/U/77

In the Matter of Land abutting
Bishopwood Road, Prestatyn, Rhuddlan BC

DECISION

This reference relates to the question of the ownership of land abutting Bishopwood Road, Prestatyn, Rhuddlan BC being the land comprised in the Land Section of Register Unit No CL. 111 in the Register of Common Land maintained by the former Flintshire 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 Rhuddlan BC claimed to be the freehold owner of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Mold on 14 June 1977.

Mr McNamee Legal Officer to the Rhuddlan BC and Mr Fisher Legal Officer to the Clwyd CC appeared.

By the Melindon Enclosure Award dated 15 October 1869 the land in question referred to as Plot No 63 in the said Award was allotted and awarded to the surveyors of highways of the Parish of Melindon to be appropriated and used as public quarries for the repairs of the roads and ways within the said Parish and also to supplying lime to the freeholders of the Parish. Prima facie therefore the land would now be vested in the Clwyd County Council as the highway authority. Rhuddlan BC however claimed that it had as the successor to Prestatyn Urban District Council acquired a prescriptive title and indeed as to part of the land a title by a conveyance dated 21 November 1949. As regards this conveyance I found it impossible to identify the land by reference to the plan on the conveyance, and I was told that the land in question is two miles of woodland and that the land believed to be comprised in the conveyance was $\frac{1}{3}$ of the way from the east end of that 2 miles. It was accepted that the land must be retained as one unit and I therefore deal with this matter on the footing that the claim by Rhuddlan BC is a claim to a prescriptive title to the whole of the land.

Mr G E Williams Deputy Treasurer to Rhuddlan BC gave evidence that save for a period of war service he was employed by Prestatyn UDC from 1940 to 1974 almost exclusively in the Treasurer's Department, and he always thought the land in question was in the ownership of Prestatyn UDC. The land is a small



area of woodland and includes parts of two disused quarries, one of which, Manor Hill Quarry, he believed was purchased in 1950. The maintenance of the land including two footpaths and the lopping of trees etc was always carried out by Prestatyn UDC and the title of Trestatyn UDC had never been contested.

Mr McNamee also produced an extract from the Report of the former Flintshire County Council (the predecessor of Clwyd County Council) to the Royal Commission on Common Land in which the land in question is described as having been appropriated by Prestatyn UDC then forming part of public open space vested in the District Council. On this evidence I am satisfied that Prestatyn UDC was the owner of the land in question until it vested in the Rhuddlan BC by virtue of the provision of Para 16 of the 4th Schedule of SL 1863 of 1973.

On this evidence I am satisfied that Rhuddlan BC is the owner of the land, and I shall accordingly direct the Clwyd County Council, as registration authority, to register Rhuddlan BC as the owner of the land under section 8(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 22 day of August

1977

Commons Commissioner