



COMMONS REGISTRATION ACT 1965

Reference No. 274/D/146

In the Matter of Glan yr Afon Pont
Twr, Llandegai

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 32 in the Register of Town or Village Greens maintained by the Gwynedd County Council and is occasioned by Objection No. 128 made by J B Harper and noted in the Register on 26 November 1970.

I held a hearing for the purpose of inquiring into the dispute at Bangor on 26 April 1983. The hearing was attended by Mr Michael Wormald, the applicant appeared in person and Mr G T C Bancroft of Messrs R Trevor Jones, Carter, Vincent and Company, Solicitors of Bangor appeared for the Objector.

The following witnesses were called by the Applicant.

Mr Gareth Edwards of 62 High Street, Bethesda said that he had lived in Bethesda since he was born in 1956 and was familiar with the piece of land which was the subject of the application. He remembered that as a child he and other children used to walk from about half a mile away and go together to the land. The land was a very popular place for children to meet and play together. Children took part in a number of activities on the river bank and in the river itself. Children used to meet to take part in activities on the river bank; picnics, playing ducks and drakes and swimming in the river. The children he referred to were children of primary school age. One local primary school made use of the land for giving lessons there such as drawing or painting the bridge and the trees and nature study. He was a pupil at this school. Adults from Bethesda would also go to the land. Mothers would take their children there and watch while they played. His father remembered the same activities and user in the 1920s.

In cross-examination Mr Edwards said that children and others going to the land did not come from every part of Bethesda. People from different areas would make use of the land in the way he had described. In a rural area people would walk greater distances than in towns. Sometimes people from Llandegai would use the land.

Mrs Linda Brown of Gwernydd Bethesda said that she had been Chairman of Bethesda Community Council for the past year. She was now aged 32 and had played on the land as a child. She lived nearly a mile away and would walk to the land. As a child she went there often, particularly in the summer. Her family could not afford visits to the sea-side so the children went to the river bank. They played games and swam in the river and played ball. ~~She has~~ two children and they go there to play. ~~The~~ elder child goes there to play either alone or with his friends.



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Mrs Enid Cooney of 3 Glan Frydlas Bethesda said that she and her family had always lived in Bethesda near the land. She was able to walk from 1948 onwards and went to the land to play ball, Cowboys and Indians, Hide-and-Seek and Ducks and Drakes. Our main reason for going there was that we could not afford excursions away from the village.

The land was a place where mothers met and brought their children to play. It was a safe place for children to play. The depth of the river was up to the waist of a 9 year old child standing up. There was a rock in the river which showed the prevailing depth of water.

Mrs Mary Ellen Owen now living at 4 Mona View Station Road, Llanfairfeechn said that she had lived in Gerland for 6 years from 1946 and then for 24 years in Tregarth. *She* used to take ~~her~~ children to the land in a push chair and sit there while they played. There would always be other children there playing.

Mr John Elwyn Hughes of Braich Melyn said that he was born in 1940 and had lived in Bethesda all his life. As a child he had taken part in the activities mentioned by previous witnesses. As a child ~~he~~ regarded the land as a place to which other children and ~~he~~ would go frequently. The place is also used by children attending secondary school. It is not suitable for football because of its narrowness and the proximity of the river. The place is a favourite subject for local artists. ~~He~~ would give as an example, Carodog Pritchard who was born in 1905 and lived in Bethesda until he was 15. *He* had never been told to leave the place nor so far as ~~was~~ aware was any child told to leave.

The land is also used by older people. There are no seats but one can sit on the stone wall.

Mr Wormald also read affidavits by Mr E B Owen who was born in Bethesda at Braich Melyn in 1937 and had lived at Bethesda all his life except for the period 1956-60, and Mr William Thomas Williams of 4 Victoria Place, Bethesda both of whom confirmed the evidence as to user of the land given by other witnesses.

Mr Bancroft said that he did not challenge the evidence given on behalf of the applicant but submitted that as a matter of law it would not support a finding that the land was a village green. The land was in the freehold ownership of his client and her predecessors in title during the period of alleged user and was let to Penrhos Quarries.

There was evidence that children from outside Bethesda *had used the place* What the applicant had proved was user by the public generally and not by persons as inhabitants of Bethesda. User for lawful sports and pastimes meant in this context organised games and not the informal play of children.

Mr Wormald submitted that the evidence he had adduced brought his case within the



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statutory definition of Village Green to be found in S.22(1) of the Commons Registration Act 1965. He relied on the decision of Mr A A Baden Fuller in the Matter of Bridge Green, Hayward, West Suffolk, Ref 35/D/1 dated 31 May 1972 and the decision of the Chief Commissioner In the Matter of The Village Greens, Waddingham, Lincolnshire, Ref No. 24/D/3 dated 30 May 1972. These decisions are reported verbatim in a Booklet entitled Decisions of the Commons Commissioners published in October 1972 by the Commons, Open Spaces and Footpaths Preservation Society.

These two decisions support the view that I have taken that the activities which took place on the green were sports and pastimes and that such use was as of right with the meaning of S.22 of the Act. There is ample evidence that such activities had been taking place for more than 20 years before November 1970 when the objection was lodged. The fact that on some occasions children from outside Bethesda played on the green does defeat the claim. I also rely on the use of the green made by the school children as supporting the claim that user was as of right.

For these reasons I 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

17th

day of

June

1983

George Hurrell

Commons Commissioner