



COMMONS REGISTRATION ACT 1965

Reference No 50/D/22

In the Matter of Land known as
 Rhos Porth Ychain, Penllech,
Tudweiliog.

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No VG 5 in the Register of Town or Village Greens maintained by the Caernarvonshire County Council and is occasioned by Objection No 56 made by Mr. W.P. Hampson and noted in the Register on 16th September 1970.

I held a hearing for the purpose of inquiring into the dispute at Caernarvon on 30th January 1973. The hearing was attended by the Objector and by his Counsel Mr R.G. Woolley, instructed by Messrs. I ap. G Hughes & J. Elwyn Williams, Solicitors, Caernarvon.

The applicant for registration, Tudweiliog Parish Council, was not represented at the hearing, but there was produced to me a letter (addressed to me at the County Office, Caernarvon, and dated 29th January 1973) from Mr Robyn Lewis, solicitor, Pwllheli, in which Mr Lewis on behalf of the Parish Council, informed me that he had agreed with the Objectors Solicitor to cancel the registration and to withdraw it on terms agreed between them. For this reason Mr Lewis stated that the Parish Council would not be represented at the hearing, and that he understood that no one would appear on behalf of the Objectors. (The reference to "Objectors" in the plural is accounted for by the fact that objections in respect of this registration have also been filed by Dr W.G.J. Hampson, the son of the Objector under this reference, and by Mr A.C. Street - see Reference Nos 50/D/21 and 50/D/23)

Mr Woolley (who appeared for all three objectors) protested that his clients and their solicitors had received no intimation from Mr Lewis that the Parish Council would not be represented at today's hearing, and said that Mr Lewis had no ground for believing that the Objectors would not be represented. Mr Woolley produced a letter dated 23rd January 1973 from Mr Lewis to Messrs. I ap. G Hughes & J Elwyn Williams to the effect that the Parish Council would be willing to settle the matter and to withdraw the registration on the basis of the assurances given by Mr W.P. Hampson to the Parish Council in a memorandum dated 18th March 1972 viz that the land in question would remain in its wild state to encourage bird life, and that the public footpath and right of way for local farm tractors would remain as then. Mr Woolley also produced a copy of Mr Hampson's memorandum of 18th March 1972 and of his solicitors' reply dated 27th January 1973 in which they stated that Mr Hampson agreed to adhere to the assurances given in the memorandum, but that the question of costs must be left open.

Mr Woolley's submissions and in particular the information contained in Mr Hampson's memorandum to the Parish Council, satisfy me that this registration was made for the ulterior purpose of preventing Mr Hampson as owner of the land from carrying out any development upon it, and that the Parish Council have not at any time produced any evidence in support of the view that the land was a village green. I also find that the Parish Council were at fault in failing to inform Mr Hampson, long before the hearing, that they were prepared to withdraw the registration on the basis of the assurances given by him in his memorandum. Had they done so, costs incurred by Mr Hampson in respect of his legal representation at the hearing, which I consider



were fully justified in the circumstances, would have been avoided.

Accordingly, I grant Mr Woolley's application for costs, and will make an order that the Parish Council do pay on County Court Scale 3 the costs incurred by Mr W P Hampson in these proceedings.

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 3rd day of March 1973

A. E. Francis

Commons Commissioner