

COMMONS REGISTRATION ACT 1965

Reference No 203/U/51

In the Matter of The Wharf, Cheddington, Aylesbury Vale District, Buckinghamshire

DECISION

This reference relates to the question of the ownership of land containing about 0.34 of an acre known as The Wharf, Cheddington, Aylesbury Vale District being the land comprised in the Land Section of Register Unit No CL. 156 in the Register of Common Land maintained by the Buckinghamshire 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 no person claimed to be the freehold owner of the land in question and no 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 Aylesbury on 5 October 1977. At the hearing Buckinghamshire County Council were represented by Mr C D Durrant of the County Secretary and Solicitor's Department.

Mr Durrant produced from the County Archives the Cheddington Inclosure Award dated 14 September 1857; it included an allotment: "I...hereby...allot and award unto the Surveyors of the Highways of the said Parish of Cheddington all that piece...of land numbered 105 on the said Map containing 1 rood to be held by them and their successors in trust for the inhabitants of the said Parish of Cheddington and to the intent and purpose that the same may be used by them at all times as and for a General Wharf and Landing Place And I direct that the fences of such Allotment next to the Public road shall from time to time be repaired and maintained by and at the expense of the said Surveyors of Highways..."

Two days after the hearing I inspected the land.

The 1857 Award was made under the Second Annual Inclosure Act 1853 (16 & 17 Vict c. 120). According to the Register the land ("the Unit Land") comprised in this Register Unit contains about 0.34 of an acre and is approximately triangular. Its south (shortest) side is the Grand Union Canal; its east side adjoins the public motor road which crosses the Canal by a nearby bridge (vehicular access to the Unit Land is at its north end); its west side is a hedge with a gate (leading into a field) near the southwest corner. The Unit Land, apart from the tow path by the Canal, which is higher than the rest, is flat open land apparently now used as a car park by those wishing to gain access to the Canal.

The Award map shows the allotted many as having five sides (a rectangle with one corner cut off); but in all other respects I can easily identify the piece numbered 105 on such map with the Unit Land. Notwithstanding the difference between the



shape and area between the allotted land and the Unit Land, in the absence of evidence to the contrary, I consider that I ought to assume that those entitled under the Award or their successors in title have agreed an adjustment in the boundary, and I shall therefore assume that all necessary mutual grants were made and that the Unit Land accordingly is now owned by the successors in title of the Surveyors of the Highways mentioned in the Award.

In rural areas, the property of the Surveyors of Highways by the Local Government Act 1894 and earlier Acts, passed successively to the highway boards and to the rural district councils for the estate, purposes subject to the conditions which it would have been held but for such Acts, see sections 25 and 61(1) of the 1894 Act. Although it is possible that the Unit Land under the Local Government Act 1929 rassed to the Buckinghamshire County Council and they became the highway authority, from the appearance of the Unit Land and in the absence of any other evidence, I conclude that its ownership is now in the Aylesbury Vale District Council as the successors of the Wing Rural District Council.

On the considerations outlined above I am satisfied that the District Council is the owner of the Unit Land, and I shall accordingly direct the Buckinghamshire County Council as registration authority, to register Aylesbury Vale District Council as the owner of the land under section 8(2) of the Act of 1965.

Because the District Council may not have been aware of the 1853 Award, I give them liberty within 42 days of the date on which notice of this decision is sent to them to apply to me to set aside this decision and reopen the hearing so that they can adduce evidence that the Unit Land is not vested in them as I have on the information now available to me, concluded.

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 this decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 12¢ day of E-eller

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Commons Commissioner