



In the Matter of The Gravel Pit, Chilton
Road, Preston Candover, Hampshire

DECISION

This reference relates to the question of the ownership of land known as The Gravel Pit, Chilton Road, Preston Candover, being the land comprised in the Land Section of Register Unit No. CL 145 in the Register of Common Land maintained by the Hampshire 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 the Preston Candover and Nutley Parish Council claimed to be the freehold owner of the land in question and no other 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 Winchester on 6 July 1983.

At the hearing the Parish Council was represented by Mr F J Osgood, its Clerk.

By the Inclosure Award made in 1823 under the Preston Candover and Nutley Inclosure Act of 1820 (1 Geo. IV, c 17 (private)) the land the subject of the reference was awarded to the Surveyors of the Highways in the Parish of Preston Candover for a public gravel pit to be used in common by the proprietors of lands and estates in the parishes and manors of Preston Candover and Nutley and their tenants as well for their own necessary uses as for the repairs of public and private roads and ways within the parishes.

The powers, duties and liabilities of the Surveyors of Highways were transferred to the newly-formed Basingstoke Rural District Council by Section 25(1) of the Local Government Act 1894. There is no direct evidence of what became of the ownership of the land under this Act. Prima facie one would expect it to pass to the Rural District Council under Section 67 of the Act. However, it appears from the account book of the Parish Council that on 23 May 1908 the Rural District Council paid £7 15s.0d. to the Parish Council for gravel. It also appears from the minute book of the Parish Council that by 1954 that Council had locked the gate giving access to the land and was holding the key. It therefore seems possible that in 1894 the Surveyors of the Highways were regarded as trustees holding the land under the Inclosure Act of 1820 for the benefit of the inhabitants of the parish and that, with the approval of the Charity Commissioners, they transferred the land to the Parish Council under Section 14 (1) of the Act of 1894. Since the evidence is more consistent with this than with a normal transfer under section 67, I find as a fact on the balance of probabilities that this is what happened.

On this evidence I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Hampshire County Council, as registration authority, to register the Parish Council 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

22nd

day of

July

1983

Chief Commons Commissioner