

In the Matter of the Green (part)
Wraysbury, Windsor and Maidenhead
District, Berkshire.

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No CL.267 in the Register of Common Land maintained by the Berkshire County Council and is occasioned by Objection No 32 made by Mr C S Aston and noted in the Register on 3 June 1970.

I held a hearing for the purpose of inquiring into the dispute at Windsor on 18 July 1978. At the hearing Wraysbury Parish Council were ^{represented} ~~registered~~ by Mr J R Smith who was a member from 1943 to 1973.

The registration was made on the application of Mr R S B Wyld. He was (said Mr Smith) the plaintiff in the action Wyld v Silver tried by Mr Justice Lloyd Jacob in October and November 1971, see 1962 Ch.561, and heard on appeal in May and June 1962, see 1963 Ch.243. The solicitor who had acted for Mr Wyld said (letter 1 November 1974) that he died some years ago. Mr Aston was (so Mr Smith said) chairman of the Parish Council.

According to the Register the land ("the Unit Land") in this Register Unit contains 0.89 of an acre. The grounds of objection are:- "Under the Wraysbury Enclosure Award 1803, all rights of common were extinguished. In addition to the above, it is the intention of the Wraysbury Parish Council to acquire Plot 279 for the inclusion in their Village Centre Scheme as a car park and public open space. The rights of the village to hold an Annual fair on the property will be safeguarded".

Mr Smith who supported the Objection, described the Unit Land as he knew it in 1939 when he first came to be Village and produced a manuscript copy of the Award. Two days after the hearing I walked over the Unit Land.

From the decisions of the High Court and the Court of Appeal, it is now established that this land is subject to a right for the inhabitants of Wraysbury to hold a fair or wake on it and the adjoining land to the south-west (about 6 acres altogether). As appears from these decisions, the right has never been exercised during this century, but it cannot nevertheless be treated as lost by abandonment. Clearly

if the right is registerable under the 1965 Act, I should not do anything which might result in it being extinguished or made unexercisable by Section 1.

In my opinion a right to hold a wake or fair is not a right of commons within the ^{words in} ~~meaning~~ ^{common law} of the definition in the 1965 Act, and such a right is altogether outside its scope. There being no evidence that the Unit Lane could form any other reason be within the definition, and the judgments above cited suggesting that it could not be, I conclude that the registration should not have been made. For these reasons I refuse to confirm it.

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 13th — day of November — 1978.

a. a. Badi Jell

Commons Commissioner