



COMMONS REGISTRATION ACT 1965

Reference No 3/U/20
3/U/21

In the Matters of (1) the Green and (2) Church End,
both in Chearsley, Aylesbury R.D., Buckinghamshire

DECISION

These references relate to the question of the ownership of lands known as (1) the Green and (2) Church End, both in Chearsley, Aylesbury Rural District being the lands comprised in the Land Section of Register Unit Nos CL.7 and CL.8 respectively 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 these references the Clerk of the Chearsley Parish Council wrote a letter dated 27 September 1972 stating that the Council have exercised rights of ownership of these lands in excess of 20 years and lay claim to them as Parish Council Land. No other person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at High Wycombe on 14 February 1973. The hearing was attended by Chearsley Parish Council ("the Council") who were represented by Mr D A Wallis, their Chairman.

Mr Wallis, who has lived in Chearsley for the last 16 years (before then he lived at Hartwell about 6 miles away and on the same bus route to Aylesbury) and who has been a member of the Council for the last 10 years and chairman, for the last 8 years, gave evidence.

The Green (the land comprised in Register Unit No CL.7) is a triangular piece of grass land situate in a quiet area, unfenced open to the public and bounded on all three sides by a macadam road. In about 1960 the question of its ownership was raised by the Eastern Electricity Board wishing to erect poles on it; they erected 3 poles and have ever since made way leave payments to the Council as (this appearing from a letter from the Board dated 21 August 1961 and produced to me) "Tenant/Owner". Since 1965, the Council has employed a local farmer to mow the grass as needed (about 5 times a year) and paid him for this; before then it was mowed by a Roadman who was employed by the County Council and who lived in the Village; inquiries of the County Council showed that the Green was not claimed to be a roadside verge. In 1969, the Parish Council arranged for the lopping of the three trees then growing on the Green and for the planting of three other trees (saplings).

Church End (the land comprised in Register Unit CL.8) is a rectangular piece of open grass land situate at the east end of Church Lane. This lane leads from the Village to St Nicholas Church and a short distance beyond: it is a metalled road up to where it joins the west side (one of the shorter sides) of Church End. From the east side of Church End there is a footpath leading to a footbridge over the River Thames. On the north side (one of the larger sides) there is land with poultry houses on it (there is access to the nearby poultry farm from the end of Church Lane). On the south side there is a field (fenced off) which is part of Manor Farm: nearby on



the south east there is a sewage pumping station. Church End provides a convenient car park, for persons coming to the Church and for a number of fishing clubs who have angling rights in the nearby River. In 1970 the Rural District Council asked the Parish Council to grant a right of access across Church End to the sewage pumping station.

Mr Wallis said that the Council had no written records, showing the history of these two pieces of land; their records, although complete after 1950, were for some of the earlier years fragmentary. With a view to resolving this difficulty, Mr R N D Hamilton Deputy Clerk of the Buckinghamshire County Council arranged with Mr Wallis to make inquiries of the County Record Office. On 15 February, Mr Hamilton said: the Parish Council was constituted by a County Council order dated 14 February 1895 (it then consisted, as it still does of 5 members; the population of the Parish was then 242); the County Council made a further order dated 10 May 1928 to get over a difficulty arising from some of the councillors not having been properly elected; he had no reason to suppose that the Parish Council had not in law been continuously in existence since 1895; the County Council held an enrolled copy of an Inclosure Award dated 13 October 1806 relating to the Parish but the map usually with an enrolled copy of an award was missing; they also held the Award but this never had a map annexed to it; the Award did not refer to either of these two pieces of land.

Since the hearing I have looked at the Chearsley Inclosure Act 1805 (being the Act under which the 1806 Award was made; 45 Geo. 3 Chap. lxxxvi); the Act contains no reference to these two pieces of land.

I deduce from the evidence outlined above that the Green (as its name to some extent implies) has always been recognised as land belonging, not to any private person, but to the public, that the Parish Council are now in possession of it, and that it is practically certain that such possession will not be disturbed. Possession in such circumstances is equivalent to ownership. For these reasons I am satisfied that the Council is the owner of the Green, and I shall accordingly direct the Buckinghamshire County Council, as registration authority to register Chearsley Parish Council as the owners of the land comprised in Register Unit CL.7 under section 8(2) of the Act of 1965.

On the evidence before me as outlined above, I am not satisfied that the Council or any other person is the owner of Church End, the land comprised in Register Unit CL.8. I record this decision with some regret, because I realise that Council might if they were owners prevent the use of the land for undesirable purposes, e.g. the depositing of rubbish; but I have under the Act of 1965 no power to direct the registration of the Council as owner merely because it would be advantageous or expedient: by section 8, I am required to state whether I am "satisfied that any person is the owner". However the land will be subject to protection under section 9 of the Act and under this section the Council will have powers which they may find helpful.

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 2nd day of March 1973

a. a. Baden Fuller