



In the Matter of a recreation
ground off Aylesbury Road, Wendover,
Aylesbury Vale District, Buckinghamshire

DECISION

This reference relates to the question of the ownership of land containing about 4.2 acres being a recreation ground off Aylesbury Road, Wendover, Aylesbury Vale District and being the land comprised in the Land Section of Register Unit No. VG 100 in the Register of Town or Village Greens 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 Wendover Parish Council with a letter dated 8 September 1977 enclosed (a) a copy of an extract dated 11 June 1925 from the Award dated 4 November 1857 made in the matter of the inclosure of Bottenden Hill in the Parishes of Halton and Wendover and confirmed by the Inclosure Commissioners on 12 November 1857; and (b) an extract from Mr Leonard H West's History of Wendover. No other person claimed to be the freehold owner of the land in question or 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 20 June 1979. There was no appearance at the hearing although I have a letter dated 7 June 1979 from the Clerk of Wendover Parish Council saying that he will be away from the district at the date of the hearing as will the chairman, and with the recent election, plus five vacancies on the Council, there appears to be no survivor to put forward the case.

The enclosures to the 1977 letter indicate that the Parish Council could without difficulty and with little expense prove that they are the owners of this land as successors of the Churchwardens and Overseers of the Poor of the Parish of Wendover; if they did this I would under subsection (2) of section 8 of the 1965 Act direct their registration as owners. In favour of my adjourning the proceedings to enable the Parish Council to give this proof, I have the 1979 letter which indicates that they have sufficient reason for not being represented at the hearing. But against any such adjournment, I have no request for it, and it is likely that it is of no practical consequence to the Parish Council if I am not satisfied as to their ownership, because by subsection (3) of the said section 8 I would then direct their registration as owners.

Bearing in mind that the Parish Council may, if I give a decision in their absence apply to me under paragraph 21 of the Commons Commissioners Regulations 1971 (there is a 10 day time limit) to re-open the hearing and set aside my decision, I consider that I ought to give my decision on information put before me at the hearing.

By paragraphs 17 and 21 of the said Regulations the Commons Commissioner is required to sit in public and may hear evidence either orally or by affidavit; this seems to me to indicate that as a general rule the Commons Commissioner should not reach any decision based solely on information supplied to him by correspondence. I conclude therefore that I heard at the hearing no evidence of the ownership of the Parish Council. In the absence of any evidence I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Buckinghamshire County Council, as registration authority, to register Wendover Parish Council as the owner of the land under section 8(3) of the Act of 1965.



185

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 July — 1979

a. a. Baker Jubb

Commons Commissioner