



In the Matter of Land At Elm Road,
Penn, Bucks

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 203 in the Register of Common Land maintained by the Bucks 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 Earl Howe and Penn Parish Council each 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 Aylesbury on 21 February 1979.

At the hearing, Mr P H Maitland, Solicitor, of the firm of Trower Still and Keeling appeared on behalf of Earl Howe and the Parish Council was represented by its clerk, Mr D B Chappell.

At the hearing Mr Maitland withdrew his client's claim to two of the three pieces of land comprised in the Register Unit maintaining the claim in regard to the northernmost piece. As regards this claim, I refer to my decision in Re Penn Street Common (Reference No. 203/U/66) where I considered the documentary title of Earl Howe, the problem of identification and a general submission by Mr Maitland. Irrespective of the Parish Council's claim, I would not be satisfied as to Earl Howe's ownership, since I cannot satisfactorily identify the Register Unit as part of the land comprised in the documentary title, nor do I think the general submission is applicable in the absence of sufficient evidence that the Register Unit formed part of a manor vested in Earl Howe by the 1957 Deed.

Mr Chappell gave evidence as to the maintenance by the Parish Council of the Register Unit. The southernmost part had always been maintained and the grass cut by the Council, which since 1956 had made payments to a contractor for this work to be done. 25 Wooden posts had been erected to prevent access by vehicles. The other two pieces of land had also been maintained by the Council - Elm trees had been pruned and felled when diseased and payments for this purpose had been made from 1956 onwards to a contractor.

On this evidence I am satisfied that the Parish Council has made out a possessory title and I shall accordingly direct the Bucks County Council, as ~~the owner of the land under section 8(2) of the Act of 1965.~~ *registration authority, to register the Parish Council as the owner of the land under Section 8(1) 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

5 July

1979

L. J. Morris Smith
Commons Commissioner.