



In the Matter of Land at Little Frieth,
Hambleton, Buckinghamshire.

DECISION

This reference relates to the question of the ownership of land at Little Frieth, Hambleton, being the land comprised in the Land Section of Register Unit No CL 217 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 this reference Mr A L Cogswell claimed to be the freehold owner of the land in question and members of the Frieth Village Society 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 28 June 1978.

At the hearing Mr M Tomsett, solicitor, appeared on behalf of Mr Cogswell and Mr P Claydon, solicitor, on behalf of the Hambleton Parish Council.

The land comprised in the Register Unit is a narrow strip at the side and rear of a house known as "The Cottage". Both "The Cottage" and the strip of land were included in the parcels of a conveyance made 16 December 1976 between (1) Harborne Investments Ltd (2) Alan Leslie Cogswell. The parcels of this conveyance were identical with those of a series of conveyances, the first of which was made 21 February 1946.

Mr Cogswell thus has a good paper title to both "The Cottage" and the land the subject of the reference, but doubt is cast upon the validity of the paper title so far as the land is concerned by the history of the property.

"The Cottage" is shown in the tithe apportionment of 1845 as having an area of 2 perches. This is the area of the original building. The land is not mentioned in the apportionment and is coloured on the accompanying map in the same way as the adjoining road. It thus appears that the land was then a highway. This is borne out by the fact that there is a public footpath along the side of the cottage and along the south-eastern side of the land leading to a stile.

Before the conveyance to Mr Cogswell the land was covered with grass and had for many years been used in common by the residents in cottages surrounding it. A well, now disused, supplied water for these cottages, and Mrs Marina Ireland, who was born in the area in 1896 and who used to play on the land when a child, remembers it as waste land, that there also used to be about three earth closets on it. More recently, the residents of two of the cottages kept the grass cut and the hedges trimmed until Mr Cogswell told them not to do so. Mr Cogswell has made a rose-bed in the part of the land which is not shown on the definitive map as part of the public footpath, but until he came to reside in "The Cottage" none of the land had been used as a private garden by residents in "The Cottage".



Upon this evidence I have come to the conclusion that Mr Cogswell's predecessor in title was not in possession of the land in 1976 and was therefore not in a position to convey it to Mr Cogswell.

In the absence of any further evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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

5th

day of

July

1978

CHIEF COMMONS COMMISSIONER