



COMMONS REGISTRATION ACT 1965

Reference No 203/D/41-43

In the Matter of The Green, Ludgershall,
Aylesbury Vale District, Buckinghamshire

DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No CL. 242 in the Register of Common Land maintained by the Buckinghamshire County Council and to the registration at Entry No 1 in the Land Section of Register Unit No VG. 42 in the Register of Town or Village Greens also maintained by the said Council and are occasioned by these two registrations being in conflict and by Objection No 25 made by Mr Ronald Stephen Bridges Temple Gore-Langton and noted in the Register on 16 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 5 October 1977. The case was listed for hearing on 23 June 1976 on which day and the following day Ludgershall Parish Council on whose application both registrations were made, were represented by Mrs I S Mole their vicechairman, and Mr Gore-Langton was represented by Mr E J Russell solicitor with Thring Sheldon & Rutherford Solicitors of Bath; owing to other business on neither of these days was there any time for this case, so the proceedings were adjourned. At the October 1977 hearing the Parish Council were represented by Mrs Mole as before; I had a telephone message from Thring Sheldon & Rutherford that they would not be attending.

In the Ownership Section of the VG. 42 Register Unit, Mr Gore-Langton is registered as the owner of nearly all the land, and this registration has not been disputed. The grounds of the Objection made by Mr Gore-Langton are: "That the land is not capable of being registered under the Act as a Town or Village Green. Because it is not a village green."

The land ("the Unit Land") comprised in these Register Units contains (according to the Register) about 16.17 acres; it is made up of a number of strips of grass land some of considerable width by the side of and open to the roads in and leading out of the Village. Starting from the southwest by St Mary's Church, and going north along the High Street for about 350 yards, there is a strip on the west side and a much narrower strip on the east side. At the north end of the High Street, the road bends round to the east in a semicircle to join the north end of Salters Lane which from here runs southwards approximately parallel to and about 350 yards from the High Street. Apart from the High Street strips and the Detached Pieces (below mentioned), the greater part of the Unit Land is by the side of either the said semicircular road or of the road leading westwards off it to Piddington, or of the road leading off it northwards to Bicester or of the lane leading eastwards off it. At the south end of Salters Lane, not far from where this road is joined by the direct road from the Church (Church Lane) and by the road (Long Lane) which leads south from the Village (the usual road to Aylesbury), there are two other pieces ("the Detached Pieces") of the Unit Land by the stream which runs northwards through the Village not far from Salters Lane.



Mrs Mole who has lived in the Parish for the last 25 years, been a member of the Parish Council for about 9 years and their vicechairman of the last 6 years, in the course of her evidence said (in effect):- There is an Inclosure Award dated about 1778 which provides that the Green is not to be enclosed or fenced off in any way; the Lord of the Manor owns the herbage rights. It was originally 22 acres but it has been eroded by people building footpaths and access ways and by people moving their fences a little bit forward. It has been used by the Village continuously for recreation, sports and fetes; the annual bonfire is held on the Green every year; there is and has been ever since she has lived in Ludgershall an annual fete (in the first week of June) for the Church, the Chapel, the Village Hall and the School. The Lord of the Manor has accepted no responsibility for the upkeep of the Green, and it is being maintained by the Villagers voluntarily, some work being paid for by the Parish Council.

The Parish Council (as appears from the minutes of their meetings on 13 May 1924 and 21 January 1925) have spent money on fencing, on the repair of the banks of the pond and on some pipes; the Parish Council Minute Book from 1894 to 1956 was produced.

Mr H East who was born in Ludgershall more than 80 years ago, and who has lived there all his life (except during the 1914-18 war) in the course of his evidence said (in effect):- Lady Thynne used to be the Lady of the Manor and she was succeeded by Miss Martyn; Mr Gore-Langton succeeded her and has been Lord of the Manor for about the last 30 years. Miss Martyn was asked by the Parish Council if the Village Hall could be built on the Green and she said that it could only be done with the consent of the Villagers (she only owned the herbage); the old Villagers voted against it, because they felt that if the Village Hall was built on the Green, the whole would soon be covered with houses. When he was young cricket and football were played on the Green; generally the Green was the Village recreation ground. Up to the 1914-18 war and afterwards, as far as he could remember, there was the annual Village Feast on the Green; the Friendly Society meeting made the arrangements (on behalf of the Villagers); everyone paid in a little money; there was a brass band; it lasted one day; there were coconut shies, swings and roundabouts.

After the hearing I walked over the Unit Land.

According to the 1904 House of Commons Return of Inclosure Awards held by Clerks of the Peace, the Ludgershall Inclosure Award is dated 15 September 1777. The Ludgershall Inclosure Act 1777 (17 Geo 3 c.43) under which the Award was made, provides for the inclosure of Fifty-three Yard Lands of thereabouts containing altogether one thousand eight hundred acres. I can find nothing in the Act relating particularly to the Green. The 1777 Award was not produced to me, so I cannot rely on this part of Mrs Mole's evidence. However there is no reason why I should not give full effect to the rest of her evidence and to the evidence of Mr Eaton and find, as I do, that the Green is subject to a customary right for the inhabitants of Ludgershall to indulge in lawful sports and pastimes.



As to whether the customary right extends to the whole or to only part of the Unit Land:- Mrs Mole and Mr Eaton said that the activities there described were for the most part in the High Street area; however the annual bonfire is held opposite the Butcher & Bull Public House (near the northeast part of the Unit Land). The wide strips around the said semicircular road are on the Ordnance Survey map (on which the Register map is based) called "The Green"; Mrs Mole said that all the Unit Land is so called. Between the Detached Pieces and the part of the Unit Land to the north, there is some modern development; from its appearance, I conclude that before this development was made, the Detached Pieces would have been more part of the open land now comprising the rest of the Unit Land than might be inferred merely by looking at the OS map. Accordingly notwithstanding the extraordinary shape of the Unit Land (as it appears on the OS map) and notwithstanding its (for a village green) very large area, I conclude from its appearance as I saw it when I walked over it and from the evidence put before me as summarised above that it may all properly be regarded as one piece of land to the whole of which the said customary right extends.

For the above reasons, my decision is that the Objection fails and that the whole of the Unit Land was properly registered as a village green. The 1965 Act provides in effect that land which is a "town or village green" as therein defined is not "common land" as therein defined, see section 22; so it follows from my conclusion in favour of the VG. 42 registration that the CL. 242 registration should not have been made. Accordingly I refuse to confirm the CL. 242 registration and confirm the VG. 42 registration without any modification.

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 17th day of October — 1977

a. a. Baden Fuller

Commons Commissioner