



COMMONS REGISTRATION ACT 1965

Reference No.5/U/12

In the Matter of Greenbank, Crewe Road,
Wheelock, Sandbach, Cheshire.

DECISION

This reference relates to the question of the ownership of land known as Greenbank, Crewe Road, Wheelock, Sandbach, being the land comprised in the Land Section of Register Unit No.V.G.16 in the Register of Town or Village Greens maintained by the Cheshire 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 Linked Group Engineering Ltd 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 Chester on 15th May 1973.

At the hearing Mr. R.G. Holmes, solicitor, appeared for Linked Group Engineering Ltd, and Mr. A.W. Simpson, of counsel, appeared for the Sandbach Urban District Council.

Linked Group Engineering Ltd (formerly named Bantimore Engineering Co.Ltd. and hereafter referred to as "the Company") is the owner and occupier of a garage on the western side of the road from Crewe to Sandbach at Wheelock. There were produced to me documents relating to the title to this garage back to an indenture dated 7th April 1920. The land the subject of this reference is situate on the eastern side of the road and first appears in the Company's documents of title in a conveyance dated 25th July 1947 made between (1) James Henry Cooke (therein called "the Vendor") and Joseph Newton (therein called "the Purchaser"). This conveyance is stated to be supplemental to a conveyance dated 16th November 1945 between the same parties and contains a recital that the Vendor had been in possession of the land known as Wheelock Green for a period of 25 years upwards without acknowledgement of the title by any other person thereto and that it was intended that it should be conveyed to the Purchaser by the conveyance of 16th November 1945, but was omitted therefrom. It is further recited that the Vendor had agreed to convey Wheelock Green to the Purchaser for such estate or interest as the Vendor had therein. By the operative part of the conveyance the Vendor conveyed to the Purchaser Wheelock Green in fee simple. The land there named Wheelock Green is the land the subject of this reference. After divers mesne conveyances John Edward Brookes by a conveyance dated 17th December 1968 conveyed to the Company the garage and all Mr. Brookes's estate and interest in Wheelock Green.

In 1964 the surface of the land consisted of ashes and soil, with some grass. In 1965 Mr. Brookes levelled it and put down hardcore with a tarmacadam surface over about 90% of its area. He put a kerb adjoining the main road and painted "In" and "Out" guide lines. He put some stones on the boundaries, but did not fence the land. Mr. Brookes then used the part of the land adjoining the main road for displaying excavators which he had for sale. The remainder of the land was used for parking cars belonging to Mr. Brookes and to other people on a "first-come-first-served" basis. Mr. Brookes parked lorries in the garage yard in order to leave room for the cars of the



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customers of a nearby public house. People other than Mr. Brookes only left cars on the land for short periods, and he never asked for cars to be removed.

Since 1968 the position has continued to be much the same. The land has been mainly used for the parking of vehicles belonging to the Company's staff, employees, and visitors and to local residents. The Company does not either give or refuse permission for parking by the residents and there has never been any objection to parking by members of the public. The only vehicles which have been warned off have been lorries which were creating a traffic hazard.

There was no oral evidence as to the way in which the land in question was used before 1964, but since Mr. Cooke was described in the conveyance of 25th July 1947 as a retired garage proprietor and Mr. Newton as a motor engineer, it seems a reasonable assumption that the position described by the witnesses has persisted for many years. Nevertheless, I find myself unable to hold that the Company has a possessory title to the land. It seems to me that the use which has been made of the land by the Company and its predecessors in the garage business has not constituted dispossession of the true owner, whoever he may be. The land has not been fenced, no charge has been made for parking, and no permission for parking has been sought from or granted by the Company. Although the Company and its predecessors have used the land more intensively than other persons, it does not appear to me that the nature of that use differs in any way from the nature of the use made of the land by other persons. There is nothing about such use inconsistent with the ownership being in some other person who has taken no steps to prevent the use of the land by anyone who chose to park his vehicle on it. There is no evidence as to who is the true owner who is alleged to have been dispossessed.

For these reasons I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Cheshire County Council, as registration authority, to register the Sandbach Urban District Council as the owner of the land under section 8(3) 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 26th day of June 1973


Chief Commons Commissioner