



COMMONS REGISTRATION ACT 1965

Reference No 262/U/464

In the Matter of the site of
Stainton Village Hall, Dacre,
Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land being the site of and the car park, grass and other lands appertaining to Stainton Village Hall, Dacre, Eden District and being the land comprised in the Land Section of Register Unit No. CL39 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) 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 (1) Mr John Hetherington as "Foreman Stainton Jury" said (letter of 24 November 1981) that the land originally pond watering place for animals, was with other lands awarded by the enclosure award for the benefit for all time of the residents of Stainton Township, and that it had since been administered for the benefit of Stainton residents by the Stainton Jury; (2) Dacre Parish Council said (letter of 1 December 1981) that in the absence of any successful claims to ownership of the land, they considered that it should be vested in them; (3) Mr J W E Taylor as Hon Treasurer of the Stainton Village Hall Committee on their behalf claimed (letter of 2 December 1981) ownership of the land, saying that the Village Hall had occupied the site since 1920, that all maintenance had since then been carried out by the Committee and that recent external works have completed a programme planned some years ago and approved at an annual Parish Meeting held on 21 March 1979, and enclosing a letter dated 29 July 1979, written on behalf of Major N B M Howard as Lord of the Manor by Little & Shepherd as his Solicitors by which he relinquished all claims (if any) he might have with regard to this land and in respect of any manorial rights thereover; and (4) a group of people collectively known as the Stainton Jury claimed (their Solicitors' letter of 7 December 1981) ownership. 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 Penrith on 11 March 1982. At the hearing Mr John Hetherington on whose application as "Acting Foreman to Stainton Jury" the registration was made, was represented by Mr D Mellor solicitor of Little & Shepherd Solicitors of Penrith; and the Committee of Stainton Village Hall were represented by Mr J W E Taylor their Hon Treasurer and manager of the fabric of the building.

The land ("the Unit Land") in this Register Unit is approximately triangular; its west side about 100 yards long is open to the road which runs north-south through the Village; its east side, about the same length is fenced from the adjoining agricultural land, and near it and within the Unit Land runs for most of its length a small stream (in places piped or culverted); its south boundary about 15 yards long separates it from other land fronting on the road. On most



of the southern part of the Unit Land is the Village Hall; most of the northern half is a well made car park convenient for users of the Hall; the remainder of the Unit Land is comparatively very small, being a flower bed, some grass land with trees and shrubs, the stream and some access land.

Mr Mellor said that Mr Hetherington made no claim to ownership.

Mr Taylor in the course of his oral evidence produced: (1) an extract from the 1865 OS map (1873 edition); (2) an extract from Parish Gazetteer of 1865 (held in the County Council Records Office); (3) a foolscap account book (478 pages) entitled "Stainton Institute 1920" and "Cash Book", commencing with a record of donations made in and after 1920 for the building of an institute and continuing with a record of their proceedings relating to it (up to 1982 about 162 pages of manuscript); (4) a letter dated 25 March 1979 from Dacre Parish Council to Stainton Village Hall Committee favouring the provision of a car park on the land; (5) a planning permission dated 31 May 1979 for a development (the car park); (6) a copy of the said July 1979 letter; and (7) the Constitution of the Control and Management of Stainton Village Hall adopted at a public meeting held on 13 March 1980.

Mr Taylor said (in effect):- He had examined the 1775 Inclosure Award, and this land was not by it inclosed. The 1865 map showed the land as a road side triangle with a stream running near the west boundary. The 1865 Gazetteer described the Unit Land as "1.584 (acres): waste". The 1920 book shows "Expenditure in June 1920: £26-19-5 for workmen laying out foundations etc.; and £228-0-0 for taking down recreation room Fusehill and erecting as an institute as Stainton. Since the Institute was so erected, it has been modified and enlarged, but always managed by the Stainton Village Hall Committee as recorded in detail in the 1920 book. The car park was approved at a public meeting in 1979. Because they wish to do a lot of external work on this land and to claim a grant, the problem of ownership cropped up and a constitution was drawn up and approved at the public meeting in 1980.

Mr Wilding who has been Clerk of Dacre Parish Council since 1968 said (in effect):- The Parish of Dacre as now constituted comprises the villages of Dacre (the parish church is there), Stainton, Newbiggin, Blencowe and Soulby. In the 1775 Award these villages are all referred to as "townships". The public meetings referred to by Mr Taylor were the parish meetings of the Parish of Dacre called annually as required by law.

Two days after the hearing, I inspected the Unit Land.

On this reference, I am concerned with ownership as defined in the 1965 Act: the "legal estate in fee simple", see section 22. A fluctuating body such as the Committee represented by Mr Taylor cannot hold such an estate. Even if they had trustees capable of holding it for them, they could not acquire ownership merely by adopting a formal constitution in 1980. So I must consider ownership as it was in and before 1979.

In the proceedings following these relating to other land in Stainton Village, being that comprised in Register Unit No. CL236 (Reference No. 262/U/452) the 1775 Inclosure Award was produced with an extract of the relevant part and a copy of the map referred to in it. I have since looked at the Greystoke (Barony)



(Townships of Great and Little Stainton, Newbiggin and Great Blencowe) Inclosure Act 1772 (12 Geo. 3. c. 141) under which it was made. I accept Mr Taylor's statement that the Unit Land is not dealt with by the Award; in the map it is treated with the roads and other open spaces in the village as being land not necessary to mark particularly. The Act and the Award provides for land such as quarries and watering places being allotted for the benefits of each of the said townships.

The situation of the Unit Land, its present appearance, and its history so far as is deducible from the documents put before me and the information supplied to me by Mr Taylor all indicate that it has for a long period been treated as belonging to Stainton within the popular meaning of these words. By section 17 of the Poor Act 1819 (59 Geo. 3. c. 12) the churchwardens and overseers of a parish were empowered to "accept take and hold in the nature of a body corporate for and on behalf of the parish all land belonging to the parish". In Doe v Hiley (1830) 10 B & C 885, Lord Tenterden C J held that this section had the effect of vesting in the churchwardens and overseers all land belonging to the parish, notwithstanding that the land was not acquired for purposes relating to the poor. This decision has since been treated as applicable to all land "belonging" to a parish in the "popular sense of that expression", see Doe v Terry (1835) 4 A & E 274 at page 281 and Haigh v West 1893 2 Q B 19 at page 31; this last case although distinguished on the facts was recognised as stating law still applicable in Wylde v Silver 1963 1 CL 243 at page 271. It is not necessary to consider whether Stainton was at the time a parish or township because the 1819 Act is applicable to churchwardens and overseers of a township, see section 21 of the Poor Relief Act 1662 (13 & 14 Car. 2 chap 12). The legal estate of the churchwardens and overseers is now vested in the Parish Council as their successors under the Overseers Order 1927 (S.R. & O. 1927 No. 55) made under the Rating Act 1925; by section 68(4) of the 1925 Act, having regard to the section 21 of the 1662 Act above quoted, the township of Stainton is a "parish" within the meaning of the 1925 Act.

As I understand the Acts and cases above referred to, my conclusion that the legal estate is now vested in the Parish Council of Dacre who are concerned with 5 villages does not affect any trust or condition which may be attached to the land as a consequence of it having come to them as successors of the churchwardens and overseers of Stainton Township. As I understood Mr Wilding, the Parish Council are unlikely to wish that the management of the Village Hall Committee should not continue; however this may be, it may possibly prevent misunderstanding if there is some mention in the Register of the succession.

Upon the considerations above set out, I am satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register Dacre Parish Council as successors of the churchwardens and overseers of Stainton Township as the owners of the land under section 8(2) 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



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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 14th — day of June — 1982

a. a. Baden Fuller

Commons Commissioner