



COMMONS REGISTRATION ACT 1965

Reference Nos 209/U/5
209/U/6

In the Matter of (1) Stocklepath
Bowling Green and (2) the Village
Green, both in Sampford Courtenay,
West Devon District, Devon

DECISION

These references relate to the question of the ownership of lands known as (1) Sticklepath Bowling Green and (2) the Village Green, both in Sampford Courtenay, West Devon District being the lands comprised in the Land Section of Register Unit Nos VG. 15 and VG. 16 in the Register of Town or Village Greens maintained by the Devon County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

In a letter dated 12 January 1972 and sent to Devon County Council, Sampford Courtenay Parish Council by their solicitors claimed ownership of the lands in question. Following upon the public notice of this reference no other person claimed to be the freehold owner of the lands or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Exeter on 15 November 1977. At the hearing Sampford Courtenay Parish Council were represented by Mr A W Hawking their chairman and Mrs J Madden their clerk, and West Devon District Council were represented by Mr J I Reddaway one of their members; present also were the following members of the Parish Council: Rev D Bickerton, Mr W H Cleverden, Mrs J M Barrow and Mrs A J W Sleeman.

The land ("the VG. 15 Land") comprised in the Register Unit No VG. 15 contains (according to the Register map) 0.37 of an acre, is bounded on the east by the River Taw and is accessible at its northwest corner by a footpath leading south from a point on the main road (A30) and at or near the middle of the Village of Sticklepath. In the Rights Section of this Register Unit are 7 Entries of various rights of common over the VG. 15 Land and over (except as regards Entry No 5) other lands.

Mrs Madden who has lived in Sticklepath for 30 years and who became clerk of the Parish Council about 7 years ago, in the course of her evidence produced the Parish Council Minute Book of 1894 to 1932. There was in this book only one Entry relating particularly to the VG. 15 Land; at a meeting held on 25 October 1889, the Council appears to have authorised a letter being written to a builder requiring him to repair the damage done by him about which there had been a complaint. She (Mrs Madden) said (in effect):- The Parish Council have no legal evidence of ownership. It is a rough area, not now used for anything. The Parish Council has various plans for clearing it up.



Mr Morris said that the only part of the Referred Land claimed by Mr Miles was that edged red on the plan ("the Claim Plan") a copy of which is page 2 of this decision; in this copy the area which encloses the words "M Claim" and has a frontage to the Footpath of 15 feet is the part so edged red. In support of this claim, oral evidence was given by Mr Miles and Mr K R Summerfield which was essentially the same as that recorded by the Chief Commissioner as having been given to him in the 1974 decision in relation to the Rectangular Area. Mr Miles explained that the land he was now claiming was by mistake omitted from the application which led to the said Entry No 2. The buildings shown on the Claim Plan as alongside the north boundary of the part of the Referred Land he is now claiming in fact form part of No 2 The Green, one of the bedrooms of which, in an extraordinary fashion projected for about 10 feet or more into the building occupied by Mrs Reid at No 1 The Green.

On this evidence I am satisfied that Mr Miles is the owner of the land edged red on the Claim Plan and I shall accordingly direct the Devon County Council as registration authority to register Mr Alfred William Miles of No 2 The Green, Woodbury, near Exeter as the owner of this part of the Referred Land under section 8(2) of the Act of 1965.

As to the remainder of the Referred Land, I have no evidence as to Mrs Reid or anyone else having a possessory or any other title to it; I do not accept the suggestion impliedly made as above mentioned that because Mr Miles succeeds in his claim she ought to succeed in hers; indeed such evidence as I had seemed to indicate that neither she nor any of her predecessors in title could establish a possessory title to this remainder —→ in the same way as Mr Miles has done to his part because they have not used this remainder as extensively as he has used his part. In the absence of any evidence that any other person could be the owner, I am therefore not satisfied that any person is the owner of the remainder of the Referred Land.

Mr Gaye produced a letter dated 16 November 1977 written by solicitors acting for Mrs Reid saying that she has no objection to the application being made "by the Woodbury Salterton Parish Council for rights of common to be registered over the area of land shown coloured pink on the Council's application plan... Her consent is subject to the proviso that the Council acknowledge her vehicular right of way over the land to her garage, and her right to park her car over and those of her guests on the land fronting her property". Mr Gaye said that the Parish Council would not accept this proviso and contended that I could and should give a direction under subsection (3) of section 8 of the Act notwithstanding that they had not accepted. I agree this contention; if I am not (as I am not) satisfied that any person is the owner, I am required by the subsection to direct the registration of the Parish Council as the owner unconditionally whether or not anybody consents to such direction. Accordingly I shall direct the Devon County Council as registration authority to register Woodbury Parish Council as the owner of the remainder of the Referred 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 9th day of January 1978

a. a. Baden Fuller

Commons Commissioner

COMMONS REGISTRATION ACT 1965

Re: Village Green, Woodbury,
East Devon District, Devon

Ref: 209/U/7

This is the Claim Plan
referred to in the decision
dated 9 January 1978
and made by the Commons
Commissioner in this matter.

a. a. Brown Fuller

Commons Commissioner

