



COMMONS REGISTRATION ACT 1965

Reference No 13/U/3

In the Matter of Shortwood Green, Nailsworth  
Urban District, Gloucestershire

DECISION

This reference relates to the question of the ownership of land being part of that known as Shortwood Green, Nailsworth Urban District and comprised in the Land Section of Register Unit No CL.104 in the Register of Common Land maintained by the Gloucestershire County Council which is not registered under the Land Registration Acts: 1925 to 1971 and comprised in Title Number GR. 19254, and 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 Nailsworth Urban District Council 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 on inquiring into the question of the ownership of the land at Gloucester on 21 November 1972. At the hearing the Nailsworth Urban District Council ("the Council") were represented by Mr B E Ellaway who is their clerk; and Mr H W H Webb (on whose application the registration was made) and Miss J C Brown (whose application was noted on the Register) appeared in person.

On behalf of the Council Mr Ellaway gave evidence. Their claim to ownership of the western end ("the Larches") on the Register map numbered 397 and stated to have an area of 0.277 acres and called "Old Quarry", was separate from their claim to the remainder of the land. As regards the remainder, (being substantially the whole of the land known as "Shortwood Green"), the Council relied on a deed of gift dated 8th August 1969 by which Mr D Lowsley-Williams conveyed to the Council in fee simple a number of pieces of land, including the land in question (except the Larches), and a statutory declaration made on 18th January 1967 by Mr F H Adams, a solicitor who had made investigations to determine the ownership and status of Shortwood Green (not including the Larches). In November 1967 there was a meeting between representatives of Pinnacle Development Limited, who were developers interested in developing land in the locality and the representatives of Local Residents, of the Gloucestershire County Council, and of his Council; one of the matters discussed being the construction of a road across part of the Green. Following the meeting it was agreed that the Developers should acquire the Larches, and after filling in the Old Quarry, topsoiling the surface and seeding it with grass, convey it to the Council as an extension to Shortwood Green. This conveyance was about to be but had not yet been made and the Council were therefore beneficially entitled to the Larches.

Mr Webb handed me a written statement made by him setting out the history of the Green including the Larches. He applied for registration of the land (including the Larches) on behalf of himself and other residents; applications by Mr S G Harrison and Mr S J Grant were also noted on the Register. Mr Webb supported the claim of the Council to be owners of the land.

The Council being unable to offer any more evidence as to the ownership of the Larches, Miss Brown offered to give evidence in support of their claim. In her evidence she said that a dwelling house known as Shortwood House situate on the south side of the Green and about 4 acres of land belonging to it and the Larches



all formerly belonged to Miss M M Williams, that when she died about twelve years ago these properties passed under (Miss William's) will to her (Miss Brown) and that about six or seven years ago she sold the Larches to Mr C B Daniels, who wanted to use the land (it was formerly a Quarry) to tip rubble.

At the request of the Council I stated that I would hold up my decision so as to enable them to submit to the Office of the Commons Commissioners an affidavit exhibiting the conveyance by the Developers or their successors in title to the Council and the evidence of their title to make such conveyance.

Since the hearing, an affidavit sworn on 26 February 1973 by Mr F H Adams has been sent to the Clerk of the Commons Commissioners. Mr Adams is a partner in the firm of A E Smith & Son Solicitors of Nailsworth who acted for the Council in their recent purchase of the Larches. To this affidavit is exhibited (amongst other documents) an abstract of the title of Miss J C Brown to the Larches, and four conveyances dated 16 May 1963, 22 November 1967, 21 April 1969 and 28 December 1972 by which the Larches pass in succession from Miss J C Brown, to Mr C B Daniels, to Pinnacle Developments Limited, to K W Tily Limited (who changed their name first to Malcolm Sanderson Western Limited and secondly to Bovis New Homes Western Limited and thirdly to Bovis Homes Western Limited) and finally to the Council.

As to the land in question exclusive of the Larches, the evidence given at the hearing I think establishes the ownership of the Council. The said 1967 declaration is most detailed, describing or referring among other things to numerous documents found by Mr F H Adams at the County Record Office; it shows I think that Mr T Lowsley-Williams was lord of the manor of Horsley by virtue of a conveyance dated 17 March 1958 and made by Lieutenant Colonel J S H Lowsley-Williams who had himself become so entitled under a conveyance dated 20 November 1929 and made by Mr G W L H Lowsley-Williams, and that as lord of the manor he was entitled to the waste land. The declaration also shows that many pieces of land surrounding what is now known as Nailsworth Green were throughout the years treated as part of the waste of the manor, for which the only possible reason could be that the land so surrounded was itself part of such waste.

As to the Larches, the said affidavit in which Mr J H Adams explains how he on behalf of the Council investigated the title, and the evidence of Miss J C Brown at the hearing which confirms and is confirmed by the said abstract of the title, establish I think the ownership of the Council.

For the above reasons I am satisfied that the Council is the owner of all the land in question, and I shall accordingly direct the Gloucestershire County Council as registration authority to register Nailsworth Urban District Council as the owner of the part of the land comprised in this Register Unit which is not registered under the Land Registration Acts 1925 to 1971.

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 5<sup>th</sup> day of March 1973

a. a. Baden Fuller

Commons Commissioner