



COMMONS REGISTRATION ACT 1965

Reference No. 214/U/81

In the Matter of part of Yateley Green lying to the east of
Chandlers Lane, Yateley

DECISION

This reference relates to the question of the ownership of part of Yateley Green lying to the east of Chandlers Lane, Yateley being the part of the land comprised in the Land Section of Register Unit No. CL.27 in the Register of Common Land maintained by the Hampshire 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) Yateley Town Council claimed to be the freehold owner of the land in question and (2) Vincent O'Riley claimed to be owner of part of it.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Winchester on 26th April 1990.

The hearing was attended by Mrs Rose of Hampshire County Council (the registration authority) Mr Lawrence Smith Deputy Town Clerk of Yateley Town Council and Mr Vincent O'Riley.

Yateley Green comprising about 64 acres of land was registered as common land upon the application of Yateley Parish Council. The registration became final with a slight modification following a Decision of Mr. Commissioner C A Settle dated 12 July 1978.

There are numerous grazing and other rights registered in the Rights Section of the Register, all of which became final consequent upon Mr Settle's Decision.

There are two entries in the Ownership section of the Register. The first is in the name of Mr James Sydney Campbell as Chairman of the Yateley Parish Council, covering the whole of the Register Unit with the exception of two comparatively small pieces of land. This entry, being undisputed became final in 1972.

The two pieces of land not included in this entry were:-

- (1) a parcel lying off Vicarage Road, opposite the War Memorial;
- (2) the parcel which is the subject of this present reference, being a roadside strip on the east side of Chandlers Lane at the northern extremity of the Register Unit.

On 27th October 1983 a previous unclaimed land inquiry was held before Chief Commons Commissioner George Squibb. The Notice of Reference to him included only the part of the Register Unit lying off Vicarage Lane opposite the War Memorial. This would appear to have been a mistake, as under section 8(1) of the 1965 Act the question of the ownership of all unclaimed land should have been referred to a Commons Commissioner.

Mr Squibb in his Decision dated 3rd November 1983 decided that Yateley Town Council was the owner of the land of which the question of ownership had been referred to him. No doubt he was unaware of the existence of the other parcel of unclaimed land.



By his Direction dated 20th January 1984 Mr Squibb directed Hampshire County Council to register Yateley Town Council as owner of the land comprised in the Land Section of this Register Unit of which no person was registered under section 4 of the 1965 Act as the owner. Strictly speaking it seems to me that this Direction covered both the parcels of land mentioned above. The registration authority however gave effect to the Direction by registering Yateley Town Council as owner of the parcel lying off Vicarage Road opposite the War Memorial, which was the only parcel which had been referred to the Chief Commons Commissioner.

It therefore remains for me, notwithstanding the apparently comprehensive terms of the Direction given by the Chief Commons Commissioner in 1984, to consider the question of ownership of the parcel which is the subject of the present reference.

Mr Lawrence Smith on behalf of Yateley Town Council produced to me the original of a Conveyance dated 6th July 1951 between (1) The Church Commissioners for England and (2) The Parish Council of Yateley. I am satisfied that this included the land now under reference. Yateley Parish Council became Yateley Town Council under the provisions of the Local Government Act, 1972.

Mr Vincent O'Riley is the owner and occupier of the dwelling-house known as "Gyrn", and his claim was put in the following terms in a letter dated 26th February 1990 addressed to the Clerk to the Commons Commissioners.

"Due to the scale of the map included in the notice it is not clear what is the extent of the land involved. Further the map does not show a surface drainage ditch which is the most significant feature of the strip.

The area between this ditch & the edge of Vicarage Lane/Chandlers Lane forms a roadside verge which is maintained by the local (Yateley) Town Council.

However my particular interest is in that area between the ditch & the end of my front garden. Since purchasing this property (31.5.1965) I have not only enjoyed unchallenged access to this area but I have also maintained it by way of grass cutting, bulb planting, tree & Shrub pruning & so on - effectively as part of my front garden. Further for example following the storms of October 1987 a number of large trees planted on the area in question by a previous owner of this property were uprooted & it fell to me to pay contractors for their removal & subsequent making good of the ground.

In the light therefore of my having had unquestioned access to & enjoyed the use of this area & having accepted responsibility for maintenance for a period in excess of 20 years I now wish to claim prescriptive Rights over this area".

Having studied various plans it was agreed between the representatives of the registration authority and the Town Council that only the land to the west of the ditch was included in the Register Unit. The land to the east of the ditch in front of "Gyrn" may or may not fall within the Conveyance of 1951 to the Parish Council, but this is not a matter for me to determine. I hope that the conflicting claims to it of the Town Council and Mr O'Riley can be settled amicably between them. So far as I am concerned, the Town Council are only claiming ownership of the land to the west of the ditch as common land, and this claim I propose to allow.



On this evidence I am satisfied that Yateley Town Council is the owner of the land, and I shall accordingly direct the Hampshire County Council, as registration authority, to register Yateley Town Council as the owner 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 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

4th

day of

May

1990

Mati Rott

Commons Commissioner