



COMMONS REGISTRATION ACT 1965

Reference No. 214/U/77

In the Matter of The Gravel Pit, Longparish

DECISION

This reference relates to the question of the ownership of the land comprised in the Land Section of Register Unit No. CL.138 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.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Winchester on 22 February 1989 and viewed the land in the presence of the parties on the same day.

At the hearing Mrs Elford (clerk) represented the Longparish Parish Council (claimants), Mr and Mrs White (claimants) appeared in person and Mr S Ogden, solicitor, represented the Hampshire County Council.

The Parish Council claimed to have a good paper title to the land based on a conveyance from the County Council. Mr and Mrs White claimed (in effect) that the County Council's title had been extinguished under section 17 of the Limitation Act 1980 as a result of their adverse possession.

The Parish Council's paper title

Mr Ogden produced a copy, certified by the County Archivist, of the Inclosure Award of 1804 made under the West Aston or West Yaston and Middleton in Longparish Inclosure Act of 1802 (42 Geo.3 Ch 25).

This shows quite clearly that the unit land is the same area as a gravel pit allotted under that Award to "the surveyors of the highways of or within the said hamlet or tything of West Aston or West Yaston".

That being so, the land was vested by section 11 of the Highways Act 1862 in the highways board for the district and then by sections 25(1) and 67(1) of the Local Government Act 1894 in the newly-formed rural district council.

By section 30(1) of the Local Government Act 1929 rural district councils ceased to be highway authorities and their functions were taken over by the county councils.

Section 118(1) of that Act makes special provision for quarries and by subsection (1) (b) requires the county council "if desired by the council of any rural district within the county" to take over any quarry belonging to the district council in their capacity as highway authority.



There is no direct evidence that the district council did desire the county council to take over this quarry but Mr Ogden asks me to assume - in the absence of any claim by the district council - that that is what must have happened.

I agree that in the absence of any claim from any other authority the most probable explanation is that this quarry did vest in the Hampshire County Council under the 1929 Act.

Mr Ogden also produced a conveyance dated 4 December 1987 whereby the Hampshire County Council conveyed the unit land to the Parish Council of Longparish.

These documents satisfy me that, subject to Mr and Mrs White's claim, the Parish Council have a good title to the whole of the unit land.

Mr and Mrs White's claim

Mr and Mrs White were not legally represented but their claim to ownership of this land must, I think, as a matter of law amount to a claim that the title of the County Council had been extinguished under section 17 of the Limitation Act 1980 because for 12 years Mr and Mrs White had been in possession of the land.

Both claimants gave evidence, which I accept, that before 1973 the land to the south of the unit land was just a field where Mr White's father had kept bees and chickens. The gravel pit was a wilderness used by no one.

In 1973 Mr White, having inherited the land to the south of the unit land, and being a builder, started to build a house on it.

In order to do this it was necessary to continue the existing road (which then stopped short a few yards to the east of the south-western corner of the unit land) along the whole length of the southern border of the land. This, however, was done on Mr White's own land south of the rough and gappy hedge which then marked the southern boundary of the unit land. It was however necessary to go on to the unit land to turn vehicles and so that this could be done they cleared the land of bushes and undergrowth.

While the house was being built Mr White took down and burned some ruinous sheds which then stood on the unit land. There was some talk of removing part of a glider but that turned out to have been on Mr White's own land south of the hedge. Mr White cut that hedge, which was very overgrown, down to size but at no time did they fence in the unit land, graze stock on it or grow crops on it. What they did with the land was to mow it twice a year to keep it tidy. They planted some daffodils and burned garden rubbish on the land. Other people whose land bordered the unit land also did this without any interference. Mrs White agreed that all the people with land verging on the unit land looked after the land in front of their gardens and Mr White agreed that he was more or less concerned with the part in front of his house.



On that evidence, which I accept, I am not satisfied that Mr and Mrs White ever took possession of this land.

That being so the title of the Hampshire County Council was never extinguished. The Parish Council are therefore the owners of the land.

I shall accordingly direct the Hampshire County Council, as registration authority, to register the Longparish Parish 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 10th day of March 1989

Peter Langdon-Davis

Chief Commons Commissioner