



COMMONS REGISTRATION ACT 1965

Reference No. 42/U/23

In the Matter of The Old Village Green
Cleeve Prior, Wychavon D.,

DECISION

This reference relates to the question of the ownership of land known as The Old Village Green, Cleeve Prior, Wychavon D., being the land comprised in the Land Section of Register Unit No. CL.7 in the Register of Common Land maintained by the former Worcestershire 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 Cleeve Prior Parish Council, Mr Orvis, Mr Barnard and Mr Sutor claimed to be the freehold owners of the land in question and no other person claimed 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 Worcester on 12 November 1974.

The registration of the land in question as common land is undisputed and final. The question which I have to determine is as to who, if anybody, owns the land in question.

The Cleeve Prior Parish Council appeared by Mr Hooker of Messrs New and Saunders Solicitors of Evesham and claimed ownership.

Mr Orvis the owner of the garage with a frontage to the land in question appeared by Mr J. Sheppard of Messrs Browning & Co solicitors of Redditch and claimed ownership of that part of the land fronting the garage and lying between the garage and Hoden Lane.

Mr Barnard and Mr Sutor respectively the owners of the Old Coach House and Walnut House which have frontages to the land in question appeared by Mr J. Beauchamp solicitor of Edgbaston Birmingham. Their concern was to prevent or restrict car parking on the land in question both by the garage and by members of the public. Walnut House was only built some nine or ten years ago and Mr Sutor only acquired it in 1971. Mr Sutor gave evidence as did Mr Barnard but they gave no evidence which supported any claim to ownership by them and in the final analysis since they wished to restrict the operations of the garage they were opposed to Mr Orvis' claim to ownership.

Mr H.D. Archer chairman of the Parish Council an office which he has held for 30 years having lived in the Parish since 1922 gave evidence. The land in question as appears from the conveyance to Mr Orvis dated 30 October 1945 originally consisted of a semi circular green with a semi circular road to and from Hoden Lane giving access to the three above mentioned properties. During the 1939/45 war the land in question was used by the army and was at the end of the war left in a derelict condition as the result of army vehicles having been parked on the land. In the result it appears to have been used as a parking ground ever since the end of the war.



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Mr Archer produced a minute dated 25 March 1896 which authorised a show to use the green and he remembered the green being used for fairs. In 1934 the Clerk to the Parish Council wrote complaining of a stall which had been set up on the green, and in 1972 the Council caused a bollard to be removed. The Parish Council after the war asked both the County Council and the District Council to make up the area with hard core and on one occasion the District Council complied with this request. The Council has never received any revenue from the land in question. There were produced to me written complaints by parishioners addressed to the Council that their right to park cars was being impeded.

Mr Orvis gave evidence that he had from time to time cut grass on the green and that he and his tenants had filled in pot holes on the land fronting the garage and looked after that land. In my view this evidence falls far short of establishing a prescriptive title to any part of the land in question.

In these circumstances the alternatives open to me are, if I am satisfied that the Parish Council has established its ownership to direct its registration as the owner pursuant to Section 8(2) of the 1965 Act, or if I am not so satisfied the land shall remain subject to protection under section 9 of the Act.

In my view the Parish Council has done little if anything to maintain the land in question, it did not register itself as the owner of the land and while it is by no means conclusive the circumstance that the land was registered as common land not subject to rights of common is an indication that it is waste land of a manor, see Section 22 of the Act. In these circumstances the appropriate course is in my view for the land to remain subject to protection thus leaving any local authority mentioned in section 9 to protect any rights which any parishioners may establish in relation to the common land.

On this evidence I am not satisfied that any person is the owner of the land and, it will therefore remain subject to protection under section 9 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

22

day of November

1974

Commons Commissioner