



COMMONS REGISTRATION ACT 1965

Reference No.19/U/48

In the Matter of Bearsted Green,
Bearsted, Kent.

DECISION

This reference relates to the question of the ownership of land known as Bearsted Green, Bearsted, being the land comprised in the Land Section of Register Unit No.V.G.43 in the Register of Town or Village Greens maintained by the Kent 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 the Maidstone Rural 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 of inquiring into the question of the ownership of the land at Maidstone on 16th January 1974.

At the hearing the Rural District Council was represented by Mr.R.E.North, its Clerk.

Mr.North informed me that he was unable to adduce any evidence as to the ownership of the land in question, so that it falls to be vested in the local authority specified in section 8(5) of the Act of 1965.

The land is subject to a scheme made under the Commons Act 1899 on 27th November 1902 and approved on 8th December 1902. By a lease dated 26th January 1956 the Rural District Council let the land to the Bearsted Parish Council for the term of five years from 1st April 1956, subject to a covenant to use it as a public open space only. By an endorsement made 23rd June 1958 with the consent of the Minister of Housing and Local Government the lease was extended for a further term of sixteen years from 1st April 1961.

The lease contains no express delegation to the Parish Council of the powers of management of the Rural District Council under Part I of the Act of 1899, but the Parish Council has in fact carried out the day-to-day management of the land. Indeed, it could be said that the Rural District Council has debarred itself from exercising its powers of management by granting the lease, which contains a covenant for quiet enjoyment. However, I have come to the conclusion, not without some hesitation, that it would not be right to regard the lease as an implied delegation of the powers of the Rural District Council under the Act of 1899. In my view, for there to be an effective delegation of statutory powers there must be, if not a formal document under seal, at least an express resolution by the delegating authority referring to its statutory powers: cf. Manwaring v. Billington, [1952] W.N.467.



-2-

For these reasons, since I am not satisfied that any person is the owner of the land, I shall direct the Kent County Council, as registration authority, to register the Maidstone Rural District Council as the owner of the 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 11th day of February 1974.

A handwritten signature in dark ink, appearing to read 'G. S. Lamb', written in a cursive style.

Chief Commons Commissioner