



COMMONS REGISTRATION ACT 1965

Reference No. 219/U/4

In the Matter of Chalksole Green, Alkham,
Dover D., Kent

DECISION

This reference relates to the question of the ownership of land known as Chalksole Green, Alkham, Dover District being the land comprised in the Land Section of Register Unit No. VG.119 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 Rev. D.W.J. Sampson in a letter said that he understood that this area of ground had been bequeathed to the Churchwardens of Alkham to be held as a playground, and Alkham Parish Council claimed the land as a village green under their care. No other person claimed to be the freehold owner of the land in question or 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 Dover on 26 November 1974. At the hearing Alkham Parish Council were represented by Mrs J. Warden their clerk; and there also attended the Rev. D.W.J. Sampson (Vicar of Alkham: to speak for Miss Cullen and Mr E. Fox, the Churchwardens of the Parish), Colonel R.J. Cornwall (of Chalksole House: near the southwest corner of the land in question), and Mr R.J. Prescott (of Brackenlea: near the northwest corner of the land).

Mrs Warden, who has lived in the Parish for 8 years, in the course of her evidence produced an Inclosure Award dated 28 February 1849 and held by the Parish Council, and a Tithe Apportionment Award dated 10 February 1842.

The 1849 Award was expressed to be made pursuant to a provisional order dated 26 January 1846 and an Act (the Special Inclosure Act 1846) 9 & 10 Vict. c. 117. It contains an allotment in these words:- "And I declare that the ponds marked A and B on the said map A shall be for ever hereafter left open with free access thereto for the purpose of watering the cattle of such persons as have heretofore been accustomed to use the same And I declare that I have set out and do hereby set out allot and award unto the churchwardens and overseers of the poor of the said parish of Alkham all that piece or parcel of land numbered 62 on the said map A containing one acre and twenty two perches to be held by them and their successors in trust as a place of exercise and recreation for the inhabitants of the said parish and neighbourhood".

There was some discussion as to the identity of the land ("the Unit Land") comprised in this Register Unit, particularly as a large area of land is in this Parish sometimes called "Chalksole Green". Mrs Warden produced the two maps "A" and "B" referred to in



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the 1849 Award. These show that at the time an area of 7 acres 2 roods 38 perches was then known as Chalksole Green, and that the land set out by the above quoted allotment is not the same as ^{of} was any part of this area. With the help of Mrs Warden and others present at the hearing, I identify the Unit Land with the land so allotted, except that the Unit Land omits a small piece (included in the allotment) now the east part of the entrance drive to Chalksole House and some rough open land south of it; it seems that in 1849 this driveway where it joins the public road running along the east side of the Unit Land curved towards the south instead of (as it now does) curving towards the north.

Mrs Warden said (in effect):- The Unit Land is now for the most part scrub land (unsuitable for recreational use) and an eyesore. If the ownership of the Parish Council was established, they would try and look after it.

In my opinion the land which was by the above quoted allotment vested in the Churchwardens and Overseers of Alkham, by section 6(1)(c) and section 67 of the Local Government Act 1894 vested in the Parish Council, and is still so vested.

Mr Sampson said (in effect):- The present Churchwardens do not wish to contest the Parish Council's ownership of the Unit Land or to be involved in any question as to its boundaries. He wrote to the Clerk of the Commons Commissioners because in 1971 or 1972, when the Village was being connected to a main drainage system, the contractor was anxious to find somewhere to deposit the spoil; at the time the Parish Council did not seem inclined to claim any responsibility for the Unit Land, so the Churchwardens thinking it would improve the Unit Land if one of the ponds on the Unit Land was filled up, gave permission for this to be done.

Mr Prescott raised a question as to the exact line of the west boundary of the Unit Land. As to this:- On the 1849 map and on the map annexed to the application dated 23 August 1968 pursuant to which the Unit Land was registered, the boundary appears to be a straight line; as it does also on the Register map (based on the 1/10,560 O.S. map); however on the enlarged Register map (based on the 1/2500 O.S. map) the north part and the south part of the west boundary appears to be straight lines (which are almost but not exactly in line with each other) and the middle part is not delineated, although the green colouration extends vaguely to the west between the gap between the two straight lines. Mr Prescott produced a conveyance dated 13 January 1939 of land forming part of the Chalksole Green Farm Estate, the plan on which showed the boundary of the land thereby conveyed, where it abutts on the Unit Land, as a straight line.

The description in the Register of the Unit Land may be divided: (i) "known as Chalksole Green" and (ii) "marked with a green verge line". On inspecting the land, I found a hedge, fence or other visible sign on the ground corresponding with the said two straight lines on the enlarged Register map; so the north part and the south part of the west boundary comes within both (i) and (ii), and is I think certainly defined by these visible signs. However I found no visible signs on the ground indicating the middle part of the boundary corresponding with the edge of the green colouration on the enlarged Register map or at all; as regards



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this part there is on such map no green verge or any other line; in my opinion when a description is incomplete in this way the missing part can only be a straight line which will (in this case) join the ends of the other two straight lines. So in the result the west boundary, although not exactly straight is very nearly so, and the ^{part}west of the vague green colouration on the enlarged Register map may be disregarded.

In my opinion the owner of the land comprised in the above quoted 1849 allotment is the owner of the land as it was in 1849 with all such additions and less all such subtractions which by agreement, adverse possession, encroachment or otherwise have subsequently been added to or subtracted from it. So the Unit Land as registered is I think all in the same ownership as the land which is certainly the same as that allotted in 1849, notwithstanding that the west boundary of the Unit Land may have somehow ceased to be exactly straight and that the small piece above mentioned (which includes part of the entrance drive to Chalksole House) has been subtracted from it.

For the reasons set out above, I am satisfied that the Parish Council are the owners of the Unit Land and I shall accordingly direct the Kent County Council as registration authority to register Alkham 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 21st

day of January 1975

a. a. Baden Fuller

Commons Commissioner