



COMMONS REGISTRATION ACT 1965

Reference No. 219/U/1

In the Matter of Coldred Green,
Shepherdswell-with-Coldred, Dover D. Kent

DECISION

This reference relates to the question of the ownership of land of approximately 1.4 acres in extent known as Coldred Green, Shepherdswell-with-Coldred, Dover District being the land comprised in the Land Section of Register Unit No. VG.75 in the Register of Town or Village Greens 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 Mr J.F. Pettit on behalf of his family and himself claimed the land in question; no other person claimed to be the owner of it 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 Shepherdswell-with-Coldred Parish Council were represented Mr N.L. Durbidge; and Mrs E. Manley offered information as to ownership.

Mr Durbidge said (in effect):- The Green had always been maintained by the Villagers themselves. The Parish Council knew nothing of Mr Pettit's claim; they could offer no evidence of ownership, and in view of sub section (3) of section 8 of the 1965 Act, he could not be thought usefully give evidence.

Mrs Manley who has lived at Coldred for the past 56 years, was a member of Dover Rural District Council for 24 years up to 1974, and is and has been a member of the Parish Council for over 10 years, in the course of her evidence said (in effect) She well remembered the old residents having a cow or a horse tethered on the Green; she had always understood that the Green belonged to the Village and that any residents could graze animals there provided they were tethered. For many years the Green had been open for the enjoyment of residents; considerable sums of money had been spent over the years fencing and beautifying it. Before 1963, the Village had no Parish Council, and the improvements to the Green had been controlled by the Parish Meeting; for example, parts of the Green were bulldozed, the Pond was cleaned out, and the post and chain fence was erected. In 1963 the Village merged with Shepherdswell, under the Shepherdswell-with-Coldred Parish Council. Up to last year the cutting of the grass was done voluntarily by the residents; since then the Parish Council have arranged for this. During her 56 years she had come to know farmers and landowners around; none was Pettit.

By section 8 of the 1965 Act I am required to say whether I am or am not "satisfied" that any person is the owner of the Green. Ownership is defined in section 22 (2) as meaning "ownership of a legal estate in fee simple". The only possible ownership which I need to consider is that of the Parish Council, on the basis that the evidence of Mrs Manley shows either (a) that the Green has always been parish property and therefore by operation of law passed in 1894 from the churchwardens and overseers to the body corporate established by the Local Government Act 1894 to hold land of a parish which has no Parish Council, and passed in 1963 from such body corporate to the Parish Council; or (b) that the Parish Council are and they and their predecessors have been in possession. Ownership by a village or by the



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residents of a village is not a form of ownership recognised by law.

If I am so satisfied, I am by sub section (2) of section 8 required to direct the registration of the Parish Council as owners. I find the question arising out of Mrs Manley's evidence of some difficulty. However in the particular circumstances of this case, it seems to be of no practical consequence what answer I give, because I am not satisfied as to the ownership of the Parish Council (there was no evidence on which I could find any other person to be the owner), I am required by sub section (3) of the section to direct the registration of the Parish Council as owner.

On the day after the hearing, I inspected the Green (Mrs Manley invited me to do this). It is a strip of grass land (with a pond) on the south west side of the road going through this small village (or hamlet). For the most part it is surrounded by a post and chain fence, which allows easy access for pedestrians. It, the nearby public house, and ~~the~~ other buildings are attractive, and the whole effect is beautiful. I have no difficulty in concluding that much has been done by the inhabitants of the village to put and keep the Green in order. Nevertheless it seems to me that the evidence of Mrs Manley as set out above falls short of showing that the Parish Council are the owners within the meaning of this word in the 1965 Act.

For the above reasons I am not satisfied that any person is the owner of the land and I shall accordingly direct the Kent County Council as registration authority to register Shepherdswell-with-Coldred Parish 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

9th

day of December

1974

a. a. Baden Fuller

Commons Commissioner