



COMMONS REGISTRATION ACT 1965

Reference No.19/U/32

In the Matter of Smithers Green,
Hale Street, East Peckham, Kent.

DECISION

This reference relates to the question of the ownership of land known as Smithers Green, Hale Street, East Peckham, being the land comprised in the Land Section of Register Unit No.C.L.53 in the Register of Common Land 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 Malling 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 15th January 1974.

At the hearing the Rural District Council was represented by Mr. F.R. Hetherington, solicitor.

By a conveyance made 30th January 1962 between (1) Arthur Ralph Cook (2) the Rural District Council Mr. Cook, as personal representative of Mr. Ralph Montagn Cook, who was seised in fee simple of the manor of Yalding, conveyed to the Council all, if any, the interest of Mr. R.M. Cook as lord of the manor of Yalding in a strip of land comprising part of the land the subject of this reference. The strip of land in question formed a track giving access from a road known as Smithers Lane to the Council's sewage disposal works. Since the conveyance the Council has constructed a concrete roadway along the strip of land and has used it for access to the sewage disposal works without any adverse claim to the land being made.

Although there seems in 1962 to have been something short of certainty about Mr. R.M. Cook's title to the strip of land, subsequent history indicates to my mind that he was in fact the owner and that the Council acquired the strip by the conveyance.

For these reasons I am satisfied that the Malling Rural District Council is the owner of the strip of land consisting of the concrete roadway and I shall accordingly direct the Kent County Council, as registration authority, to register the Rural District Council as the owner of the land under section 8(2) of the Act of 1965.

In the absence of any evidence as to the remainder of the land comprised in the Register Unit I am not satisfied that any person is the owner of that land and it will therefore remain subject to protection under section 9 of the Act of 1965.



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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 black ink, appearing to read 'G. D. L. Phillips', written in a cursive style.

Chief Commons Commissioner