



COMMONS REGISTRATION ACT 1965

Reference No. 30/U/13

In the Matter of the Village Green
at Thorpe-by-Water, Uppingham R.D.,
Rutland

DECISION

This reference relates to the question of the ownership of land known as the Village Green at Thorpe-by-Water, Uppingham Rural District being the land comprised in the Land Section of Register Unit No. VG.22 in the Register of Town or Village Greens maintained by the Rutland 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 no person claimed to be the freehold owner of the land in question and no 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 Oakham on 9 May 1973. The hearing was attended by Mr. E. B. Northern in person; he resides in Thorpe-by-Water and is a member of the Rural District Council.

The land ("the Unit Land") comprised in this Register Unit was registered by the County Council without application. The registration was made (so I was told by Miss A. Davis who is employed by them as Planning Assistant and who attended to represent them as registration authority) because it was allotted under an Inclosure Award dated 9 June 1854 for the Hamlet of Thorpe-by-Water in these words:- "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 Hamlet of Thorpe-by-Water all that piece or parcel of land numbered 81 on the said map containing five perches being the Village Green set out by metes and bounds to be held by the said Churchwardens and Overseers and their successors in trust as a place for exercise and recreation for the inhabitants of the said Parish and Neighbourhood". The Unit Land is marked on the Register map as a small triangular piece of land contained within a larger piece ("the Triangular Area") being apparently at the junction of three roads (surrounding the Unit Land on all three sides) in the centre of the Village. Miss Davis said it was so marked because it was so delineated on the map annexed to the Award.

Mr. Northern said in effect:- He had known the Triangular Area since 1932. Ever since then it had consisted of (i) a piece of grass land adjoining the north side, (ii) another piece of grass land adjoining the east side, (iii) a road (through the Village) adjoining the south west side, and (iv) another road across the middle (leading to a track on the north east) forming a T junction with the said road (through the Village). So the two pieces of grass land which now appear to be Village Green are not registered as such (appearing on the Register map to be roads) and the Unit Land which is so registered appears to be all or nearly all metalled road.

In the circumstances outlined above, it would (so it seems) be convenient and for the public benefit if the Register could some how be changed so that the Land Section comprised the said two pieces of grass land and none of the metalled road. I have no jurisdiction on this reference or on any other reference which could be made



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to me to direct any such change. No useful purpose would be served by my adjourning the proceedings under the 1965 Act, because the information I now have does not show that anybody else could affect the change easily or without any delay; the power conferred on the County Council as registration authority by regulation 36 of the Commons Registration (General) Regulations 1966, to correct any clerical error is I think inapplicable.

By section 10 of the 1965 Act the registration of the Unit Land is conclusive evidence that it was on 29 April 1968 (the date of registration) a town or village green within the meaning of the Act. Although this result may in the extra ordinary circumstances of this case seem somewhat absurd, I ought I think to inquire into the ownership in the ordinary way.

If the Award had been produced (Miss A. Davis would I think have been able to arrange this without difficulty), and if a representative of the Parish Meeting had attended and established that the Parish Meeting was in possession or had some control of the Unit Land, I might have been satisfied that it was owned by the representative body of the parish of Thorpe-by-Water, being the body corporate mentioned in section 47 of the Local Government Act 1933. But in the absence of evidence as to how the Unit Land apparently regularly allotted for exercise and recreation by the 1854 Award ceased to be used as such I would not I think have been satisfied (even if the Award had been produced and Mr. Northern had given evidence) that the representative body was the owner.

Accordingly upon the above considerations, and in the absence of any evidence, I am not satisfied that any person is the owner of the Unit Land and I shall accordingly direct the Rutland County Council as registration authority to register Uppingham Rural District Council as the owner of the land under section 8(3) of the Act of 1965.

I reached this decision without any regret, because it seems likely that the present confusion has resulted from a resiting of the village green under some informal local arrangement made long ago; the registration of the Unit Land under the 1965 Act and its vesting in the Rural District Council may enable some agreement to be reached which will result in the Register according with the appearance of the Triangular Area.

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 June 1973.

a. a. Baden Fuller

Commons Commissioner