



In the Matter of Kenilworth Common, Kenilworth
Warwickshire

DECISION

This reference relates to the question of the ownership of land known as Kenilworth Common, Kenilworth, being the land comprised in the Land Section of Register Unit No. CL 33 in the Register of Common Land maintained by the Warwickshire 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 Warwick 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 Leamington Spa on 8 December 1982.

At the hearing the Warwick District Council was represented by Miss J Doran, its Deputy Secretary, and the Kenilworth Town Council by Mr H L G Sunley, the Town Clerk.

Miss Doran claimed that the District Council had acquired a possessory title to the land. In support of this claim she called Mr Sunley, who has known the land since 1949. It did not, however, appear to me that Mr Sunley's evidence was sufficient to support a possessory title.

Miss Doran also produced bye-laws made by the District Council and confirmed on 23 June 1977 under Sections 12 and 15 of the Open Spaces Act 1906 with respect to the land. Section 15 contains the general power to make byelaws under the Act, but Section 12 is only applicable to open spaces and burial grounds which may be vested in a local authority in pursuance of any other statute or of which the authority is otherwise the owner. Since I have to presume that the bye-laws were made lawfully, it follows that the District Council must be the owner of the land, even though Miss Doran was unable to produce any evidence of how it became the owner.

On this evidence I am satisfied that the District Council is the owner of the land, and I shall accordingly direct the Warwickshire County Council, as registration authority, to register the District 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

15th

day of

December

1982

J. S. G. J. J.
Chief Commons Commissioner