



COMMONS REGISTRATION ACT 1965

Reference No 209/U/4

In the Matter of Denbury Green,
Torbryan, Teignbridge District,
Devon

DECISION

This reference relates to the question of the ownership of land containing about $1\frac{1}{2}$ acres known as Denbury Green, Torbryan, Teignbridge District being the land comprised in the Land Section of Register Unit No VG. 9 in the Register of Town or Village Greens maintained by the Devon 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 Exeter on 17 November 1977. At the hearing Torbryan Parish Council were represented by Colonel CM Townsend their chairman.

Colonel Townsend said (in effect):- The land is a rough green with roads running across it, situated just south of the Village. By custom the Parish Council have done a certain amount for it, but they cannot put up notices or stop people parking on it because they have no legal authority. They could offer no evidence of ownership and he was agreeable that I should proceed under subsection (3) of section 8 of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Devon County Council, as registration authority, to register Torbryan Parish Council as the owner of the land under section 8(3) of the Act.

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 1977

a. a. Baden Fuller

Commons Commissioner



Mr Reddaway drew attention to some Entries in the Minute Book (pages 79, 80 and 82) relating to the public pathway leading to the Bowling Green.

The land ("the Green") comprised in Register Unit No VG. 16 is on the Register map (based on the OS map) called "Church Green", is on the south side of St Andrews Church in the middle of the Village of Sampford Courtenay, and contains (as I estimate from such map) about $\frac{1}{2}$ of an acre. In the Rights Section of this Register Unit are four Entries of various rights of common over this and other lands.

Mrs Madden drew my attention to 4 Entries in the Minute Book she had produced showing that money was being paid to the Parish Council for trespass to, an encroachment on and a wireless pole on the Village Green (7 May 1900, 29 October 1920, 21 April 1922 and 19 June 1934). She also produced the Parish Council Minute Book from 1930 to 1972 which contains 4 Entries (28 March 1938, 21 December 1949, 20 September 1962, and 4 September 1967), all expressly or impliedly assuming Parish Council ownership.

Rev D Bickerton who is the incumbent of the Parish of Sampford Courtenay produced a copy of the Tithe Award dated 7 January 1842 which included an Entry described as "Sporting Green", of which the Land Owners were stated to be the "Parish Officers".

It may not matter whether I am or am not satisfied as to the Parish Council's ownership, because if I am not so satisfied (there being no evidence that anyone else could be the owner), I am by subsection (3) of section 3 of the 1965 Act required to direct the registration of the Parish Council as the owner; just as I am by subsection (2) of the section required to direct —→ if I am so satisfied. As regards the VG. 15 Land, in my opinion the evidence given as summarised above falls short of establishing the Parish Council's ownership; my opinion receives some support from the 1842 Award in that the VG. 15 Land (unlike the The Green) was therein described as being in the ownership of John Wills; I am therefore not satisfied that any person is the owner of the VG. 15 Land and I shall accordingly direct the Devon County Council as registration authority to register Sampford Courtenay Parish Council as owners of the land under section 8(3) of the Act of 1965. On the evidence summarised above I am satisfied that the Parish Council are the owners of the Green either as successors of the Parish Officers mentioned in the 1842 Award and/or as having been and now being in possession, and I shall accordingly direct Devon County Council as registration authority to register Sampford Courtenay Parish Council as the owners of The Green 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 9th day of December —

1977

a a Baker *Baker*

Commons Commissioner