



COMMONS REGISTRATION ACT 1965

Reference No.37/U/19

In the Matter of Turner's Green,  
Warbleton, East Sussex.

DECISION

This reference relates to the question of the ownership of land known as Turner's Green, Warbleton, being the land comprised in the Land Section of Register Unit No.CL 56 in the Register of Common Land maintained by the former East Sussex County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

I first heard this matter at Lewes on 29th November 1972. The facts then proved are set out in my decision dated 7th December 1972, in which I stated that I was not satisfied that any person was the owner of the land in question.

I have re-opened the matter at the request of the County Council, considering that I have jurisdiction so to do, since no person's interests will be prejudiced by my so doing.

In my previous decision I did not decide whether the land the subject of the reference formed part of the highway, having taken a short cut which failed to take account of section 21(2) of the Act of 1965. I accept the contention of Mr Clements on behalf of the County Council that the question in issue cannot be determined without deciding whether the land is part of the highway.

I was assisted at the resumed hearing by an aerial photograph which shows the situation of a pond on the triangle of land. This pond was filled in about 20 years ago. The photograph also shows that the unclassified road along the base of the triangle is a narrow track which gives the impression of having come into existence as a short cut between the two Class III roads and not to be, as is so often the case when two roads meet at an acute angle, a means of enabling vehicles to negotiate the junction at a convenient angle.

It clearly cannot be said as a matter of law that when a triangle of land is bounded on all sides by roads the land is part of the highway. It may be that that is the only inference to draw when the area concerned is very small. Here the area is about 0.26 ac. and the sides of the triangle are about 100 yards, 80 yards and 50 yards. The present topography and the fact that part of the land was formerly occupied by a pond tend to indicate that the triangle of land is not part of the highway. On the other hand, the Ordnance Survey map of 1789 and the tithe map of 1838 both show a wide junction between what are now the two Class III roads with no indication of the existence of an island.

In my view, the proper inference to be drawn in this case is that the island came into existence as the result of the metalling of the Class III



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roads which by channelling the traffic allowed the grass to grow between the metalled areas, accompanied or shortly followed by the making of the unclassified road as a means of access from the farm-house on the south side of the junction to the two Class III roads. On this interpretation of the facts it follows that the grass-grown triangle is still a part of the highway and is vested in the County Council under section 226 of the Highways Act 1959.

I am therefore satisfied that the present County Council is the owner of the land, and I shall accordingly direct the County Council, as registration authority, to register itself 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 16<sup>th</sup> day of December 1974

A handwritten signature in black ink, appearing to read 'G. J. L. Jones', written in a cursive style.

Chief Commons Commissioner