



COMMONS REGISTRATION ACT 1965

Reference No 212/D/103

In the Matter of The Green (two pieces at the junction of Uting Road with the B1019 road), Hatfield Peverel, Braintree District, Essex

DECISION

This dispute relates to the registration at Entry No 1 in the Rights Section of Register Unit No VG15 in the Register of Town or Village Greens maintained by the Essex County Council and is occasioned by Objection No 360 made by Mr E E Winders as clerk of the Hatfield Peverel Parish Council and noted in the Register on 6 April 1971.

The land ("the Unit Land") in this Register Unit comprises: (1) a strip having (as I scale the Register map) a length of about 160 yards and a varying width nowhere more than about 30 yards; and (2) a piece approximately triangular with sides of about 40 yards. The Land Section registration was made on the application of Hatfield Peverel Parish Council. The now disputed Rights Section registration was made on the application of Mr John Upson, and is of a right attached to Ivey Barns Farm to graze 30 animals. The grounds of Objection are: "that the right does not exist at all".

On 24 July 1978 Mr Commissioner C A Settle QC held a hearing at Colchester for the purposes of inquiring into the dispute. There was no attendance at this hearing, but he nevertheless adjourned the proceedings by reason of letters dated 10 and 21 July 1978 from F H Bright & Son, Solicitors of Witham, written on behalf of Mr Upson; they said in effect that there were discussions between Mr Upson and the chairman of the Parish Council.

On 5 October 1978 Mr Chief Commissioner G D Squibb QC held a hearing at Chelmsford for the purpose of inquiring into the ownership of the Unit Land at which Mr Upson was represented by Mr D Bright and the Parish Council were represented by Dr S C P Emerick their chairman. The Chief Commissioner was not satisfied that any person was then the owner of the Unit Land, and in a decision dated 23 October 1978 (reference 212/U/62) said he would direct the registration of the Parish Council as owner under section 8(3) of the 1965 Act. Such direction was given on 9 February 1979.

On 17 October 1978 I held a hearing at Chelmsford for the purpose of inquiring into the said dispute (the hearing adjourned from 24 July 1978). At this hearing Hatfield Peverel Parish Council were represented by Mr Martin Voysey their chairman and Mr E Windus their clerk.

Mr Windus who has lived in the Parish for the last 15 years and has been clerk of the Parish Council since 1967, in the course of his evidence said (in effect):- The two pieces which together make up the Unit Land are grass areas at the junction of the roads out of the Village to Maldon and Uting; the larger piece is kerbed. Brewery Cottage where he lives, overlooks the Unit Land; Ivy Barn Farm is a short distance to the southwest. Mr Upson during the 15 years he had known the Unit Land



- 2 -

had never grazed on the Green; no cattle had been grazed there; during these years the grass was mown under a contract made by the Parish Council. He understood from a councillor who had known the parish for more than 40 years that no one had grazed the green.

On this evidence, and in the absence of any evidence in support of the grazing right claimed, I conclude that the registration now disputed was not properly made, and accordingly I refuse to confirm it.

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 30th — day of November 1979

a. a. Baden Fuller

Commons Commissioner