



COMMONS REGISTRATION ACT 1965

Reference No. 16/U/14

In the Matter of Birch Green
Hertingfordbury, Hertfordshire

DECISION

This reference relates to the question of the ownership of land known as Birch Green Hertingfordbury being the land comprised in the Land Section of Register Unit No. V.G.23 in the Register of Town or Village Greens maintained by the Hertfordshire 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 Hertford Rural 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 Hertford on the 13th April 1972.

On behalf of the Hertford Rural District Council, Mr. E. Mascall gave evidence (which I accept) that the Council has ever since a conveyance dated 6th October 1955 been in possession of the land and that the conveyance (which was produced to me) was held by the Council.

The conveyance was between J. J. W. Salmond ("the Vendor") and the Hertford Rural District Council ("the Council"); it recited that by a vesting deed dated 28th January 1952 the Manors or Lordships of Tewin and Hertingfordbury (including the greens thereafter assured) were conveyed to the Vendor upon the trusts of a trust instrument dated 2nd August 1950, recited who were the trustees, recited that the greens were subject to rights of access as provided by section 193 of the Law of Property Act 1925, recited an order dated 16th October 1930 and made under the section by which conditions and limitations had been imposed regarding the exercise by the public of their rights and recited in the agreement of the Vendor to convey and assign: it was by the conveyance witnessed that the Vendor conveyed to the Council a number of greens therein described one of them being described as Birch Green (which I identify as the same as the land in question in this reference) to the Council in fee simple, subject as mentioned in the recitals.

A copy of the said order of 16th October 1930 was produced to me and evidence given that this copy was a true copy of the original held by the Council. The possession by the Council consisted of arranging for the grass to be mown, attending to trees and drainage work and managing the land generally. Mr. Mascall who had been clerk of the Council since 1st April 1966 and deputy clerk for about 15 years before that, knew of no claim adverse to the Council ever having been made.



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The Hertingfordbury Parish Council who had notice of the hearing did not attend the hearing.

For these reasons I am satisfied that Hertford Rural District Council is the owner of the land, and I shall accordingly direct the Hertfordshire County Council as registration authority, to register Hertford Rural District Council as the owner of the land.

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.

A. A. Baden Fuller

Dated this 28th day of April 1972

Commons Commissioner