



COMMONS REGISTRATION ACT 1965

Reference No 16/U/103

In the Matter of land on east and west sides of Cherry Tree Lane, Wheathampstead, St Albans City and District, Hertfordshire

---

DECISION

This reference relates to the question of the ownership of land on east and west sides of Cherry Tree Lane, Wheathampstead, St Albans City and District being the land comprised in the Land Section of Register Unit No CL. 128 in the Register of Common Land 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 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 Hertford on 7 June 1978. At the hearing St Albans City and District Council were represented by Mr D A Raine solicitor of their Legal Department, and Wheathampstead Parish Council were represented by Mr D R A Whittaker, their chairman.

The land ("the Unit Land") in this Register Unit is (according to the Register map) a strip about 250 yards long from north to south; it extends from the Harpenden-Wheathampstead Road (A 6129) on the north to Leasybridge (over the River Lea) on the south. The made up Cherry Tree Lane runs the length of the Unit Land, somewhat irregularly being nearer sometimes one and sometimes the other side, so that the two pieces of grassland (with some trees) which together make up the Unit Land are of variable width, in places being as much as 40 yards on one side and very narrow on the other.

Mr Whittaker said that the Parish Council maintained the land for many years but they could not at this hearing produce any papers relating to it because their former clerk Mr Hewitt died some weeks ago and the papers in his safe have not yet become available.

Mr R V Sparrow who has lived all his life in the Parish (59 years), is now and has been a member of the Parish Council for 28 years and is now and has been a member of the District Council (St Albans Rural and after them St Albans City and District) for 19 years in the course of his evidence said (in effect):- In addition to his own local experience, he had the benefit of that of his father who was for 45 years a member of the Parish Council. The Unit Land has always been accepted as part and parcel of the Parish's responsibility for maintenance, and this had been accepted by local Cherry Tree residents. The Parish Council had presumed generally that it was Parish Land; although this had been challenged, they had had some correspondence about this with Mr Wheeler a former clerk of the Rural District Council and he had found nothing negative in their claim that it was Parish Land. He understood that the Unit Land does not appear in the deeds



of those who owned the adjoining land, being 8 semi-detached dwelling houses or bungalows on the east side of the Cherry Tree Public House at the northwest corner. The Unit Land is of no monetary benefit to the Parish Council because they had for many years spent money on it in keeping it tidy. If it was not controlled by the Parish Council, it would have become a rubbish dump and a nuisance to the public house and the other houses fronting on it.

Mr Raine said that the papers of the District Council show that Mr Wheeler and Mr Hewitt did in 1969 discuss the position of the Unit Land and also of Marshall Heath (rather similar near by land → on the north side of the A 6129 which is subject to a deed made under section 193 of the Law of Property Act 1925 and of which the Parish Council are now the registered owners). He also produced a letter dated 18 May 1972 from some solicitors relating to the houses on the east side of the Unit Land apparently written on the basis that the title deeds to ~~the~~ these houses left the ownership of the Unit Land in doubt.

There is I think no reason why I should not give full effect to the evidence of Mr Sparrow whose knowledge of the Unit Land goes back for so many years, notwithstanding that the Parish Council have produced no documents, and conclude as I do that the Parish Council are in possession of it in circumstances which makes it practically certain that their possession will not be disturbed. Possession in such circumstances is equivalent to ownership, and I am therefore satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Hertfordshire County Council as registration authority, to register Wheathampstead Parish 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 26<sup>th</sup> day of June — 1978

a. a. Baden Fuller

Commons Commissioner