



In the Matter of Elvington Village Green, Elvington,  
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Elvington Village Green, Elvington, being the land comprised in the Land Section of Register Unit No. VG.39 in the Register of Town or Village Greens maintained by the North Yorkshire 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 the Elvington Parish 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 York on 25 July 1984. At the hearing the Parish Council was represented by Mr A J Mellors, its Clerk, and Mr G K Todd appeared in person.

Mr Mellors claimed that the Parish Council had a possessory title to the land in question. Mr Mellors has been the Clerk of the Council since 1976, he has lived in the village of Elvington since 1967. He was thus only able to give hearsay evidence about what happened before 1967, there being nothing relating to the land of which he knew in the Minute Books of the Parish Council. The only relevant matters within Mr Mellors' personal knowledge were that in 1977 the Parish Council erected a maypole on the land to celebrate the Queen's Silver Jubilee, about three years ago the Parish Council renewed a seat which had been on the land when Mr Mellors first knew it in 1967, and from time to time applications to use the land have been made to and granted by the Parish Council.

Although it appears from Mr Mellors' evidence that the Parish Council has been in possession of the land in recent years, that evidence does not cover a sufficiently long period for the title of any other person to have been extinguished under Section 17 of the Limitation Act 1980.

Mr Todd claimed to be the owner of the land as lord of the manor of Elvington. The manor or lordship or reputed manor or lordship of Elvington was conveyed to Mr Todd by a conveyance made 15 August 1980 between (1) Phyllis Myrtle Fairweather and Sir William Tweddle (2) P M Fairweather (3) Geoffrey Kenneth Todd. There was a good root of title in a conveyance made 30 March 1937 between (1) James William Powell, Alexander Ferrier Angus Fairweather and James Powell (2) A F A Fairweather. In addition to his title deeds, Mr Todd also holds court records of the manor back to 1779.

On this evidence I am satisfied that Mr Todd is the lord of the manor of Elvington. What has now to be considered is whether the ownership of the land in question passed to him under the conveyance of 1980.

Neither of the conveyances above mentioned contains any land in its parcels. Therefore if any land passed to Mr Todd, it can only have been by virtue of Section 62(3) of the Law of Property Act 1925, which provides that a conveyance of a manor is to be deemed to include and by virtue of the Act operate to convey with the manor (inter alia) all wastes to the manor appertaining or reputed to appertain, or, at the time of conveyance demised, occupied, or enjoyed with with the same, or reputed or known as part, parcel, or member thereof.



The land in question is waste land in the technical legal sense of that expression, being open and unoccupied. There was no direct evidence before me that the land is situate in the manor of Elvington, because it cannot be assured that the manor is necessarily coterminous with the parish of Elvington. Mr Todd said that there was evidence in a court case of 1724 that the manor was bounded by the parishes, which adjoin the parish of Elvington, but I cannot act upon this without the evidence. However, it is not improbable that the manor comprised the whole of the parish, and I shall proceed to consider the matter further upon that basis.

It is not, however, sufficient for Mr Todd's purpose that the land should be waste land geographically situate within the bounds of his manor. In order for it to have passed to him under the conveyance of 1980 it must have appertained or been reputed to appertain, or, at the time of the conveyance, been demised, occupied, or enjoyed with the manor, or been reputed or known as part, parcel, or member of the manor. There was no evidence directed to any of these matters. Indeed, such evidence as there is indicates the contrary. It does not appear that any application was made to the lord of the manor for consent to the erection of the maypole or the renewal of the seat, nor does it appear that the lord of the manor objected to either of these acts as a trespass on his land. It further appears that there was no local reputation that this land belonged to the lord of the manor, since those who wished to use it applied for permission to the Parish Council and not to the lord of the manor.

I am therefore not satisfied on the evidence that either the Parish Council or Mr Todd is the owner of the land, and I am therefore left with no alternative but to direct the North Yorkshire County Council, as registration authority, to register the Elvington Parish Council as the owner of the land under section 8 (3) 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 31st day of July 1984

  
Chief Commons Commissioner

