



COMMONS REGISTRATION ACT 1965

Reference No. 236/U/82.

In the Matter of How Green,  
Reigate and Banstead Borough,  
Surrey

DECISION

This reference relates to the question of the ownership of land known as How Green, How Lane, Chipstead, Reigate and Banstead Borough being the land comprised in the Land Section of Register Unit No. CL.77 in the Register of Common Land maintained by the Surrey 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 Reigate and Banstead Borough Council said (letter dated 17 December 1975) that they had no deed vesting the land in Banstead Urban District Council (the registration was made on their application) or a predecessor thereof, that the minutes of Woodmansterne Parish Council meeting contained the below quoted 1919 minute and that under the Local Government Act 1933 and the Surrey Review Order 1933, Banstead Urban District Council became the successor authority to Woodmansterne Parish Council. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of enquiring into the question of the ownership of the land at Guildford on 22 May 1978. At the hearing Reigate and Banstead Borough Council were represented by Mr P. D. C. Brown solicitor employed by them.

Mr Brown produced the Minute Book of the meetings from 1894 to 1922 of Woodmansterne Parish Council which for the meeting on 14 July 1919 included the following:- "How Green. The Clerk read a letter from the Clerk of the RDC respecting How Green in which he pointed out that the Green is vested in the Parish Council & that it had power under Sec 12 of the Inclosure Act 1857 to take proceedings against any person depositing tins or other house refuse on the Green. Mr Iles pointed out that this is frequently done and that often there is a bad smell from the House Refuse deposited in the Dell near the gate of the Golf Course. The Clerk was directed to have notices printed and put up offering a reward to anyone who should give such information as will lead to the conviction of any person depositing refuse on the Green. He was also directed from time to time to investigate the state of the Dell mentioned & and if it is in an insanitary condition to call the attention of the Sanitary Inspector to the matter. ..."

Mr Brown said that he had no personal knowledge of the land and after some discussion I gave the Council liberty to send to the office of the Commons Commissioner statements as to the present possession of the land.

On the day after the hearing I inspected the land.

After the hearing I had been sent statements by Mr D. Turner who is now and has been since April 1975 the Council's Area Park Officer (from October 1974 to April 1975 he was assistant) and by Mr J.W. King who is now and has been since April 1974 one of



the Council's assistant Highways Superintendents and who was prior to that from December 1965 to 1974 employed by Banstead Urban District Council from ~~December 1965~~ to 1974 upon duties which included the supervision and maintenance of their land.

The land ("the Unit Land") in this Register Unit is (according to the Register map) made up of two pieces, extending for about 250 yards on opposite sides of How Lane. The piece on the west side of the Lane is approximately triangular (being widest at the north end); the part in front of Rumbow Cottage is mown grass and bounded by white posts; the north part is open grassland with a seat (in memory of Stephen Turner); it is crossed by a private road leading to Chipstead Golf Club; some parts particularly near this road and the part at the south end are rough. The piece on the east side of the Lane is a comparatively ~~lower~~ strip which apart from accessways to the nearby houses ~~were~~ mostly much overgrown with trees and scrub.

The above quoted minute is or maybe some evidence that the Parish Council were in 1919 the owner of the Unit Land, but it is unsatisfactory because I do not know why the RDC thought the Parish Council were the owners, section 12 of the 1857 Act refers to town or village greens (the Unit Land is not under the 1965 Act registered as such), and I cannot say whether the minute relates to all or part only of the Unit Land. By section 8 of the 1965 Act, I am required to say whether I am "satisfied that any person is the owner"; the minute considered in conjunction with the present appearance of the Unit Land leaves me uncertain whether the Parish Council were then considered to be the owners of all or only of some part of the Unit Land.

The statements of Mr Turner and Mr King show that the various parts of the Unit Land ~~had~~ been maintained differently, falls short of showing that the Banstead Urban District Council were ever in possession of all the Unit Land, although they are consistent with the Council having been in possession of parts. The possibility of the Council being the owner of part of the Unit Land was not considered at the hearing, Mr Brown having pointed out that the Unit Land is on the 25 inch OS map marked "HOW GREEN". In reply to a letter dated 1 August 1978 saying that I would adjourn these proceedings if the Council wished to claim that they are the owners of part of the Unit Land (so that further evidence could be given as to this), their director of Administrative & Legal Services said that they have been unable to obtain any further information concerning ownership and maintenance of How Green and that in the circumstances it would seem that the Council will have no alternative other than to rely on Section 9 of the 1965 Act.

In my opinion the evidence (including the statements of Mr Turner and Mr King) falls short of showing that the Council are the owners of all or of any part of the Unit Land and I ~~therefore~~ not satisfied that they are the owners. The absence of any evidence that anyone else could be the owner, I am not satisfied that any person is the owner of the land and it will therefore remain subject to protection under section 9 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



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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 29<sup>th</sup> \_\_\_\_\_ day of September — 1978

*a. a. Baden Fille*

Commons Commissioner