



COMMONS REGISTRATION ACT 1965

Reference Nos. 119/U/1
119/U/2

In the Matters of (1) Upper Green,
and (2) Lower Green, Tettenhall,
Wolverhampton County Borough

DECISION

These references relate to the question of the ownership of lands known as (1) Upper Green and (2) Lower Green, Tettenhall, Wolverhampton County Borough being the lands comprised in the Land Section of Register Units No. VG.1 and VG.2 in the Register of Town or Village Greens maintained by the Wolverhampton County Borough Council ("the Council") of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

After making these references, the Council in a letter dated 20 March 1972 said that Lord Wrottesley may well be the owner as Lord of the Manor of Tettenhall Clericorum and in a letter dated 27 June 1972 said they might be able to establish possessory title. Following public notices of this reference Langley & Wright solicitors of Wolverhampton in a letter dated 12 July 1972 to the Clerk of the Commons Commissioners said that it had always been their understanding that the Upper Green and Lower Green formed part of the waste of the Manor of Tettenhall Regis, that Sir Geoffrey Mander the late Lord of this Manor in 1960 conveyed it to his son Mr. J. G. G. Mander, that old tithe maps in the Lichfield Joint Records Office should show the waste of the Manor that it was possible the Greens were waste of the Manor of Tettenhall Clericorum (not Tettenhall Regis) and that the late Baron Wrottesley who died some seven years ago was the Lord of this Manor. No other person claimed to be freehold owner of the land in question or to have information as to its ownership. No reply was received to a letter written by the Clerk of the Commons Commissioners to Mr. J. G. G. Mander. In reply to a letter written to Lord Wrottesley, his solicitors Frere Cholmeley & Co. of London in a letter dated 21 September 1972 said that their client did not propose to make any claim to either Green.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Stafford on 23 May 1973. The hearing was attended by the Council who were represented by Mr. R. P. H. Brady their solicitor. At his request I heard both these references together.

Mr. Brady who has been the solicitor of the Council since 1970 in the course of his evidence said:- The Upper Green is described in the Register as follows:- "6.96 acres of land known as Upper Green, Tettenhall, as marked with a green verge line on the register map and distinguished by the number of this register unit". The register map has on it an area marked with a green verge line and distinguished by "V.G.1"; wholly within the perimeter of this green verge line is a small rectangular area marked with a black verge line. The small rectangular area is a dwelling house and garden. The remaining land within the green verge line is a well kept and attractive village green situate on either side of the Trunk Road from Newport, Shropshire to the centre of Wolverhampton (part of the A41, Chester to London): apart from this road and other less important roads and tracks crossing it, and a paddling pool (north of the Trunk Road) the remaining land is for the most part grass land with a number of very fine large horse chestnut, beech and other trees. The land is generally fairly level, except where the Trunk Road passes through where it is lower.



The land locally known as Upper Green does not include the dwelling house and garden but comprises only the remaining part of the area marked on the Register map with a green verge line.

On the evidence outlined above, as I construe the Register, the land comprised in the Register Unit No. VG.1 does not include the said house and garden and comprises only the land known as "Upper Green" (as above stated) and marked on the Register maps between the green and the black verge lines. As the Register now stands, the Register Unit is given two different inconsistent descriptions (i) what is "known as Upper Green" and (ii) what is "marked with a green verge line"; in my opinion I can properly reject so much of the description (ii) as includes the house and garden, this being manifestly a false description not affecting the true description (i). I understood from Mr. Brady, that the failure to tint green the black verge line above mentioned was due to a clerical error, which the Council proposed to correct pursuant to the power conferred on them by regulation 36 of the Commons Registration (General) Regulations 1966. It seems to me that any such correction will be in order, but as it has not yet been made I have recorded how I construe the register as it now stands, so that it may be clear that in my view this decision and any direction I may give under it has no application to the said house and garden.

Mr. Brady produced an indenture dated 11 May 1891 by which Mr. J. S. Dumbell conveyed to the Mayor Aldermen and Burgesses of the Borough of Wolverhampton a piece of land ("the 1891 piece") having an area of 6579 square yards. Mr. Brady identified this as a small part of the Upper Green on its south west side adjoining a much larger piece of land (not included in the Upper Green) marked "Allotment Gardens" on the Ordnance Survey map; the 1891 piece was formerly used for allotments but is now overgrown. In 1891 it was outside the Borough of Wolverhampton.

Mr. Brady also produced a conveyance dated 26 March 1934 by which Lloyds Bank Limited conveyed to the Urban District Council of Tettenhall a piece of land ("the 1934 piece") coloured pink on the plan annexed. He identified the 1934 piece as another part of the Upper Green, on its north side near a building (not included in the Upper Green) marked "Danes Court Farm" on the Ordnance Survey map. The County Borough Council were the successors in title of all land in this area formerly vested in the Urban District Council under an order made when the functions of the Urban District Council were transferred to the County Borough Council.

Mr. Brady produced a copy of the Byelaws made in 1902 pursuant to a Scheme made under the Commons Act 1899 by the Tettenhall Urban District Council and approved on 22 October 1901 by the Board of Agriculture: the plan annexed to the Scheme shows the land subject to it (except a small boundary adjustment at the west end) as comprising all the land in these two Register Units (VG.1 and VG.2) except the 1891 piece, the 1934 piece, and the roads and tracks and except a narrow strip, being the north west of the two pieces of land into which the land comprised in Register Unit VG.2 is divided by a road.

Mr. Brady said his researches appeared to show that the Upper Green might be or have been within the Manor of Kings - Tettenhall or Tettenhall Regis; and he produced a surrender and admittance dated 16 May 1860 and a deed of enfranchisement dated 12 June 1860 (both relating to the 1891 piece) as showing this; the 1860 enfranchisement recited that the Manor was then held in undivided shares (2/4 ths, 1/4 th and 1/4th). The records of the Council showed that for some years the Council had before lopping any tree on either the Upper Green or the Lower Green, obtained the permission of the



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late Lord Wrottesley, that in and before 1960 such permission has sometimes been given in writing but it was likely that his permission both before and after 1960 had been given verbally.

In view of the permission so given, Mr. Brady hesitated to claim on behalf of the Council that they had a possessory title; moreover any such claim could be regarded as unnecessary, because the Council would obtain a new title under sub-section (3) of section 8 of the 1965 Act if as a result of this inquiry I was not satisfied that any person is the owner.

As regards the 1891 piece and the 1934 piece, on the evidence outlined above, I am satisfied that the Council is now the owner, and I shall accordingly direct the Council as registration authority to register themselves as the owner of the 1891 piece and of the 1934 piece under section 8(2) of the Act of 1965.

As regard the remainder of the lands:- The permissions granted by the late Lord Wrottesley indicate that persons claiming under him might have an interest: there is nothing in the said letter of 21 September 1972 to indicate that the client of the writer is the only person who could so claim. Accordingly although it may be unlikely that any person will ever recover possession from the Council of the remainder of the lands or ever successfully bring any legal proceedings against the Council establishing that he is the owner, I am not satisfied that the Council is the owner. There is no evidence of the ownership of anyone else and accordingly I am not satisfied as to ownership and shall direct the Council as registration authority to register themselves as the owner of all the land comprised in Register Unit VG.2 and of the remaining part of the land comprised in Register Unit VG.1 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 21st day of June 1973.

a. a. Baden Fuller

Commons Commissioner