



COMMONS REGISTRATION ACT 1965

Reference No. 10/D/39

In the Matter of Elm Tree,
Dewlish, Dorset.

DECISION

This dispute relates to the registration at Entry No.110 in the Land Section of Register Unit No.C.L.110 in the Register of Common Land maintained by the Dorset County Council and is occasioned by Objection No.477 made by the County Council and noted in the Register on 11th May 1971.

I held a hearing for the purpose of inquiring into the dispute at Dorchester on 1st March 1973. The hearing was attended by Mrs. M.D. Kraft, the Clerk of the Dewlish Parish Council, which applied for the registration, and by Mr. W.N. Taylor, solicitor, for the Objectors.

The land the subject of this reference is a triangle bounded by county roads on two of its sides. There is no suggestion that it is subject to rights of common, but Mrs. Kraft contended that it falls within the definition of "common land" in section 22(1) of the Commons Registration Act 1965 by being manorial waste. Mr. Taylor, on the other hand, contended that it is excluded from that definition by forming part of a highway.

It is not necessary for me to decide whether the land in question is part of a highway, since I am satisfied on the evidence that it is not manorial waste. This evidence is contained in the Dewlish Inclosure Award made in 1819 under the Act 55 Geo.III, c.21 (private). The land in question is shown on the map attached to the Award as No.55. It appears from the Award that the lord of the manor was the Earl of Ilchester and provision was made for an exchange of lands between the Earl and one John Michel. Among the pieces of land belonging to Mr. Michel to be allotted to the Earl was No.55, described as "Part of Personage Head". Since before the making of the Award this land belonged to Mr. Michel and not to the lord of the manor, it cannot have been manorial waste.

For these reasons I refuse to confirm the registration.

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 **15th** day of March 1973


Chief Commons Commissioner