



COMMONS REGISTRATION ACT 1965

Reference No. 12/D/1

In the Matter of Upper Raypits
Beach, Canewdon, Rochford D.,

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG.3 in the Register of Town or Village Greens maintained by the Essex County Council and is occasioned by Objection No. 54 made by A. Woodford and noted in the Register on 3 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Colchester on 27 February 1975. The hearing was attended by Mr. E.J. Quinnell the chairman of the Canewdon Parish Council and by Miss S. Cameron counsel on behalf of the objector, Mr. A. Woodford.

The land in question is a strip about 2/3rds of a mile in length and comprises land in the ownership of Mr. Woodford adjoining the foreshore and part of the foreshore. In the course of the hearing it emerged that only a small part of this land, namely, a small bay immediately opposite the buildings of Raypits Farm could possibly be regarded as a Village Green. The case in favour of the Registration was that this small bay where the land sloped gently towards the River Crouch, and which was therefore the only reasonably safe place for bathing in the locality, had been used by the inhabitants of Canewdon for the pastime of bathing as of right for not less than twenty years.

Mr. Alfred Walter Bush aged 81 and who had lived at Canewdon for 60 years and who had been a church warden and a parish councilor gave evidence on behalf of the Parish. He spoke of bathing about fifty years ago, in particular of an occasion when the vicar complained that members of the choir and the congregation chose to bathe rather than attend church and of bathing by the girl guides and the children of a Mr. Davis. He himself had never swum and he was last near the land in question about 4 years ago.

Mr. Percy John Perryman aged 54 who had lived at Canewdon for 33 years also gave evidence on behalf of the Council. He went regularly to the bay during a period 20 to 25 years ago with friends and their children who used to swim and at that time he had seen as many as twenty people there at one time. He did not swim but his wife did. He revisited the bay two to six years ago with the grandchildren and his friends.

The history of Raypits Farm is that from 1920 to 1935 it was owned by a Mr. Marriage who sold it to a Mr. Renwick in December 1935. Mr. Renwick went bankrupt in 1940 and in 1941 Mr & Mrs Rankin purchased Raypits Farm from Mr. Renwick's mortgagee. In 1961 the farm was sold to a company in which Mr. Woodford had an interest and in 1964 the company conveyed the farm to Mr. Woodford. Evidence on behalf of Mr. Woodford was given by himself, his wife, Mr. Ernest Baker and Mr. Bartram.



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Mr. Baker was a nephew of Mr. Marriages bailiff and used to visit his uncle during the school summer holidays between the ages of 6 and 14 a period ending shortly before Mr. Marriage sold the farm. He said he and his brother used to go on the beach. He never saw anyone else there and his uncle would not allow anyone else there.

Mr. Bartram was the farm foreman for the Rankins at Raypits from 1941 to 1961; when he came to Raypits he found that the bankrupt Mr. Renwick had left the farm in a derelict condition. He had to fence the farm and in 1941 and 1943 he made roads with rubble from bomb damage at Southend and Poplar and Raypits was then for the first time accessible to motors. He had instruction from the Rankins to prevent trespassers though their employees and friends did use the bay for recreation, as on occasions did the Rankins. He would have turned unauthorised persons off the beach but he had no occasion so to do.

Mr. & Mrs. Woodford when they came to Raypits had two young children aged 3 and 1 and Mrs. Woodford used to take her children to the bay and she and Mr. Woodford were concerned to preserve their privacy in this relatively small area and in 1962 they placed notices to the effect that the bay was private. Visitors who came by car were told that the road was a private road and once this was appreciated there were no more visitors.

In my view the evidence of Mr. Perryman of the use of the bay 20 to 25 years ago is insufficient to establish a user by the inhabitants of Canewdon of the bay for the recreational purpose of bathing still less do his occasional visits in more recent times establish any such user. Furthermore it is clear beyond doubt that any use of Raypits land from the time when Rankin acquired it was not "as of right". For these reasons I refuse to confirm the Registration. It is in my view desirable to mention that Mr. Woodford does not own the foreshore namely that part of the beach which dries out below the High Water Mark at mean High Tide. It would appear that access can be had to the foreshore direct from a public footpath and the public will therefore be able to bathe on the foreshore without trespassing on Mr. Woodford's land.

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

4th

day of

March

1975

Commons Commissioner