



COMMONS REGISTRATION ACT 1965

Reference Nos 16/D/26
16/D/27

In the Matter of Codicote Heath,
Codicote, Hertfordshire.

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.27 in the Register of Common Land maintained by the Hertfordshire County Council and are occasioned by Objection No.76 made by Messrs. Smith Woolley & Co., for and on behalf of the Oxford University Chest and noted in the Register on 24th September 1970 and by Objection No.89 made by Amalgamated Roadstone Corporation Ltd and noted in the Register on 8th October 1970.

I held a hearing for the purpose of inquiring into the disputes at Hertford on 13th March 1973. The hearing was attended by Mr. F.B. Cockburn, solicitor, for the Codicote Parish Council, and by Mr. P.J. Haworth, solicitor, for the Oxford University Chest. Amalgamated Roadstone Corporation Ltd was not represented.

It was admitted on behalf of the Oxford University Chest that the land in question has never been fenced within living memory. The land is at present leased to the tenant of High Heath Farm.

Mr. Cockburn contended that the land is waste of the manor of Codicote, because it is not fenced and it is open to access from four footpaths which cross it.

In my view, any assistance which might be derived from the physical condition of the land is negated by its legal history. In 1810 an Act (50 Geo.III, c.cxv) was passed for dividing, allotting and inclosing the open and common fields, common pastures, and other commonable and waste lands in Codicote, Welwyn and Knebworth. It seems likely that the land now under consideration was at that time waste of the manor of Codicote, for by deed dated 1st May 1803 Simes Hall and a number of other persons had released to Thomas Brand, lord of the manor of Codicote, their rights of common over part of the common or waste known as Codicote Heath. However, in 1819 an award was made under the Act of 1810 by which a small portion of the land in question was allotted as a public gravel pit to be used for the repairs of the turnpike and other public roads and the remainder was allotted to various persons who exchanged their allotments so that the whole of it came to Thomas Brand.

As a result of this transaction Codicote Heath ceased to be waste land of the manor. Whereas formerly Thomas Brand had held it in his capacity as lord of the manor, he now held it under the statutory title which he acquired under the award.

This is sufficient to dispose of the matter. However, even if there



-2-

had been no inclosure award, this land would have ceased to be waste of the manor on 4th August 1938, when Thomas Brand's successor in title, Thomas Walter, Viscount Hampden, conveyed this, with other land, to the Chancellor, Masters and Scholars of the University of Oxford. The conveyance did not include the lordship of the manor, so that any land included in it lost its status as waste of the manor by severance from the lordship: see The Old Ford, Holcombe, Newington, Oxfordshire (1972), 29/D/4.

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 23rd day of March 1973

Chief Commons Commissioner