



COMMONS REGISTRATION ACT 1965

Reference No 216/U/101

In the Matter of land adjacent to
and fronting Woodside Place, Hatfield,
Welwyn Hatfield District, Hertfordshire.

DECISION

This reference relates to the question of the ownership of land adjacent to and fronting Woodside Place, Hatfield, being land comprised in the Land Section of Register Unit No CL 309 in the Register of Common Lane maintained by the Hertfordshire 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 no person claimed to be the freehold owner of the land in question and no one claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Hertford on 1 November 1988. At the hearing the Most Honourable Robert Edward Peter Cecil, Sixth Marquess of Salisbury —————> was represented by Mr Marcus James O'Lone FRICS, land agent of Humberts, Chartered Surveyors of 25 Grosvenor Street, London, W1.

According to the Register map the land ("the Unit Land") in this Register Unit is a strip about 70 yards long, and at its east end about 9 yards wide, its middle a little wider, and its west end tapering to a point. On the south it is bounded by and is open to the north edge of the made up carriageway of (for a short distance) the through road fit for motor traffic from the east to the southwest and (for the remainder) a track providing access to a dwellinghouse, buildings and lands (St Michael's) and to a farm track going northeastwards. The registration was made on the application of "Mr W A Linscott, Woodside Place". I estimate the area of the Unit Land as about 1/15th of an acre.

Mr M J O'Lone who has been an adviser to Lord Salisbury for the last 9 years and been —————> managing his Hatfield Estate for the last 5 years, in the course of his oral evidence described the Unit Land and its surroundings, and produced: (1) a conveyance by way of subsidiary vesting deed dated 18 March 1935 by which Sir Geoffrey Selby Church as vendor conveyed the mansion house and grounds known as Woodside Place, the farmhouse, farm buildings, cottages and lands described in the Schedule thereto as containing 242.186 acres and delineated on the plan thereto annexed and thereon edged red to the Rt Hon Robert Arthur James Gascoyne Cecil MP (then commonly called Viscount Cranborne) as purchaser to be held by him on the trusts declared by a principal vesting



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deed dated 1 January 1926; and (2) a duplicate conveyance dated 21 August 1951 by which the Most Hon Robert Arthur James Marquess of Salisbury as trustee and The Gascoyne Cecil Estates Company as vendor conveyed land containing 9.743 acres as delineated and edged pink on the plan thereon to William Charles Brunt as purchaser.

Mr O'Lone in explanation of the said two conveyances said (in effect):-
The Woodside Estate (as conveyed by the 1935 conveyance) was sold to the Fifth Marquess (then Viscount Cranborne); he sold part of it (by the 1951 conveyance) to Mr Brunt. He (the witness) knew of no (written) record of (what after 1951 happened to) this part, although he understood Mr Brunt sold it to Mr Linscott. The 1935 conveyance plan includes the Unit Land; it is part of "463" and "466". The 1951 conveyance did not include the Unit Land or OS No 832 containing 14.116 acres (on the 1935 conveyance plan "468") which adjoins it on the north and which is still in Salisbury ownership; also in such ownership is "466" (southwest of "468").

Having no evidence as to how the ownership of the Unit Land passed from R A J Fifth Marquess of Salisbury who died in 1972 to the Sixth Marquess for whom ownership was at my hearing claimed, and Mr O'Lone indicating that he thought that someone in the office of the Salisbury London Solicitors could provide such evidence, and it appearing to be likely that such evidence would be simple and could be easily given at the London office of the Commons Commissioners rather than in Hertford, with the consent of Mr O'Lone I adjourned the hearing.

On the day after the hearing I inspected the Unit Land, observing "the drive" below mentioned and the notices advertising "The Woodside Place Country Club". The Unit Land apart from the drive, is a flat area of grass land part of a much larger area mostly very like it, situated at the road junction marked on the Register map; the larger area (including the Unit Land) appears to be a valuable amenity for all who live near it or have occasion to go by it.

After the hearing David Shirley, solicitor of Hatfield acting for the occupier of Woodside Place with a letter dated 17 November sent to the office of the Commons Commissioners, a plan showing "the drive of the property known as Woodside Place" where it crosses the piece of land in question.

After the hearing Frere Cholmeley, Solicitors of London, who act for the Sixth Marquess, sent to the office of the Commons Commissioners the documents listed in the Schedule hereto, in their covering letter dated 27 April explaining that the legal estate in the land in question (the Unit Land) is owned by Lord Salisbury and Viscount Cranborne as bare trustee for Gascoyne Holdings Limited who are beneficially entitled to the land.



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By section 22 of the Commons Registration Act 1965, references in the Act to the owner of any land are references to the ownership of a legal estate in fee simple and to the persons holding that estate. So I must first consider how the legal estate has passed from the Fifth Marquess to whom it was conveyed (he was then Viscount Cranborne) by the March 1935 conveyance produced at the hearing. On 28 March 1972, probate of his will (he died 23 February 1972) was granted to the Sixth Marquess, Richard Edward Osborne Cavendish and the Hon Edward Christian David Cecil. Mr R E O Cavendish died 14 August 1972. By an appointment dated 25 September 1972 the Sixth Marquess and Mr E C D Cecil (commonly called Lord David Cecil), after reciting a contract dated 23 December 1936 by which the Fifth Marquess (then Viscount Cranborne) sold the lands described in the First and Second Schedules thereto to Gascoyne Cecil Estates Company ("GCEC") and reciting the payment on 24 December 1936 of the purchase money under it, appointed the Sixth Marquess and the Hon Robert Michael James Cecil commonly called Viscount Cranborne to be the trustees of the legal estate in the freehold property subject to such contract. To determine the land to which the 1972 appointment is applicable reference must be made to the 1936 contract recited in it.

The First Schedule to the 1936 contract includes two items:-

Plot Nos	Description	Acreage	Tenant
pt. 462, 463, 463c	Woodside Place House, Gardens etc	9.914	Wenlock Lady A
412, 413, 424, 429, 433, 457, 458, pt. 462, 466, 469, 476	Woodland, Woodside	17.839	

I identify these items with the first and third of the five items which make up 242.186 acres specified in the Schedule to the March 1935 conveyance.

In respect of the Unit Land, the March 1935 conveyance Schedule is ambiguous in that on the one hand the land edged red on the plan annexed to it clearly includes the Unit Land, and on the other hand the plot numbers specified in the Schedule to it, particularly the four numbered 466 (1.280), 468 (14.116), 463 (1.468) and 463 (8.246) which are those nearest to the Unit Land are not on the plan delineated as including or as clearly including the Unit Land. As to this possible ambiguity, having regard to: (a) the present appearance of the Unit Land and its surroundings, particularly the nearby distinctly edged roads and tracks, (b) the clear exclusion of the Unit Land from the August 1951 conveyance, and (c) the opinion expressed by Mr O'Lone that the Unit Land is part of numbers 463 and 466, I conclude that the Unit Land did pass under the March 1935 conveyance as being land reputedly part of the last mentioned two numbers and as being land within that edged red on the plan.



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Although the December 1936 contract does not (according to the abstract sent to me) mention any plan either as annexed or referred to, I conclude that the Unit Land was included in it as reputedly part of numbers 463 and 466 particularly mentioned in the Schedule to it.

So after the December 1936 receipt the former Viscount Cranborne (later to become the Fifth Marquess) as fully paid vendor held the Unit Land as part of the property comprised in the December 1936 agreement as bare trustee for GCEC as purchaser and their successors in title. Under the 1972 appointment the Sixth Marquess and the present Viscount Cranborne (E C D Cecil) became the new trustees of this trust and the legal estate passed to them under section 40 of the Trustee Act 1925.

I give no decision as to the "equitable title" of Gascoyne Holdings Limited as successors of GCEC because under sections 8 and 22 of the 1965 Act my jurisdiction is limited to legal estates. But I accept that the documents about the equitable title were properly submitted as necessary for my consideration as possibly affecting the legal estate.

Having in November 1988 held a public hearing, I am not required by the 1965 Act or any regulation made under it to continue the hearing merely because I then said I would adjourn it, if it subsequently appears that such a continuation would serve no useful purpose. The copy documents sent by Frere Cholmley with their April 1989 letter and by them certified as correct, with the oral evidence of Mr O'Lone as above summarised and the absence of any contrary claim for, at or after my November 1988 hearing are enough without any continuation of the hearing to satisfy me that the Marquess of Salisbury and Viscount Cranborne now own the legal estate, and I so decide.

In this decision I express no opinion as to the drive mentioned by Mr D Shirley in his November 1989 letter, because as above stated in these proceedings my jurisdiction is limited to the legal estate in fee simple in the Unit Land and because as I read the letter he is at the most concerned only with their possibly being appurtenant to Woodside Place a right of way over the Unit Land. As a Commons Commissioner I have no jurisdiction to determine any question there may be about this possible right.

Upon the considerations set out above I am satisfied that the Sixth Marquess and Viscount Cranborne are the owners of the Unit Land and I shall accordingly direct Hertfordshire County Council as registration authority to register the Most Hon Robert Edward Peter Cecil Sixth Marquess of Salisbury of Hatfield House, Hatfield, Hertfordshire and the Hon Robert Michael James Cecil commonly called Viscount Cranborne of Cranborne Manor, Cranborne, Dorset as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners 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.



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SCHEDULE
(Documents sent by Frere Cholmeley)

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| - | - | Epitome of title relating to roadside verge adjacent to Woodside Place, Hatfield |
| (1) | 18 March 1935 | Copy conveyance by way of subsidiary vesting deed by Lt-Col Sir Geoffrey Selby Church to Rt Hon Robert Arthur James Gascoyne Cecil (original produced as aforesaid at November 1988 hearing). |
| (2) | SCH1577L
31.7.87 | Abstract of title of the Marquess of Salisbury and Viscount Cranborne and Gascoyne Holdings Ltd to freehold roadside verge adjacent to Woodside Place formerly part of Woodside Place, including:- |
| | | Legal title |
| (a) | 1 January 1926
(Background information) | Abstract of vesting deed between (1) Rt Hon Edgar Algernon Robert Gascoyne Viscount Cecil of Chelwood and Rt Hon Hugh Richard Heathcote Gascoyne Cecil (Lord Hugh Cecil) and (2) Rt Hon Robert Arthur James Gascoyne Cecil (Viscount Cranborne).. |
| (b) | 23 July 1923 | Abstract of statutory declaration by James Crichton McCowan. |
| (c) | 29 August 1947 | Abstract of probate of will of Fourth Marquess of Salisbury (he died 4 April 1947) granted to Most Hon Robert Arthur James Fifth Marquess of Salisbury. |
| (d) | 28 March 1927 | Abstract of probate of will of Fifth Marquess (he died 23 February 1972) granted to Most Hon Robert Edward Peter Cecil Sixth Marquess of Salisbury, Richard Edward Osborne Cavendish and the Hon Edward Christian David Cecil. |



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- (e) 14 August 1972 Copy certificate of death of Richard Edward Osborne Cavendish
- (f) 25 September 1972 Copy appointment between (1) Robert Edward Peter Cecil (the Sixth Marquess) and Hon Edward Christian David Cecil as Appointors and (2) the Sixth Marquess and the Hon Robert Michael James Cecil (Viscount Cranborne) as the New Trustees which after reciting a contract (the Second Contract) dated 23 December 1936 by which the Fifth Marquess (then R A J G Cecil called Viscount Cranborne) sold to Gascoyne Cecil Estates Company ("GCEC") lands described in the schedule thereto and reciting a receipt dated 24 December 1936 for the purchase money payable under such contract it was witnessed that the Appointors appointed the New Trustees to be trustees of the legal estate of the property subject to the Second Contract then remaining to be conveyed to the successors in title of GCEC.
- Equitable title
- (g) 23 December 1936 Abstract of agreement for sale the Hon R A J C Cecil (Viscount Cranborne) to Gascoyne Cecil Estates Company, a private unlimited company, in exercise of powers vested in him by the Settled Land Act 1925 of freehold lands described in First and Second Schedule thereto, with extract from First Schedule (including the two items specified at page 3 of this decision.
- (h) 24 December 1936 Abstract of receipt by Rt Hon Edgar Algernon Robert Gascoyne Viscount Cecil of Chelwood and Lord Hugh Cecil as the trustees for the purpose of the Settled Land Act 1925 of purchase price for property comprised in said abstracted 1936 agreement.
- (i) 29 July 1966 Abstract of special resolution passed at an extraordinary general meeting of GCEC.
- (j) 3 August 1966 Copy conveyance between (1) GCEC, (2) H T Nicholson and C G Brown (Liquidators), (3) E P and M O Cecil (Lord and Lady Cranborne) and (4) Gascoyne Holdings Limited.



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- (k) 15 March 1968 Abstract of order of the High Court of Justice confirming that Gascoyne Holdings Ltd held property vested in it on trust for sale.
- (3) 21 August 1951 Conveyance by Most Hon R A J Marquess of Salisbury and GCEC to William Charles Brunt (original produced as aforesaid at the November 1988 hearing).

Dated the 27th day of June 1989

A. A. Baden Fuller

Commons Commissioner