



COMMONS REGISTRATION ACT 1965

Reference No.25/D/10

In the Matter of a Piece of Land
lying to the West of Geldeston Lodge,
Geldeston, Norfolk (No.1).

DECISION

This dispute relates to the registration at Entry No.2 in the Ownership Section of Register Unit No.C.L.40 in the Register of Common Land maintained by the Norfolk County Council and is occasioned by the conflicting registration at Entry No.3 in the same Section of Register Unit No.C.L.40 of a piece of land lying to the West of Geldeston Lodge, Geldeston.

I held a hearing for the purpose of inquiring into the dispute at Norwich on 22nd June 1972. The hearing was attended by Mr. J.F. Spink, the Clerk to the Geldeston Parish Council, the applicant for the registration, and by Mr. Gerald Draycott, Counsel for Mrs. Majorie Ashfield, who made the conflicting registration.

The land in question lies at the junction of Sandy Lane with the road leading to the church. Its history is somewhat obscure. It is shown on the map attached to the Inclosure Award, where a strip along its southern boundary is indicated as being part of the roadway of Sandy Lane. It appears that in 1962 the Parish Council passed a resolution to clear the brambles and suckers from the land. On the other hand, Mr. Ernest Baldry gave evidence that Mrs. Ashfield had asked him to clear this land six years ago, and Mrs. Ashfield said that she had seen that the cart tracks on the land were kept clear, because she thought that she owned it as manorial waste.

Mr. Spink contended that when the highways of the parish were taken over by the Rural District Council under the Local Government Act 1894, this piece of land was left with the Parish Council. It appears to me probable that this land was roadside waste and that the effect of the Act of 1894 was to impose on the Rural District Council the duty under section 26(1) of preventing any unlawful encroachment on it. Be that as it may, I can see no ground for saying that the Parish Council is the owner of a legal estate in fee simple in it.

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 14th day of July 1972


Chief Commons Commissioner