



COMMONS REGISTRATION ACT 1965

Reference No. 25/U/3

In the Matter of Neatherd Moor,
East Dereham, Norfolk

DECISION

This reference relates to the question of the ownership of land known as Neatherd Moor, East Dereham, being the land comprised in the Land Section of Register Unit No. C.L.10 in the Register of Common Land maintained by the Norfolk 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 the East Dereham Urban District Council claimed to be the freehold owner of the land in question and no other person 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 Norwich on 24th February 1972.

The ownership of Neatherd Moor is claimed by the East Dereham Urban District Council as lord of the manor of East Dereham of the Queen, the lordship of which was conveyed to the Council on 18th March 1966. The parcels of the conveyance are confined to the lordship of the manor, but the conveyance would by virtue of s.62(3) of the Law of Property Act 1925 be deemed to include any wastes in the ownership of the vendors. Prima facie the vendors were entitled to the soil of all waste lands within the manor: see Doe d. Dunraven v. Williams (1836), 7 C. & P. 332.

The first matter to be considered is whether Neatherd Moor is parcel of the manor of East Dereham of the Queen, for it appears from the East Dereham Inclosure Act, passed in 1812 (52 Geo. III, c. xxxv) that, in addition to the manor of East Dereham of the Queen, there are two other manors in the parish of East Dereham. No evidence that Neatherd Moor lies within the manor of East Dereham of the Queen was produced to me, and I therefore feel bound to reject the claim made by the Urban District Council as lord of the manor of East Dereham of the Queen.

This, however, does not conclude the matter. Such evidence as there is indicates that Neatherd Moor is not waste of any of the three manors in the parish of East Dereham. By s.26 of the Inclosure Act the Commissioners were required to enquire into, ascertain, and determine the rights of common to which Neatherd Moor was subject immediately before the passing of the Act. This they did in the Inclosure Award, in which they state that the inhabitant or inhabitants for the time being of every ancient messuage or cottage within the parish of East Dereham had or had immemorially been entitled to exercise and enjoy certain rights of pasture described in detail upon Neatherd Moor. That the rights were held by the inhabitants of ancient messuages and cottages in the parish and not by the tenants of any manor indicates that Neatherd Moor was a common belonging to a vill co-terminous with the parish and not to any manor,



a distinction which is drawn in Pate v. Brownlow (1665), 1 Keb.876. There is nothing to indicate in whom the soil of Neatherd Moor was vested, but whatever the ownership may have been before the passing of the Act it remained unaffected by the Act, for s.26 provided that the Commissioners should not have power to divide, allot or enclose Neatherd Moor, which was to remain subject to the pre-existing rights of common.

The position now and for some time past is that no commoners exercise rights of grazing on Neatherd Moor. By a scheme made under the Commons Act 1899 on 2nd February 1910 the management of the Moor was vested in the Urban District Council. From sometime before 1954 until five or six years ago the Council allowed a farmer to graze his cattle on the Moor and received payment from him. Until about six years ago the Council also allowed another farmer to cut the grass for hay and received payment from him. Now the whole of the land is laid out for organized games, but the Council still derives from it some income, which has been paid by the Norfolk County Council for the last ten years for the use of part of the land for school football.

On these facts it appears to me that, whatever may have been the position as to the ownership of Neatherd Moor at the time of the Inclosure Award, the Urban District Council have now acquired a good possessory title to the land.

For these reasons I am satisfied that the East Dereham Urban District Council is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register the East Dereham Urban District Council as the owner of the 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 8th day of March 1972

Chief Commons Commissioner