



In the Matter of Parish Land, Broome, Norfolk

DECISION

This reference relates to the question of the ownership of land known as Parish Land, Broome, being the land comprised in the Land Section of Register Unit No CL 336 in the Register of Common Land maintained by the former 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 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 Norwich on 14 March 1978.

At the hearing the Broome Parish Council was represented by Mr R Sparks, one of its members.

The land in question was allotted by the Inclosure Award made on 23 April 1806 under the Ellingham, Broome, etc. Inclosure Act of 1802 (42 Geo. III, c 28 (private)) to the Surveyors of Highways for the parish of Broome. In the Tithe Apportionment Award made in 1840 it is described as a sandpit and the owners are stated to be the Surveyors of Highways. The Surveyors were also stated to be the owners of a gravel pit. The gravel pit was sold for a school site for £20 in 1874 and the Parish Vestry minute book from 1875 to 1890 contains a number of references to the interest received from the £20.

Mr Sparks argued that this showed that both the gravel pit and the sandpit were parish land and that the sandpit passed to the Parish Council as the successor of the Vestry.

In my view this argument is unsound. By section 35 of the Local Government Act 1894 the functions of the Surveyors of Highways were transferred to the former Rural District Council, and by section 67 of that Act the property passed with the functions. By Section 30 of the Local Government Act 1929 the highway functions of the former Rural District Council were transferred to the former County Council. On this occasion, however, the property did not automatically pass with the functions. It was provided by section 118(1)(b) of the Act of 1929 that if desired by the Rural District Council the County Council should take over any quarry, plant or materials belonging to the District Council in their capacity as highway authority. There being no evidence that the sandpit was taken over by the County Council, it would appear that it passed to the South Norfolk District Council by virtue of the Local Government Act 1972 and the orders made under it.

On this evidence I am satisfied that the South Norfolk District Council is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register the District Council as the owner of the land under section 8(2) of the Act of 1965.



Reference No 225/U/90

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 2nd day of May 1978

A handwritten signature in black ink, appearing to read 'G. L. G. G. G.', written in a cursive style with a horizontal line underneath.

CHIEF COMMONS COMMISSIONER