



COMMONS REGISTRATION ACT 1965

Reference No 225/U/218

In the Matter of Park Fields, Diss
South Norfolk District, Norfolk

DECISION

This reference relates to the question of the ownership of land known as Park Fields, Diss, South Norfolk District, being the land comprised in the Land Section of Register Unit No VG 157 in the Register of Town or Village Greens 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 South Norfolk District Council and Diss Town Council said (their clerk's letter of 14 November 1975) that the land was vested in the District Council, but it was proposed to obtain an order under section 254 of the Local Government Act 1972 by which it would be transferred to the Town Council. No other person claimed to be the freehold owner of the land in question or 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 3 and 4 April 1979. At the hearing on 3 April (1) South Norfolk District Council were represented by Mr B E Partridge Solicitor with the Council (2) Diss Town Council was represented by Mr T J Turner and (3) The Norfolk Society as successors of the Norfolk Association of Amenity Societies on whose application the registration was made, were represented by Mr A R Cartwright. At the hearing on 4 April, Messrs M A King, P H Rollin, R J Butler, and A L Abes as trustees of the Montgomerie Lodge of Freemasons were represented by Mr F H Chenery articled clerk with Manning Rollin & Co, Solicitors of Diss.

The land in this Registration Unit is in the Land Section given two descriptions: "(A) "known as Park Fields in the Urban District of Diss, Norfolk" and (B)" as marked with a green verge line inside the boundary of Sheet No 369 of the Register map ..." Because these two descriptions may not be of the same land, for the purposes of exposition I will call the area within discription (B) "the Map Area".

The Map Area according to the OS map is plots Nos 811 and 812 containing 4.086 and 1.368 acres. The below mentioned conveyances show that the Map Area has been dealt with as four distinct pieces of land: (1) a piece ("the Masonic piece") containing 2 perches situated west of the building on the OS Map called "Unitarian Chapel" (now part of a larger building) and being part of OS No 811, was by a conveyance dated 10 January 1955 conveyed by Rear Admiral A H Taylor with the concurrence of trustees to Messrs H Bardell, A H Bryant, R W Chitty and H Denny; (2) another piece ("The car park piece") containing 2 rods 29 perches and having a frontage of 100 ft to Park Road and being the south and west part of OS No 811.



was by a conveyance dated 15 June 1955 conveyed by Admiral Taylor with the concurrence of trustees to Diss Urban District Council; (3) another piece ("The Mere Piece") containing 1.368 acres, situated on the south-west side of and adjoining the Mere being OS No 812 was with much other land by conveyance dated 22 January 1960 conveyed by Admiral Taylor with the concurrence of trustees to Diss Urban District Council; and (4) the remaining piece ("The Central Piece") being the remainder of OS No 811 was by a conveyance dated 25 May 1961 conveyed by Admiral Taylor to Diss Urban District Council.

Mr Partridge said that the Mere Piece and Centre Piece are both grass areas and that the Car Park Piece, tarmacadam all over, is now used as a car park. He produced the Local Authority etc (Miscellaneous Provision) Order 1977 (SI 1977 No 293) under which "Land known as The Park Fields, Diss" is (among other properties) transferred to Diss Town Council. He conceded that the Order applies to the grassed over areas being the Mere Piece and the Centre Piece, and said (I understood this was agreed by Mr Turner) that it did not apply to the Car Park Piece.

As regards the Masonic Piece, Mr Chenery produced an appointment of new trustees dated 22 March 1977 under which Messrs King Rollin, Butler and Abes were appointed new trustees to the 1955 conveyance in the place of Messrs Bardwell and Bryant who had died and of Messrs Chitty and Denny who retired. Mr Chenery who is 31 years of age and lived for the last 20 years at Thrandeston (about 2 miles south of Diss) said that the Masonic Piece has for as long as he remembered it, always had on it an extension of the Hall (formerly the Unitarian Chapel above mentioned).

The information put before me suggests that on 9 January 1970 (the date of registration) the land within description (A) certainly did not include the Masonic Piece and may not have included the Car Park Piece and accordingly the registration is or may be ambiguous in that it is uncertain whether description (A) or (B) should be regarded as decisive. In my opinion such uncertainty should be resolved in accordance with the principles of law associated with the maxim, "falsa demonstratio non nocet"; but because I have no jurisdiction to determine how these principles should be applied in this case, I word the rest of this on the basis that either description may possibly be decisive. However I draw the attention of those concerned to paragraph 36 of the Commons Registration (General) Regulations 1966 under which the County Council as registration authority may correct errors such as are therein mentioned, and I suggest for their consideration that they might conclude that description (B) is mistaken at least as regards the Masonic Piece and possibly also as regards the Car Park Piece. Mr Cartwright explained that although the application for registration bears his signature, he made it on information given to him and (as I understood him) he would have no objection to the exclusion from the registration of the Masonic Piece and possibly also the Car Park Piece.

On the evidence summarised above I am satisfied that Messrs King, Rollin and Mark Butler and Abes are the owners of the Masonic Piece, that South Norfolk District Council are the owners of the Car Park Piece and that Diss Town Council are the owners of the Mere Piece and the Centre Piece, and I shall accordingly in pursuance of Section 8(2) of the Act of 1965 direct Norfolk County Council as registration authority to register Mr Morris Albert King of the White House, Market Weston, Suffolk, Mr Peter Hamilton Rollin of Park House, Mere Street, Diss, Norfolk. Mr Robert James Butler of Pond Farm, Great Glemham, Suffolk and Mr Albert Lloyd Abes



of Fen View, Hinderclay, Suffolk as the owners of so much if any of the land in this Register Unit as is in this decision called "the Masonic Piece, to register South Norfolk District Council as the owner of so much if any of the land in this Register Unit as is in this decision called the "Car Park Piece" and to register Diss Town Council as the owner of the remainder (or as the case may be the whole) of the land in this Register Unit.

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 18th — day of May — 1979

a. a. Baden Fuller

Commons Commissioner