



COMMONS REGISTRATION ACT 1965

Reference No. 25/U/24

In the Matter of Sustead Common, Sustead,
Erpingham Rural District, Norfolk

DECISION

This reference relates to the question of the ownership of land known as Sustead Common, Sustead, Erpingham Rural District being the land comprised in the Land Section of Register Unit No. CL.117 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 Sustead Parish Council claimed (letter 24 January 1972) and Erpingham Rural District Council claimed (letter 8 June 1973) to be the freehold owner of the land in question and no other person claimed to have information as to its ownership. The Parish Council relinquished their claim in a letter dated 30 May 1973.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Norwich on 14 June 1973. The hearing was attended by Erpingham Rural District Council who were represented by their clerk, Mr. A. Marson.

Mr. Marson produced an Inclosure Award dated 8 May 1828 which contained an allotment as follows:-

"And we the undersigned set out and allot unto the Surveyors of the Highways in the said parish of Sustead One piece of land lying in the said Parish containing two roods and fourteen perches bounded... and we ratify and declare that the last described allotment is made as and for a public gravel pit and to the intent that the same allotment shall for ever hereafter be used by the Surveyors of Highways and the proprietors of lands and estates within the said parish of Sustead and their tenants for the time being".

The 1828 Award was made under the Felbrigg, Aylmerton, Metton, Sustead and Gresham Inclosure Act 1825 (6. Geo.4 cap.cxxxvi). By section XXI of this Act: "... the said Commissioners shall assign, set out, and allot unto the respective Surveyors of the Highways within the said Parishes of Felbrigg, Aylmerton, Metton, Sustead and Gresham, such Parts of the Commons and Waste Grounds hereby directed to be divided and allotted as the said Commissioner shall think necessary, as and for public Watering Places for Cattle, and as are for public Sand, Gravel, Clay, Chalk, and Marl Pits, or any of them; and the same Allotment or Allotments when so set out, shall for ever thereafter be used by the respective Surveyors of the Highways and by the Proprietors of Lands and Estates within the said Parishes of Felbrigg, Aylmerton, Metton, Sustead, and Gresham, respectively and their Tenants for the Time being, in such Manner and under such Rules and Regulations as the said Commissioners shall by their Award direct or appoint and not otherwise".

Mr. Marson who has been clerk of the Rural District Council for the last 18 years gave evidence. He identified the land comprised in this Register Unit with that mentioned in the above quoted allotment and delineated on the Award map as "O-2-14. Surveyors". It is now all overgrown and no longer used; it is not large enough for refuse tipping.



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Mr. Marson claimed (rightly I think) that the land passed to the Rural District Council under the Local Government Act 1894 (see Sections 25 and 67). He said it was not taken over by the County Council under the Local Government Act 1929 (see Section 118 relating to transfer of quarries ...). I am accordingly satisfied that the Rural District Council is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority to register Erpingham Rural District Council as the owner of the land under section 8(2) of the Act of 1965.

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

9th

day of

July

1973.

A. A. Baden Fuller

Commons Commissioner