

In the Matter of Swannington Ugate Common, Swannington

DECISION

These references relate to the question of the ownership of land known as Swannington Ugate Common, Swannington being the land comprised in the Land Section of Register Units Nos. CL.138 and CL.184 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 or under the Land Registration Acts as the owner.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Cromer on 30 July 1991 and visited it the same day.

At the hearing the Swannington Parish Council (claimants) were represented by Mrs Mutimer (vice-chairman) and Mrs Claxton (clerk). Mr T Mosedale, solicitor, represented the Registration Authority.

Swannington Ugate Common has been registered as two separate units, one CL.138 described as "Swannington Ugate Common" was registered on 18 April 1968 on the application of the Norfolk Naturalists Trust and one described as "land in addition to Swannington Ugate Common" was registered on 6 June 1968 on the application of Swannington Parish Council by its chairman, Richard Anthony Brooke Winch.

The two register units, however, contain between them a single continuous area of common land known as Swannington Ugate Common and it will be convenient to deal with them together.

The only claimants to ownership were the Swannington Parish Council whose claim is based on acts of ownership. They have no paper title.

Mrs Claxton produced a number of documents, the most important of which, because the oldest, are extracts from the minute book of the Parish Council.

The first reference to Ugate Common is found in the minutes of a meeting held on 27 November 1901 which is worth quoting in full-

"It was agreed that the beck on Ugate Common should be cleaned out, it being understood that where the common is on both sides of the beck the Council will pay the whole costs; but where it forms the boundary the occupier on one side will pay half."

Nothing could be clearer than that on that occasion the Parish Council were acting as an owner.

Later minutes refer among other matters to the prevention of gipsies from remaining on the common of the Parish including Ugate Common and to the payment by the Parish Council for the cleaning of a pond on the common.



Copies of wayleave consents given by the Parish Council were produced for telegraph posts and lines over Ugate Common in 1953, and for electricity posts and lines in 1977, 1984 and 1989.

In 1985 the Parish Council co-operated with the Nature Conservancy Council in notifying Ugate Common as a site of special scientific interest.

It is quite clear from the formal notification documents and subsequent correspondence that the Nature Conservancy Council and the Parish Council were treating the Parish Council as the owner of the common.

In the absence of any evidence to the contrary these documents standing alone would provide a strong claim to the ownership of this land.

But they do not stand alone. The only other possible claimant would be the Lord of the Manor of Swannington. However Mr Richard Anthony Brooke Winch who for some forty years up to 1990 was both Lord of the Manor and Chairman of the Parish Council gave evidence that he made no claim to the ownership of Ugate Common and that all the actions he had done in relation to the common were done not as owner but on behalf of the Parish Council as owners.

On this evidence I am satisfied that the Swannington Parish Council is the owner of Swannington Ugate Common and I shall accordingly direct the Norfolk County Council, as registration authority, to register that Council as the owner of the whole of the land comprised in the land sections of CL.138 and 184 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

13th

day of

September

1991

Peter Landon-Davis

Chief Commons Commissioner