



## COMMONS REGISTRATION ACT 1965

Reference Nos. 34/U/50  
34/U/51  
34/U/52

In the Matters of (1) The Dell,  
(2) The Horse Common, and (3)  
Brakehill Sand Pit, all in Fritton,  
Lothingland R.D., East Suffolk

DECISION

These references relate to the question of the ownership of lands known as (1) The Dell, (2) The Horse Common, and (3) Brakehill Sand Pit, all in Fritton, Lothingland Rural District being the lands comprised in the Land Section of Register Units (1) No.CL.64, (2) No.CL.65, and (3) No.CL.66 in the Register of Common Land maintained by the East Suffolk 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 Fritton Parish Council claimed "beneficial ownership" of the lands in question; no other person claimed to be the freehold owner of any of the lands or to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Halesworth on 4 October 1973. The hearings were attended by Fritton Parish Council who were represented by Mr. D-G. Young articled clerk with Lucas & Wyllys, Solicitors of Great Yarmouth and by Lothingland Rural District Council who were represented by their clerk Mr. R. H. Allen. At the hearing relating to The Horse Common (CL.65) Mr. Young also represented Miss Marian Smith.

At all these hearings evidence was given by Mr. Young (he produced, having obtained it from the Norfolk Record Office, the Bradwell Belton and Fritton Inclosure Award dated 14 July 1814), by Mr. Allen (he has been the clerk of the Rural District Council since 1 January 1965) and as regards The Dell (CL.64) by Mr. I. N. Whittaker (he is Senior Assistant Solicitor in the Clerk's Department of the East Suffolk County Council; he attended all the proceedings at Halesworth, representing his Council as registration authority).

I am giving one decision on all these references because Mr. Young in each case relied on the same allotment in the 1814 Award (made under 49 Geo. 3. cap. lxii).

The Award (Mr. Young said that it was formerly held by Mr. C. T. A. Beevor as chairman of the Parish Meeting, who recently handed it to the Record Office at Norwich) contained an allotment in these words:-

"AND WE the said Commissioners ... do hereby award unto The Surveyors of the Highways of the said parish of Fritton for the time being and their successors the several pieces of land hereafter mentioned being part of the said Common Heaths Marshes Doles and waste lands within the said parish of Fritton in the said map or plan hereunto annexed marked with the following numbers as and for public gravel sand and clay pits to be used in common by the Proprietors of lands and estates in the said parish as well for their own respective uses within the said parish only as



-2-

for the repairs of the public and private roads in the said parish viz. ALL that piece of land No.72 containing by measure one acre two roods bounded by the public road No.1 towards the north and by land herein awarded to Mrs. Elizabeth Turner on the parts of the east south and west AND ALSO all that piece of land No.35 containing by measure one acre three roods and fifteen perches bounded by ... AND ALSO the several pieces of land hereafter mentioned as and for public watering places for cattle viz. ALL that piece of land No.36 containing by measure two roods and twenty four perches bounded by the private road marked D towards the north by the public road No.2 towards the east by land herein awarded to Thomas Farr Esquire and John Baley respectively towards the south and by land herein awarded to John Revell towards the west AND ALSO all ..."

The Dell (CL.64) is irregularly shaped and contains (as I estimate from the Register map) about an acre. It is north of and in two places fronts on the Yarmouth-Beccles road (A.143). Mr. Whittaker said:- It appears to be a deep hole, 30 feet or more below the road (obviously a disused pit), and completely overgrown. On the Ordnance Survey map (on which the Register map is based) it (or the front part of it) is called "THE HOLE". Mr. Allen said:- The back part (usable as a garden or for chickens) was some years ago let by the Rural District Council, and the rent credited for the benefit of the Parish in the Parochial Ledger account; the tenant died a few years ago, and this part has recently been relet with the concurrence of the Parish Council.

The Horse Common (CL.65) is rectangular shaped and contains (as I estimate from the Register map) a little more than  $\frac{1}{2}$  an acre. On the Ordnance Survey map (on which the Register map is based) it is called "HORSE DYKE". It fronts on a public road leading northwards from the A.145. Mr. Young said the land is bounded on the north by a fence separating it from a footpath and private road the ownership of which is claimed by Miss Smith; it is bounded on the south by a similar footpath and private road (not claimed by Miss Smith) and similarly fenced; in the fence separating it from the public road on the east there is a gate; it is used as a playground for children and appears to be well looked after; it is a fairly deep hollow with a still water pond.

The Brakehill Sand Pit (CL.66) is approximately rectangular shaped, and contains (as I estimate from the Register map) about  $1\frac{1}{2}$  acres. On its north side it fronts on the said main road, A.143. Nobody present at the hearing was able to give me a definite description of what it now looks like. Mr. Allen said, having seen it some time ago, he remembered it as waste land with some trees and shrubs in a marked depression.

On the evidence outlined above I am satisfied that the pieces of land numbered 72 and 36 mentioned in the above quoted allotment are the same as Brakehill Sand Pit (CL.66) and the Horse Common (CL.65), and that the piece of land numbered 35 and mentioned in the allotment includes the whole of The Dell (CL.64). The piece numbered 35 also includes I think a plot marked in the Register map as "School" and a plot on one of its sides fronting on the public road and on its other side surrounded by the registered land; as these two plots are not registered, I am not concerned with them. As I read the allotment above quoted, the piece numbered 36 and allotted as a public watering place for cattle, was allotted to the Surveyors of the Highways, as were the pieces allotted for public gravel sand and clay pits.



-3-

By section 25 and 67 of the Local Government Act 1894 (stating their effect shortly) land formerly vested in a highway authority was by the Act vested in the appropriate rural district council for the same purpose as the land would have been held if the Act had not been passed. In my opinion these sections apply to the lands above mentioned and accordingly such lands in 1894 passed to and are still vested in Lothingland Rural District Council and are now held by them for the purposes set out in the above quoted allotment or subject to such other obligations or trust as may be applicable by reason of such purposes having become impracticable.

For these reasons I am satisfied that the Council is the owner of the lands, and I shall accordingly direct the East Suffolk County Council, as registration authority to register Lothingland 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 19th day of October 1973.

a. a. Baden Fuller

Commons Commissioner