



COMMONS REGISTRATION ACT 1965

Reference Nos. 225/U/39
225/U/40
225/U/41

In the Matter of (1) the Parish Pit at Blackborough End, (2) the Sand Pit at Tower End, and (3) Parish Pit Corner, Blackborough End, all in Middleton, West Norfolk District, Norfolk

DECISION

These references relate to the question of the ownership of lands (1) known as the Parish Pit at Blackborough End (this land is near the Parish boundary and about a mile to the east of the built up part of Blackborough End); (2) known as the Sand Pit at Tower End (this land is near to and south of the road between Tower End and Middleton), and (3) known as Parish Pit Corner at Blackborough End (this land is at the corner of the road junction near Mitre Farm), all being lands in Middleton, West Norfolk District and being the lands comprised in the Land Section of Register Unit (1) No. CL.235, (2) No. CL.236 and (3) No. CL.237 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 no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at King's Lynn on 11 December 1975. At the hearing Middleton Parish Council were represented by Mrs J Sheldrick their clerk, and Norfolk County Council as registration authority were represented by Mr H D Thompson.

Mrs Sheldrick provided me with an extract from the Middleton Parish Inclosure Award dated 5 September 1816 which was (so far as relevant) as follows:- "We... allot unto the Surveyors of the Highways in the said Parish and Township of Middleton the three pieces of land next hereinafter described that is to say FIRST one piece marked on the said map...No.30 containing by measure one acre bounded...SECOND one other piece marked on the said map...No.71 containing by measure one acre and one rood bounded...THIRD one other piece marked on the said map...No.49 containing by measure thirty-five perches bounded...AND we do declare that the lands comprised in the said first and second allotments to the said Surveyors are...allotted to them as and for Public sand and Gravel pits and that the land comprised in the said third allotment to the said Surveyors is assigned set out and allotted as and for a Public Watering place for cattle."

Mr Thompson produced from the County Archives the County copy of the 1816 Award (made under the Middleton Inclosure Act 1814; 54 Geo.3.c.lxv), and I was therefore able to verify the above quoted extract, and the correspondence between plots 30, (1a.), plot 71 (1a.lr.) and plot 49 (35p) on the Award plan and the CL.236 land, the CL.235 land and the CL.237 land respectively.



Mrs Sheldrick said (in effect):- She had only just been appointed clerk of the Parish Council, so what she said was based on information received. As long as most people in the Parish could remember, all these lands had been administered by the Freebridge Lynn Rural District Council on behalf of the Parish, and this (apart from the West Norfolk District Council having succeeded the said Rural District Council) is the state of things at the moment. She understood that the District Council claimed the CL.235 and 236 lands (the Pits), but maybe they did not claim the CL.237 land (the Watering Place) as it had not come up for letting. There had been considerable dispute over a number of years as to the boundaries of the CL.235 land (the Blackborough End Stone Pit); the surrounding land had been extensively quarried for the Carrstone there by various concerns. The CL.236 land (the Middleton/Tower End Sand Pit) was not now quarried. The CL.237 land (the Watering Place) is now grassland, called Parish Pit Corner (it is nowhere near the two pits above mentioned), and is not now used for watering cattle.

On the day after the hearing, I inspected all these lands. The boundaries of the CL.237 land (Watering Place) as delineated on the Register map are recognisable and correspond closely with those of plot 49 as shown on the 1816 Award plan, and I conclude therefore that the successors of the Surveyors to which the allotments were made are now the owners. The boundaries of the CL.235 land (the Middleton/Tower End Sand Pit) as delineated on the Register map (approximately a triangle) are also recognisable on the ground; although these boundaries do not correspond closely with plot 30 as shown on the 1816 Award map (a rectangle), I feel no difficulty in concluding that the differences can be explained by accretions and adjustments of boundaries which have happened since the 1816 Award was made and which should not affect its ownership; accordingly as regards this land my conclusion is the same. The boundaries of the CL.236 land (the Blackborough End Stone Pit) as delineated on the Register map are not easily identifiable on the ground, because the surrounding land has been extensively quarried; nor do the boundaries so delineated closely correspond with the boundaries of plot 79 as delineated on the 1816 Award plan. However in the absence of any claim by the owners of the adjoining quarries I consider that the differences (although they may be of some size) may be explained by adjustments of boundaries locally agreed or encroachment, and I reach therefore as regards this land too the same conclusion.

By section 25 of the Local Government Act 1894, rural district councils were made the successors of the highway authority and by section 67, property of the highway authority passed to them. In the absence of any evidence that these lands under the Local Government Act 1929 or otherwise passed to the County Council as highway authority, I conclude that the Rural District Council was before the Local Government Act 1972 the owner of all these lands as successor of the Surveyors of Highways mentioned in the 1816 Award, and that accordingly the ownership is now in the District Council. Notwithstanding the absence of any claim by the District Council to the CL.237 land (the Watering Place), I see no reason for making any distinction between this land and the two Pits.

For the above reasons I am satisfied that West Norfolk District Council are the owners of all the lands, and I shall accordingly direct the Norfolk County Council, as registration authority, to register West Norfolk District Council as the owners 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 21st day of January 1976

a. a. Baden Fuller

Commons Commissioner