



In the Matter of The Saltings, Holme-next-the-Sea, West Norfolk D

DECISION

These disputes relate to the registrations at all the Entries in the three sections of Register Unit No. CL 32 in the Register of Common Land maintained by the Norfolk County Council. As regards the Land and the Rights Sections the disputes are occasioned by the following Objections: (A) Land Section: Objections No. 93 B by Mrs Florence Smith, No. 94 B by Mr F J Smith, No. 96 B by Norfolk Naturalist Trust ("NNT"), all noted in the Register on 10 August 1970, No. 119 B by Mr M H Thursby noted in the Register on 7 September 1970, and No. 271 B by Mr J Osborne-Clarke noted in the Register on 12 October 1970. (B) Rights Section: The four Objections mentioned above and two further Objections, No. 117 B by NNT noted in the Register on 2 September 1970 and No. 272 B made by Mr Osborne-Clarke noted in the Register on 12 October 1970.

As regards the Ownership Section the disputes are occasioned by conflicts between the registration at Entry No. 2 (NNT) and each of the registrations at Entry No. 3 (F J Smith) and Entry No. 4 (Florence Smith).

At the hearing there were the following appearances: Mr R G Needham (Rights Entry No. 1) in person, Mr P Rippon, Solicitor, on behalf of Holme-next-the-Sea Parish Council, Mr G D R Mitchell, Solicitor, on behalf of Thornham Parish Council and of a number of the applicants for registration in the Rights Section, Mr S A Whitteridge, Solicitor for the respective successors to Mrs F Smith, Mr F J Smith and Mr Osborne-Clarke, and Mr A Don, of Counsel, for NNT. Mr A D Bond, Administrative Officer of the Registration Authority, was also in attendance.

NNT claims ownership of the Unit land, apart from relatively small sections referred to below in relation to the ownership disputes. Of the Rights applicants 114 are residents of Thornham, of whom 86 were represented by Mr Mitchell. Agreement has been reached between NNT and the 86 Thornham Rights claimants, for whom Mr Mitchell appears, for the confirmation of their rights modified by the deletion of the right to wildfowl and game, wherever the right is included in the Entries. This was accepted by Mr Whitteridge on behalf of his clients, and a letter from Mr Thursby's Solicitors also intimated his acceptance.

The Agreement also provides for the consolidation into one Entry of a number of duplicated rights, for the substitution of the names of successors to the original applicants and for the insertion in Column 5 of the Rights Section of particulars of the land to which the modified right is attached in all cases where that column is blank. I see no objection to these further modifications in the Rights Section.

Mr Mitchell on behalf of Thornham Parish Council (Rights Entry No. 114) told me that the Parish Council had agreed to the cancellation of its Entry and accordingly I refuse to confirm that registration.

Of the remaining applicants for registration, 28 are also residents of Thornham and were not present or represented at the hearing. The Objectors were content that their Rights should be confirmed subject to the same modifications, so far as applicable, as had been agreed with 86 of the Thornham residents: and I shall confirm their registrations modified by the deletion of any references to wildfowl and game, and, in any case where Column 5 is blank, by the insertion, as the land to which the rights are attached, of the address appearing in Column 3.



This leaves 73 outstanding applicants for registration of Rights, all of whom were residents of Holme-next-the-Sea. 71 of these (Entries Nos. 117 to 188) claim the same Rights over Register Unit CL 132, and I refer to my Decision regarding that Unit (Ref: 25/D/96-102). Mr Rippon, appearing for Holme-next-the-Sea Parish Council, though not for any of the Rights holders, told me that as in the CL 132 case there was general acceptance of deletion of references to wildfowl and game and I shall make that modification in those of 71 registrations where the reference appears. In addition, for the reasons given in my Decision on CL 132, I shall make the further modification that in any case where Column 5 is blank there shall be inserted in that column the address appearing in Column 3 of the Entry.

As regards Entries No. 1 (Mr Needham) and No. 189 (Doris M Hughes) no modifications are involved, so that these registrations will be confirmed without modifications.

In summary, the registrations in the Rights Section (other than at Entry No. 114) are confirmed with the following modifications where applicable: (a) In the case of the Entries by the applicants represented by Mr Mitchell modifications as provided in the draft Agreement produced at the hearing. (b) In the case of all other applicants by the deletion in Column 4 of references (if any) to wildfowl and game and by the insertion in Column 5 if blank of the address appearing in Column 3.

Since rights are being confirmed, the land will continue to be registered as common land and I confirm the registration at Entry No. 1 in the Land Section.

Turning now to the conflicting registrations in the Ownership Section, Mr Don informed me that NNPT (Entry No. 2) accepts the claims to ownership by F J Smith (Entry No. 3) and Florence Smith (Entry No. 4) of the respective parts which they claim. Accordingly I confirm the registrations at Entries No. 3 and No. 4 and modify the Entry at No. 2 by excluding the parts comprised in Entries No. 3 and No. 4.

Mr Don also told me that NNPT no longer claims ownership of the strip of land coloured red on the Register Map which lies to the east of the line LN on that map - this is the line forming the eastern end of the area NNPT which is comprised in Entry No. 3 (F J Smith). Having regard to this disclaimer, it is I think appropriate also to exclude the strip from Entry No. 2. This exclusion will leave the strip with no registered owner and Mr Whitteridge claimed ownership of the strip on behalf of Mrs E F Lumley who, Mr Don said, NNPT is satisfied is the owner. Mr Whitteridge produced examined copies of title deeds on which Mrs Lumley's claim is based, but I do not feel able in the circumstances to determine her claim and, if satisfied, to direct her registration as ownership. The only references concerning the ownership which are before me relate to the conflicts between the NNPT's registration and those of F J Smith and Florence Smith: these conflicts have now been resolved and whilst I think it right in view of NNPT's disclaimer to exclude the red strip from its ownership, I do not have jurisdiction on the present references to determine who is the owner of that strip.



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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

1st

day of

June

1981

L. J. Morris Smith

Commons Commissioner