



COMMONS REGISTRATION ACT 1965

Reference No. 45/U/173

In the Matter of The Low Common,
Austerfield, Doncaster R.D.,
Yorkshire West Riding

DECISION

This reference relates to the question of the ownership of land known as The Low Common, Austerfield, Doncaster Rural District being the land comprised in the Land Section of Register Unit No. CL 343 in the Register of Common Land maintained by the West Riding 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 land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Wakefield on 6 February, 1974. At the hearing Austerfield Parish Council were represented by Mr. W. Duckworth legal executive with Walker & Son, Solicitors of Bawtry.

Mr. Duckworth who is 62 years old, has lived since 1930 at Bawtry (between 2 and 3 miles from Austerfield) and was clerk of the Austerfield Parish Council from April 1947 to June 1970, gave evidence.

The land ("the Unit Land") comprised in this Register Unit has an area (according to the Register) of 0.320 hectares (a little more than $\frac{3}{4}$ of an acre). It is bounded on the west by Low Common Lane, an unmade up cart track, a pleasant walk in the summer but in parts muddy in the winter. The Unit Land is open to the Lane and from it slopes down to the west: its west part is often water logged.

Mr. Duckworth produced a manuscript copy (in a quarto book) of the Austerfield Inclosure Award dated 25 February 1767 and a map of Austerfield (apparently to show the effect of the Award) dated 1769. The copy Award and map are owned by his firm. The Unit Land was not dealt with by the Award; it was shown on the map as open to Low Common Lane (as now) and with a pond on its east part.

Mr. Duckworth also produced the Parish Council Minute Book from 15 March 1936 to 13 September 1962. There were six references in it to the Unit Land. At a meeting in 1949, permission was granted to lay a water main to carry water to an adjoining field on an undertaking to remove the main on demand. At a meeting in 1955, it was agreed that the County Council be approached about the dumping of rubbish, and at a meeting in 1956, the payment of £1. for the removal of the rubbish was approved. At the same and at two subsequent meetings in 1956, arrangements were made for fixing at a cost of £3. 5. 0. a notice board deterring people from depositing rubbish. At a meeting in 1962, the clerk was authorized to write to a person who had deposited concrete blocks on the Unit Land requiring him to remove them and threatening on his



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failure to do this, action under the Litter Act or other appropriate statutory provision.

Mr. Duckworth said that the incidents between 1949 and 1962 above mentioned were within his knowledge as clerk and that the relative minutes were in his handwriting. The concrete blocks were as a result of the letter removed forthwith.

The Unit Land is on the north east of the Village, just off the Bawtry-Thorne road, A.614, and approached by Coronation Avenue. The Parish Council have under consideration the possibility of improving it (it produces no income) by providing a seat and making it convenient for a Sunday walk or for exercising a dog and so forth.

From the evidence outlined above, I conclude that the Unit Land has always been open waste land, that it has at least since 1949 been treated as Parish property, and that accordingly whether or not the Parish Council have a good title as successors of the churchwardens and overseers, they have a good possessory title. For these reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the West Riding County Council, as registration authority, to register austeri Parish 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 1st day of March 1974.

a. a. Baden Fuller

Commons Commissioner