



COMMONS REGISTRATION ACT 1965

Reference No. 234/D/43 to ⁴⁹ 48 CK
inclusive.

In the Matter of Felixstowe Ferry Common
Suffolk Coastal D.

DECISION.

These disputes relate to the registrations at Entry No.1 in the Land Section Entry Nos 1 to 4 inclusive of the Rights Section and Entry No 1 in the Ownership Section of Register Unit No. CL.20 in the register of Common Land maintained by the former East Suffolk County Council and are occasioned by Objections Nos 16 and 17 made by Felix Alan Newson and noted in the Register on 18th August 1970; Objection No.20 made by Felixstowe Ferry Syndicate and noted in the register on 19th August 1970; and Objection No.161 made by Anthony James Ratcliffe and Objection No.160 made by Terance Moore and both noted in the register on 31st July 1972.

I held a hearing for the purpose of inquiring into these disputes at Ipswich on 13th February 1975.

The hearing was attended by

Mr. Philip Lucking, Counsel on behalf of the Felixstowe Ferry Syndicate, Mr. Moore and Mr. Ratcliffe, Mr. Holt, Counsel on behalf of Mr. H.J. Potter, Mrs Tolhurst and Mrs. E.M. Potter, Mr. Matthews the Town Clerk of Felixstowe also representing Suffolk Coastal District Council, Mr. Felix Alan Newson also representing his mother, and Mr. Everett, solicitor on behalf of the Felixstowe Golf Club.

The registrations at Entry No.1 in the Land Section and at Entry No. 1 in the Rights Section were made pursuant to applications by H.J. Potter, Mrs Tolhurst and Ethel Mary Potter and the registration at Entry No.4 in the Rights Section of the register was made by Felix Alan Newson and others. All the Entries in the Rights Section claim grazing rights and the claimants under Entries No.2 and 3 did not appear.

Notwithstanding that by Entry No. 1 in the Ownership Section of the Register the Felixstowe Ferry Golf Club claims ownership of the whole of the land in question and that the Felixstowe Ferry Syndicate have made no claim to ownership of any of the land in question, it was conceded at the outset that the Syndicate are the owners of a part of the land at the North East extremity of the land in question edged red on the plan annexed to this decision (hereinafter referred to as the Syndicate Land). As regards the remainder of the land (hereinafter referred to as the Golf Club Land) save as regards three small pieces of land hereinafter mentioned there is no dispute that



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the land is common land though the rights of Common are not those set out in Entry Nos.1 to 4 in the Rights Section of the Register but are those provided for by an agreement dated 24th January 1936 made between the Golf Club and the Commoners. In these circumstances the contest at the hearing was confined to the Syndicate Land. Mr. Lucking contending that it was not subject to any rights of common and Mr. Holt contending that his clients were entitled to grazing rights on the Syndicate Land. Since for the purpose of the hearing it was conceded that the Syndicate are the owners of the Syndicate Land the onus of establishing grazing rights over that land is in my view lay upon Mr. Holt.

There has not been within living memory, and is not now any physical boundary between the golf club land and the Syndicate Land. Mr. Holt in opening stated that the whole of the land in question had been used for grazing up to 1936 the date of the said Golf Club agreement but that it had not been so used since that date or at any date since the end of the 1939/45 war. He called as witnesses Harold James Potter, Mrs. Tolhurst, Ethel Mary Potter, Joyce Ethel Hounsfield, Mrs Seager and Felix Newson. Mr. Potter whose knowledge of the land went back to 1912 described the land and produced some photographs. The picture of the Syndicate Land which I have as the result of Mr. Potters evidence and that of other witnesses is that to the East of the Ferry Boat Inn there is a patch of grass of the type usually found close to the sea shore and not such as to provide any substantial feed for animals and to the North and West of this patch there is some rougher ground some of which has now been filled in. At very high tides there is some flooding.

Mr. Potters evidence as to grazing was scanty, it was not of any interest to him. He did see a horse belonging to Mr. Aldis on the Syndicate Land and he had some recollection of two or three other horses.

Mrs. Tolhurst was the daughter of the late B.M. Newson who lived at Windsor Cottage and was a Trinity House Pilot and also kept horses and carriages for hire. She spoke of her father grazing from the later 1880's down to 1928 on the whole of the land in question. She also spoke of Mr. Aldis's horse and two ponies he had, for pulling bathing machines, up to about 1930 and of Mr. Edward Newson who had four horses but gave them up before Mr. Aldis and of a Mr. Williams who occasionally brought quite a number of horses from Felixstowe.



Mrs. Tolhurst told me that the grazing of which she spoke would not support a working horse, her father's horses were always fed in their stables and were turned out when not working and the conditions were suitable. Mrs. Tolhurst also spoke of playing on the Syndicate Land as a child. Mrs. E.M. Potter another daughter of G.W. Newson was a party to the Golf Club agreement, she remembered her father cutting some grass on the Syndicate Land for hay and stated that Mr. Aldishorse of which she produced a photograph in the shafts of a carriage, was the last horse to graze on the land.

Joyce Ethel Hownsfield a granddaughter of J.W. Newson spoke of the use of the land by J.W. Newson's ponies and of the grass being cut. She also said "The land was used as if it was course, we used it to play, everybody used it".

Mrs. Seager regarded the Syndicate Land as somewhere where she and others could just go and play. She also remembered that the fair used to come and put their caravans on the Syndicate Land.

Mr. Felix Newson stated that the turning out of animals ceased after the Golf Club agreement because animals would be likely to stray on the Golf Course from the Syndicate Land and the residents did not wish to put their rights under the Golf agreement at risk.

Mr. Luckins called Mr. Brinkley who had lived in the area all his life. He described the land and said that part of the Syndicate Land was inaccessible to animals.

The Syndicate Land I was told was severed from the golf club land in 1951. I have come to the conclusion that the evidence led by Mr. Holt does not disclose the existence of any grazing rights. The lack of any rights to restrict or any actual restriction on the use of the land is in my view consistent with the public having access to the land for themselves and their animals but quite inconsistent with any adjoining land or any individual being entitled to rights of pasture. In so far as horses were turned out the inference which I draw from the evidence is that they were turned out in order to enjoy their freedom rather than remain in their stables and that



being working horses they were assured of their feed in their stables. It is of course the fact that a horse when turned out will eat what he can find but in my view there was no entitlement of any owner of a horse to any feed on the land. Even if the conclusion which I have arrived at as to the existence of any rights of pasture be fallacious no such rights have been exercised since in or about the year 1930 and any such rights must be deemed to have been abandoned.

It was agreed by Mr. Holt and Mr. Everett that these shall be excluded from Entry No 1 in the Land Section, the Sydxicate Land, the land identified on the plan annexed to Mr. Newson's objection No.16 (Mr. Newson's land) so much of the land identified on the plan annexed to Mr. Moores objection No.160 as lies within the Golf Club Land (Mr. Moores Land) and so much of the land identified and the plan annexed to Mr. Ratcliffe's object on No 161 as lies within the golf club land.

For these reasons I confirm the registration at Entry No.1 in the Land Section of the Register with the following modification, namely the exclusion of the Syndicate Land Mr. Newson's Land, Mr. Moores Land ~~and~~ Mr. Ratcliffe's Land. I refuse to confirm the registrations at Entry Nos 2, 3 and 4 in the Rights Section of the Register; and I confirm the registration at Entry No.1 in the Rights Section of the Register with the following modifications, namely that the right of grazing, in common with the other commoners entitled to the benefit of an agreement dated 21st January 1936 made between Rear Admiral Sir Henshaw Robert Russell and others of the ^{one} other part and Stanley Martin of the other part, ^{is} to the grazing rights therein mentioned such rights being currently limited to the grazing of one unshod pony. † I am required by regulation 50(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.....20th.....day of June.....1975.

* and all land within the Register Unit surrounding the Martello Tower identified on Plan B annexed to this amended decision

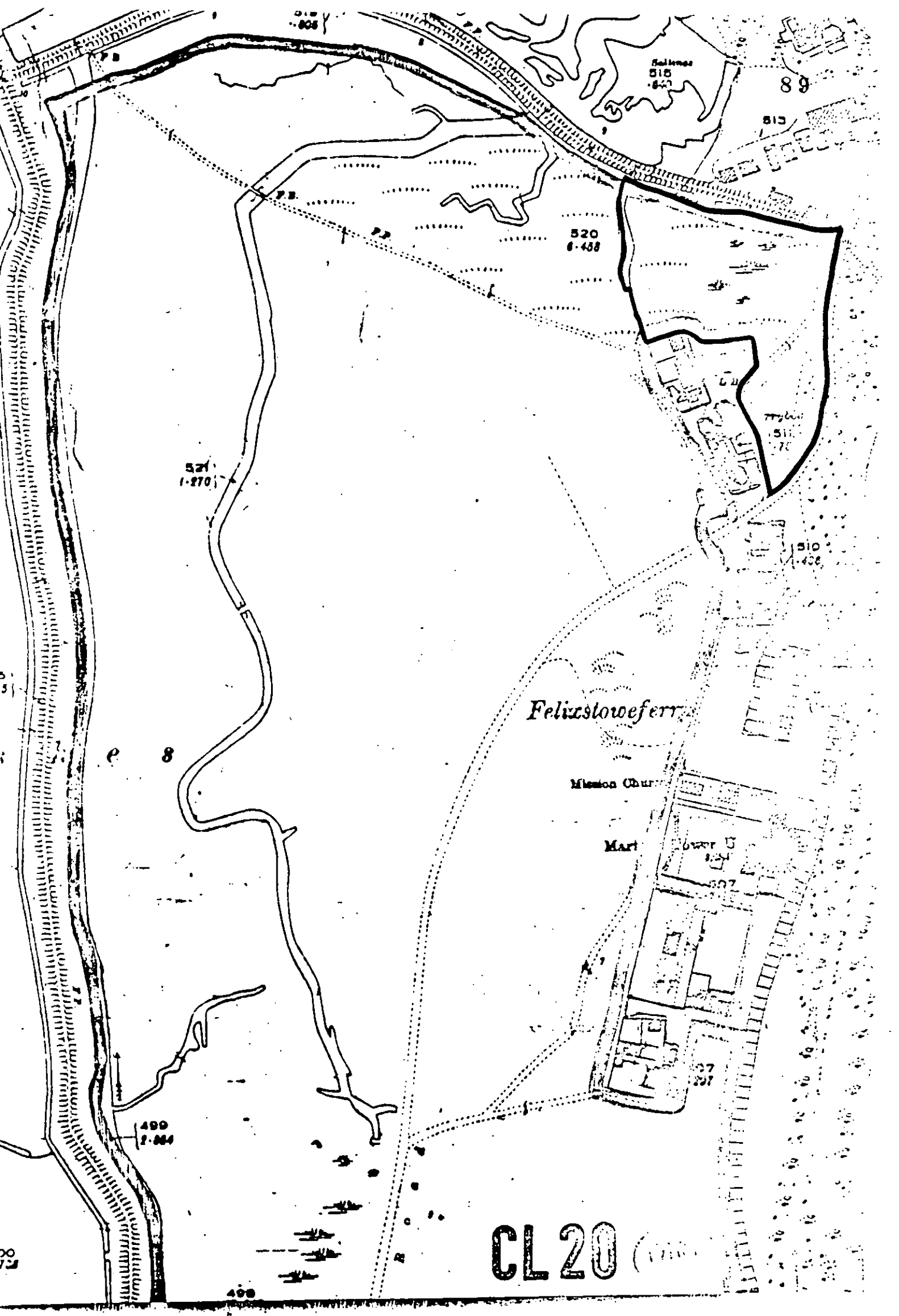
C. A. Lettle

COMMONS COMMISSIONER

+ I confirm the Entry at No 1 in the Ownership Section limited to the land comprised in Entry No 1 in the Land Section as modified

Completed under Regulation 33

C. A. Lettle



Ballmer
515
6-477

89

513

520
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521
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Felixstowe Ferry

Mission Church

Mart

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527

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CL 20

87

499

PLAN
"B"

CL20

90

470
54/58

7-298

Edgley
Green

SE