



COMMONS REGISTRATION ACT 1965

Reference No. 34/U/79

In the Matter of Furse Common (Plot No. 347)  
Blundeston, Waveney D

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DECISION

This reference relates to the question of the ownership of land known as Furse Common (Plot No. 347), Blundeston, Waveney D being the land comprised in the Land Section of Register Unit No. CL. 80 in the Register of Common Land maintained by the Former 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 Blundeston Parish Council and Suffolk County Council each claimed to be the freehold owner of the land in question and no other 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 Ipswich on 20 January 1976.

Mr R Killing of Messrs Howard Killing & Bruce appeared for the Blundeston Parish Council and Mr Whittaker appeared on behalf of the Suffolk County Council.

The Blundeston Inclosure Award allotted to the Surveyors of Highways various gravel, sand and clay pits and watering places as and for public gravel, sand and clay pits and watering places to be used:-

"in common by the proprietors of lands and estates in the said Parish and their respective tenants as well for their own respective uses in the said Parish only as for the repairs of the public and private road in the said Parish".

This allotment was not exclusively for highway purposes and in my view its effect was to constitute the Surveyors and their successors trustees of the lands upon trust for the proprietors of lands and estates and themselves for the purposes mentioned in the allotment.

By Section 25 of the Local Government Act 1894 there were transferred to the District Council all the powers duties and liabilities of any highway authority in the District and Section 67 of that Act provided that:-

"Where any powers and duties are transferred by the Act from one authority to another authority:-

- (1) All property held by the first authority for the purpose of or by virtue of such powers and duties shall pass to and vest in the other authority subject to all debts and liabilities affecting the same
- (2) The latter authority shall hold the same for the estate interests and purposes covenants conditions and restrictions for and subject to which the property would have been held as if this Act had not been passed, so far as the same are not modified by or in pursuance of this Act.



In my view the Surveyors of the Highways held the lands in question by virtue of their duties as such surveyors and the effect of the Local Government Act of 1894 was to vest the lands in the District Council as trustee.

I further take the view that the lands did not pass to the County Council under and by virtue of the Local Government Act 1929. Section 118 of the said Act enables the District Council to require the County Council to take over quarries plant material and depots, a clear indication that such "fringe" assets did not pass by Section 117. As regards the lands in question no such request as aforesaid was made by the District Council. Section 305 of the Local Government Act 1933 defines "Parish Property" as including:

"(b) Land allotted to...a parish (whether in the name of the surveyor of highways or other trustees or generally) for the purpose of the supply of materials for the repair of the public roads or highways in the land and also for the repair of private roads therein or for some other purpose public or private where the materials in the land are exhausted or are not suitable or required and the land is not available for that other purpose."

Evidence was given at the hearing by Mr S J Cooper, Mr L Richmond and Mrs Paul, Clerk to the Parish Council. No evidence was given of any user by the Highway Authority of any of these lands for highway purposes within living memory, and indeed, the only evidence of the user of these lands for the purposes mentioned in the allotment was evidence of some sand being taken from CL. 84 by a builder, Mr Norman with a horse and cart. The circumstance that a horse and cart were employed is an indication that even this very limited user occurred many years ago. The evidence was to the effect that, save possibly CL. 84 the pits and ponds were all exhausted long before 1929.

On this evidence I have come to the conclusion that these lands are "Parish Property" as defined by the Act of 1933, and in my view therefore they are now in the ownership of Waveney District Council as a bare trustee for the Blundeston Parish Council.

On this evidence I am satisfied that Waveney District Council is the owner of the land, as trustee for Blundeston Parish Council. I shall accordingly direct the Suffolk County Council, as registration authority, to register Waveney District Council as the owner of the land under section 8(2) of the Act of 1965, as trustee for Blundeston Parish Council.

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 18<sup>th</sup> day of March

1976

C. A. SeHG

Commons Commissioner



COMMONS REGISTRATION ACT 1965

Reference No 34/U/80

In the Matter of Plough Common,  
Blundeston, Waveney D

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DECISION

This reference relates to the question of the ownership of land known as Plough Common, Blundeston, Waveney D being the land comprised in the Land Section of Register Unit No. CL. 81 in the Register of Common Land maintained by the former 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 Blundeston Parish Council and Suffolk County Council each claimed to be the freehold owner of the land in question and no other 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 Ipswich on 20 January 1976.

Mr R Killie appeared for the Blundeston Parish Council and Mr Whittaker appeared for the Suffolk County Council.

This Reference was argued concurrently with Reference 34/U/79 and my decision on such last mentioned reference is applicable to this Reference.

For the reasons given in my decision on Reference No. 34/U/79 I am satisfied that Waveney District Council is the owner of the land, as trustee for Blundeston Parish Council and I shall accordingly direct the Suffolk County Council, as registration authority, to register Waveney District Council as the owner of the land under section 8(2) of the Act of 1965, as trustee for Blundeston Parish Council.

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 24<sup>th</sup> day of March

1976

Commons Commissioner