



COMMONS REGISTRATION ACT 1965

Reference No.34/D/20

In the Matter of Silverlace Green,  
Benhall, East Suffolk.

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.24 in the Register of Common Land maintained by the East Suffolk County Council and is occasioned by Objection No.77 made by Messrs. A.C. Pepper & Son and noted in the Register on 30th September 1970.

I held a hearing for the purpose of inquiring into the dispute at Ipswich on 2nd May 1973. The hearing was attended by Mr. Foley, solicitor, for the Objectors. There was no appearance on behalf of the Benhall Parish Council (now the Benhall and Sternfield Parish Council), which applied for the registration. However, Mr. A.R. Baillie, the Chairman of the Parish Council sent a letter in which he stated that it is the decided view of the Council that the land in question is the property of the village. He enclosed some papers which he said bore out this contention, but, of course, the question of ownership is not in issue in these proceedings.

The land the subject of this reference consists of two strips on the east and west sides of a road. The parcel of land on the east is hedged and ditched on all sides and is indistinguishable from ordinary permanent pasture. That on the west forms part of a much larger enclosure, from which it is not physically divided. It is ditched and hedged against the road, with an additional post and wire fence on the inside of the ditch, and when inspected by Mr. G.H. Hine, the Principal Assistant Engineer in the East Suffolk County Council's Highways Department, on 19th April 1973 it appeared to be under temporary grass. Both parcels are shown in the Tithe Apportionment dated 30th September 1847 as being in the ownership of John Moseley and in the occupation of William Cupper.

Apart from the statutory declaration made in support of the application for the registration, there is no evidence that this land is common land as defined in section 22(1) of the Commons Registration Act 1965. The statutory declaration does not, however, disclose whether the declarant believed that the land qualified as common land by being subject to rights of common or by being waste land of a manor. The remainder of the evidence indicates that it is neither. It seems to me on the balance of probabilities that this land does not fall within either limb of the definition of "common land".

For these reasons I refuse to confirm the registration.

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 18th day of May 1973

  
Chief Commons Commissioner