



In the Matter of The Broad Swathe,
Great Livermere, Suffolk

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 46 in the Register of Common Land maintained by the former West 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 Ampton Hall Estates ("the Company") and Great Livermere Parish Council each claimed to be the freehold owners of the land in question ("the Unit land") 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 Bury St Edmunds on 6 November 1979.

At the hearing Mr J Weeks, Solicitor, appeared on behalf of the Company and Mr R Dennis Jones, a member of the Parish Council, appeared on its behalf.

The Unit land consists of two strips of land bordering each side of the road, which runs in a south-easterly direction from Great Livermere. On either side of the strips are fields and woodlands forming part of the property known as Street Farm, which was acquired by the Company (then called Cornish Farms Ltd) in 1958. Since then it has been in the occupation of Strutt and Parker Farms Ltd ("SPF") under a tenancy agreement with the Company.

The Company claims ownership by virtue of title acquired by possession, and evidence was given by Mr David Turner a director of the Company, Mr Edward R Cook who lives at Street Farm, which he has known for some 20 years and who has been manager for SPF for ten years, and Mr Arthur E Macbride who worked on the farm until his retirement in 1976. Beet has been cultivated on the farm and when harvested, stored on a concrete pad situated on part of the Unit land: at other seasons manure from the farm is also stored there and occasionally, farm equipment. This pad was constructed some 20 years ago and has since been re-concreted. It is situated on the part of the Unit land which is OS No. 105 on the Register Map and occupies a relatively small area at the northern end of that part.

Apart from the use of the concrete pad, access between the two parts of Street Farm lying on either side of the Unit land has been regularly obtained at various points across the Unit land. Hay growing on the Unit land has been cut, though this has been done more for tidying up purposes than as a crop.

Mr Dennis Jones gave evidence and stated that the Unit land was at one time used by local people for grazing purposes. The Unit land is freely accessible to persons using the road which runs through it.

There was no evidence to support the Parish Council's claim to ownership. As to the Company's claim, the evidence does not in my opinion show adverse possession of the Unit land as a whole, sufficient to establish a possessory title. On the other hand I find that for over 20 years there has been exclusive and adverse possession of the



area on which the concrete pad is situated, and that so far as the possession was that of the tenant, SPF, it operated for the benefit of the Company; see *Andrews v Hailes* 2 EFB 349. Accordingly I shall direct the Suffolk County Council as registration authority to register the Company as the owner of that area under Section 8(2) of the Act of 1965. The direction and consequential registration cannot be satisfactorily framed without adequate identification of the area and for this purpose it seems to me that the best course is for the area of the pad to be agreed between the Company and the Parish Council and marked on a copy of the Register Map, and if this is in due course sent to me, my direction can be given by reference to the marked copy. As regards the remainder of the Unit land, I am not satisfied that any person is the owner, and it will therefore remain subject to protection under section 9 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.

26 November

Dated

1979

L. J. Morris Smith

Commons Commissioner