

COMMONS REGISTRATION ACT 1965

Reference No. 234/U/66

The Matter of the Common, Shotley, Babergh District, Suffolk

DECISION

This reference relates to the question of the ownership of land known as the Common, Shotley, Babergh District being the land comprised in the Land Section of Register Unit No. CL 118 in the Register of Common Land maintained by the 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 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 Ipswich on 3 October 1979. At the hearing Suffolk County Council as registration authority were represented by Mr J W Gibbs and Mr I Rands of the County Secretary's Department.

The land ("the Unit Land") in this Register Unit is a piece approximately triangular, situated near Red House Farm on the north side of a side road which runs eastwards from a point on the Ipswich-Shotley Road (B1456) about a mile southeast of Chelmondiston. It contains (as I estimate from the Register map) a little less than an acre.

Mr Gibbs produced from the County Archives the Tithe Award and Tithe map for the Parish dated 1839. On this map the Unit Land and a much smaller piece on the west (being together I suppose OS No. 3290) are shown as plot No. 10; in the Schedule to the Award this plot is with others listed under the heading "Cottages &c. without Rent Charge", the relevant entry in each column being:- "(Landowner) Parishioneers of Shotley; (Occupation) Themselves; (No. on plan) 10; (Name or description) The Common; (State of cultivation) Pasture; (Quantity A.R.P.) 1.2.3.".

On the day after the hearing, I inspected the Unit Land from the said road and also from the track which runs along and outside its west boundary leading down to Colton Cottage. The Unit Land slopes steeply down towards the north where (at its north end) there is a stream flowing by what is on the Register map apparently a lane or footpath running east—west known as Wash Lane, but which is now much overgrown and not easily walked over. The Unit Land itself appears for the most part to be wet and is very overgrown with trees, shrub, and other vegetation much of its beautiful such as commonly grows on wet land. It appears not to be used for, or to be usable for any purpose.

Although the above extract from the 1839 Award suggests that the Parish Council could prove that the Unit Land has historically been in the ownership of themselves or of the Churchwardens and Overseers as their predecessors, I ought not I think merely on the 1839 Award to conclude that they are now the owners; they might since 1839 have



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ceased to be the owners; further they may not wish to be the owners. If their failure to attend the hearing and offer evidence was an oversight, they can under regulation 21 of the Commons Commissioners Regulations 1971 apply to me to reopen the hearing and set aside this decision. As matters now stand, my decision is that notwithstanding the 1839 Award, I am not satisfied that any person is the owner of the land, 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.

Dated this 15 2~1 - day of Niverby 1979

a.a. Bene Felie

Commons Commissioner