



COMMONS REGISTRATION ACT 1965

Reference No. 34/U/24

In the Matter of Westleton Common,
Westleton, Suffolk Coastal D., Suffolk

DECISION

This reference relates to the question of the ownership of the part ("the specified part") hereinafter defined of the land known as Westleton Common, Westleton, Suffolk Coastal District (formerly Blyth Rural District) being the land comprised in the Land Section of Register Unit No. CL.28 in the Register of Common Land maintained by the Suffolk County Council. The specified part means the part of the said land which is not registered freehold under the Land Registration Acts 1925 to 1971 under Title No. SK11369 and 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 15 May 1974. At the hearing, Westleton Parish Council were represented by Miss G. Houghton, one of their members.

Miss Houghton said that the Parish Council could not offer any evidence of ownership, but following the production of the Tithe award and map she gave evidence as summarised below. After the hearing I inspected the land, it having been agreed that I might do so unattended; however towards the end of my inspection, I met Miss Houghton there, and she cleared up certain points about which I felt some doubt.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register map) about 45 acres. The specified part comprises two comparatively very small pieces; one piece ("the East Piece") is triangular in shape, has sides (as I scale the Register map) of about 45 yards, 45 yards and 35 yards, and is situated on the east side of the Common, southwest of the point where the track leading from Kings Farm enters the Common (from this point the track continues to the north west corner of the Common and then to Bakers Lane and the centre of the Village); the other piece ("the West Piece") is a strip which is (as I scale the Register map) about 50 yards long and about 2 yards wide, which provides access from Mill Street to the rest of the Common up a steep footpath and the lower part of which is ~~on the~~ west of ~~some~~ ^{of some} land now occupied with Bell Cottage and Middle Cottage.

The Unit Land is extensively covered with heather and gorse, is crossed by a motor road running from the centre of the Village on the north towards Minsmere on the south (this road is joined by another motor road from the south west end of the Village) and by numerous tracks and footpaths. In places it is bare ground without any vegetation; in places it appears to have been quarried; in places it is covered by scrub.



-2-

The East Piece is covered by impenetrable scrub about 12 feet high which continues without any apparent boundary across its north side. On or near the west side of the East Piece the ground slopes steeply down to some land (not part of the Unit Land) which apparently belongs to a nearby dwelling house built at a much lower level in (what appears to be) a worked out quarry.

Mr. J. W. Gibbs, Records Officer of the Suffolk County Records Office produced the Tithe Award and Tithe map (dated June 1843) for the Parish of Westleton. The map shows (with the important difference below mentioned) the Common as plot No.710 being much as the Unit Land now is and the adjoining land south of the East Piece and the said nearby dwelling house and west of the said motor road (and of Ralphs Mill) as plot No.706. In the Schedule to the Award plot No.710 is listed as "Common: Pasture: 46. 0. 9.", and with blanks in the columns headed "Landowners" and "Occupiers" and plot No.706 is listed as "Field: Arable: 7. 3. 28.", and with as Landowner "Westle- Parish Churchwardens" and as Occupiers "Brown & Foulsham". There is however this difference the East Piece is on the Award map shown as part of plot 706 (the said field owned by the Westleton Parish Churchwardens) and not as part of plot 710 (the Common).

Miss Houghton said (in effect):- She had always understood that the manorial rights over the Unit Land had been acquired some years ago by Hall & Co. Limited (Gravel Merchants) and that although they or their successors Atlas Aggregates Limited had taken gravel from the west part of the Common, there had been no workings since about 1965. The northern part of the land on the Tithe map marked as plot 706 included some worked out quarries; the remainder of this land (apart from the East Piece) was now cultivated as farmland. She could offer no explanation as to why the East Piece had been included in the Unit Land registered under the 1965 Act and had not been included in the land registered freehold under the Land Registration Acts of 1925 to 1971.

Mr. Gibbs produced the scheme dated 28 June 1915 (approved by the Board of Agriculture on 29 September 1915) and the Byelaws dated 3 January 1916 made for Westleton Common by the Blything Rural District Council under the Commons Act 1899.

The East Piece appears to be valueless and useless land. However, the Tithe Award is evidence that it was in 1843 owned by the Churchwardens, and the land is such that nobody is likely ever to have acquired a title by possession adverse to the Churchwardens or their successors. In the absence of any contrary claim, I conclude that the East Piece is now owned by the Parish Council as successors by operation of law of the Churchwardens.

For these reasons, I am satisfied that the Parish Council is the owner of the East Piece and I shall accordingly pursuant to section 8(2) of the Act of 1965 direct the Suffolk County Council as registration authority to register Westleton Parish Council as the owner of the eastern of the two pieces of land which are comprised in this Register Unit and which are not registered freehold under the Land Registration Acts 1925 to 1971 under Title No.SK.11369.



-3-

At the hearing there was no discussion about the West Piece. I was then under the impression (which was I think probably shared by Miss Houghton) that the East Piece was the only part of the Unit Land with which I was concerned. However, there was at the hearing no evidence as to its ownership, and Miss Houghton confirmed when I met her as above mentioned, that the Parish Council could offer no evidence of its ownership.

For the above reasons, I am not satisfied that any person is the owner of the West Piece and it will therefore be 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 24th day of May 1974.

a a. Baden Fuller

Commons Commissioner