



COMMONS REGISTRATION ACT 1965

Reference No. 212/D/194-197

In the Matter of strip of land part called  
Coney Green and part Long Green in the Parishes  
of Great Bardfield and Bardfield Saling, Braintree D

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### DECISION

These disputes relate to (a) the registration at Entry No. 1 in the "and Section of Register Unit No. CL 77 in the Register of Common Land maintained by the Essex County Council, the subject of three Objections (1) No. 113 by Joseph Smith (Farms) Ltd, (2) No. 122 by E and H Cousins (Farms) Ltd ("Cousins"), (3) No. 507 by E J and M Davidson Trust, which are noted in the Register respectively on 29 October 1970, 29 October 1970 and 21 August 1972; (b) the registration at Entry No. 1 in the Ownership Section, the subject of Objection No. 161 by Cousins and noted in the Register on 29 October 1970.

I held a hearing for the purpose of inquiring into the dispute, at Chelmsford on 21 January 1981. At the hearing Mr W S Crossman, the applicant for the registrations in the land and ownership Sections, was represented by his son, Mr C Crossman and the University of Cambridge, which is successor to E and H Cousins (Farms) Ltd, was represented by Mr D Green of the firm of Taylors, Solicitors, of Newmarket.

The land in question ("the Unit land") is a three-pronged strip: the southern section ("Long Green") runs from north to south and at the northern end of Long Green forks, one section ("Coney Green") continuing to the north and the other ("the Bushett Section") running in a north westerly direction to Bushett Farm. There are no registered rights of common.

Objection No. 113 relates to Long Green and was accepted by Mr Crossman and accordingly I shall exclude Long Green from the registration. Objection No. 507 relates to a small area of Coney Green said in the objection to be the sites of two former cottages owned by the Davidson Trustees. In the absence of any evidence in support of the Objection it does not succeed.

This leaves the two Objections by Cousins which relate to a small area of the Bushett section marked on the plans accompanying the Objection and which I will refer to as "the disputed area". The ground of Objection No. 122 is that the disputed area was not Common Land at the date of registration: the ground of Objection No. 161 is that Mr W S Crossman is not the owner of the disputed area. The University of Cambridge claims to be the successor in title of Cousins to the disputed area.

The strips forming the Unit land are tracks used by walkers and horse-riders, and Mr Crossman's case is that they are waste land of the Manor of Great Bardfield. The lordship of the Manor was conveyed to him by a Conveyance dated 8 December 1964, which was produced: this Conveyance did not in terms include any specific land. The 1842 Tithe Map and Award shows the Bushett section, including the disputed area, as non-titheable.



As regards the University's claim, by a Conveyance on sale dated <sup>and</sup> 28 December 1977 E J and H F Cousins conveyed to the University-Bushett Farms Farms, including land which included an area substantially corresponding with the disputed area. The earlier title deduced by Mr Green consisted of an examined Abstract of a Mortgage dated 4 April 1922 by Guy's Hospital to Alliance Assurance Company of (inter alia) property in the Parishes of Great Bardfield and Little Bardfield, property which included Bushett. A copy of the plan annexed to the Mortgage was not available so that it is not possible to identify whether or not this included the disputed area. It may be noted ~~that~~ from the Recitals in the Mortgage and a Statutory Declaration made in March 1922 that in regard to the Bardfield property trustees for Guy's Hospital were admitted tenants upon the Court Rolls of the Manor and that on the 24 June 1921 the land was enfranchised and conveyed to Guy's Hospital. H F and E J Cousins purchased Bushett and Farms Farms from Guy's Hospital in 1941 and the Conveyance dated the 30 September 1941 included the disputed area.

In my opinion, a good paper title to the disputed area is made out by the University, which is to be preferred to the claim made by Mr Crossman based only on lordship of the Manor. Historically the disputed area may well have been waste land of the manor but on the view which I take of ownership it became severed from the manor and ceased to qualify as common land on the basis of 'wasteland of a manor' (see Re Box Hill Common 1980 *Ch*)<sup>164</sup>). Accordingly the disputed area will be excluded from the registrations.

In the result I confirm the registration in the <sup>4</sup> and Section modified by excluding Long Green and the disputed area: and I confirm the registration in the Ownership Section (which will relate to the land other than Long Green and the disputed area).

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

23 March

1981

*L. J. Harris Smith*

Commons Commissioner