



In the Matter of Three pieces of land at
West Tilbury, Thurrock Borough

DECISION

These disputes relate to the registration at Entry No. 1 in the Land section of Register Unit No. CL 373 in the Register of Common Land maintained by the Essex County Council and are occasioned by Objection No. 515 made by C H Cole and Sons and noted in the Register on 23 August 1972 and by the conflicting registration at Entry No. 1 in the Land section of Register Unit No. VG 205 in the Register of Town or Village Greens maintained by the Council.

I held a hearing for the purpose of inquiring into the disputes at Chelmsford on 29 January 1981. At the hearing Thurrock Borough Council was represented by Mrs R Stewart, Solicitor; the Ramblers Association (the applicant for registration) by Mr R J Carpenter, the Footpaths Secretary of their Chelmsford District; and the Objectors by Mr R Asplin, of the firm of Hatten, Asplin and Co., Solicitors. As appears from my decision in regard to the conflicting VG registration, (Ref: 212/D/151-152), that registration was withdrawn and I refused to confirm it. The ground of the Objection to the CL registration is that the land was not common land at the date of registration. There are no rights of common registered and Mr Carpenter's contention was that the land ("the Unit land") is waste land of a manor.

The Unit land is a strip of land, comprising three ^{narrowly} ~~non-adjacent~~ separated sections, extending from the middle of the village of West Tilbury to just short of St James's Church, and adjoining for most of its length the western side of Church Road.

Mr Carpenter produced extracts from the 1838 Tithe Map and award for West Tilbury from which it appeared that the Unit land was not numbered or subject to tithe. Mr Carpenter also referred me to a Provisional Order of 1892 made by the Board of Agriculture and confirmed by Act of Parliament 1893. This was an Order for the regulation of West Tilbury Commons, which included The Green and certain named Commons in the Parish: these were collectively called in the Order "the common~~s~~", and it was recited that the common is waste land of the manor of West Tilbury. The Green is a triangular area in the village separated by the road from the northern section of the Unit land. The Unit land was not part of the common regulated by the Order. Mr Carpenter also produced copies of pages from the catalogue of the sale in 1931 of the Tilbury Estate: this sale included a lot 17 West Tilbury Hall, a property adjoining on its eastern boundary part of the Unit land. The lot did not include the Unit land but did include the lordship or reputed lordship of the Manor of West Tilbury.

Mr Robert A Briggs a Surveyor in the employ of the Borough Council gave evidence and said that at the time of registration it was considered by the then Council to be common land, not highway; and that the area is maintained by the Purks Department not the Highway Department.

Mr Asplin, without calling evidence, said that the Unit land is all highway over which the public have exercised rights. He pointed out that in the 1893 Order the Unit land was not included in the land regulated as common by the Order.



-2-

Photographs produced by Mr Carpenter support the view that the Unit land is waste land: and the probability, on the evidence, is that it was at one time waste land of the manor of West Tilbury. I do not find that it was highway nor was it claimed to be so by the Highway Authority. However, the relevant part of the definition of common land in Section 22(1) of the Commons Registration Act 1925 is 'waste land of a manor', and it was decided in *Re Box Hill Common* 1980 Ch. 109 that these words do not include waste land which before registration had ceased to be connected with the manor. It appears from the Sale Catalogue that in 1931 the lordship of the manor had been sold together with land which did not include the Unit land, so that the lordship of the manor became severed from the Unit land. In my view therefore it did not qualify as waste land of a manor when it was registered as 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

23 March

1981

L. J. Morris Smith

Commons Commissioner