



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/17.

In the Matter of Felthorpe Common,
Felthorpe, Broadland District, Norfolk.

DECISION.

This reference relates to the question of the ownership of land known as Felthorpe Common, Felthorpe, Broadland District, Norfolk being the land comprised in the Land Section of Register Unit No. CL.167 in the Register of Common Land maintained by the Norfolk 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 the Trustees of the Felthorpe Fuel Allotment in effect claimed the land in question. No other person claimed to be the freehold owner or 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 Norwich on 16 July 1975. At the hearing Felthorpe Parish Council were represented by Mr. J.N. Carter one of their members, and also one of the trustees of the Felthorpe Fuel Allotment Charity. Also present was Mr. F.W. Stannard churchwarden and another of the trustees.

The land ("the Unit Land") comprised in this Register Unit contains about 50 acres and is situate about 1/2 a mile southwest of St. Margaret's Church, Felthorpe.

Mr. Carter in the course of his evidence produced copies of letters from the Charity Commission dated 12 November 1956, 5 November 1969, 29 January 1970, and 14 August 1970, the Minute Book of the Fuel Allotment Trustees, and a copy of the will of William Brereton proved at Norwich Consistory Court on 21 May 1691. The County Council produced the Felthorpe Inclosure Award dated 16 December 1780.

The relevant allotment can be conveniently summarised in the words of the 1834 Commissioners for Inquiring Concerning Charities:- "The Commissioners for the Felthorpe Inclosure by their Award...set out fifty acres to the Bishop of Norwich, Lord of the Manor, the rector, churchwardens and overseers of Felthorpe, in trust for the use of the poor residing in the parish and not occupying land above the yearly value of £3, forty acres thereof to be sown with furze to be cut by the said poor for their firing in such quantities as the Trustees should direct and ten acres to be used in like manner for cutting turves".

The Minute Book recorded the meetings of the Fuel Allotment Trustees from 1923 to date.

Mr. Carter said (in effect):- The Fuel Allotment Trustees administer the Unit Land. He identified it with the 50 acres referred to in the letter he produced. They collect money for the shooting rights.



They own no other land. The Brereton Charity set up by the will above mentioned has a separate Minute Book, but the Trustees have invariably been the same. The Unit Land is of interest to the Norfolk Naturalists' Trust.

The said letters show that under the allotment the Trustees may include the Lords of the Manors of Cossey and Russells, that the Official Custodian holds some investments representing the proceeds of sale of timber from the Unit Land, that the Charity has been registered under the Charities Act 1960, No. 260410, and that there has been some suggestion that a Scheme should be made for its administration.

On the evidence summarised above I am satisfied that the Unit Land is now subject to charitable trust by the 1780 Award declared. However on this reference I am concerned to determine who are the owners of the legal estate in fee simple, see section 22 of the 1965 Act. On the information I have, I cannot name these persons, because I do not know whether the persons now managing the Charity ever acquired such legal estate from their predecessors. Nevertheless, because an identifiable trust should not be prejudiced for want of a trustee, I record that I am satisfied that the Trustees of the said Charity are the owners of the Unit Land, and I shall accordingly under section 8(2) of the Act direct the Norfolk County Council as registration authority to register as the owners of the land the Trustees of the Charitable Trust by an Award dated 16 December 1780 and known as the Felthorpe Inclosure Award, declared concerning the land thereby allotted (being this land) for the use of poor persons residing within the Parish and not occupying lands and tenements of more than the yearly value therein mentioned.

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 21st — day of August 1975.

a. a. Baskin Fuller

Commons Commissioner.