



In the Matter of land west of Geldeston Lodge,
Geldestone, South Norfolk District, Norfolk.

DECISION.

This reference relates to the question of the ownership of land west of Geldeston Lodge, Geldestone, South Norfolk District being the land comprised in the Land Section of Register Unit No. CL.40 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 no person claimed to be the freehold owner of the land in question and Mrs. Marjorie Ashfield of Geldeston Lodge said (a letter from her solicitors) that she accepted the decision of the Chief Commons Commissioner given after a hearing on 22 June 1972 rejecting her claim and the claim of the Parish Council to ownership. No other 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 Norwich on 15 July 1975. At the hearing Geldeston Parish Council were represented by Mr. J. Rous, their clerk.

The land ("the Unit Land") comprised in this Register Unit is a small triangular piece about midway between the A143 road which runs east-west by the Parish Church a little to the north of the Village and the motor road which runs east-west through the Village, more or less parallel with the A143 road. The Unit Land is at a junction of 4 ways, which from their present state and the position of the hedges (in places overgrown) appear at one time to have been more used than now; (1) a track from the Unit Land to the south usable by a motor vehicle and leading to the said Village motor road; (2) a lane (on the map called "Gandy Lane") from the Unit Land to the west, now except near the Unit Land much overgrown with scrub, yet still usable as a footpath; (3) a footpath from the Unit Land to the north leading across fields to the Rectory and the Church; and (4) a lane from the Unit Land to the northeast now impenetrable except possibly on foot with difficulty. East of the Unit Land are the grounds of Geldeston Lodge, and southwest is a dwellinghouse (and garden) called "Farthing Green".

Mr. A.H. Clarke, who is now coming up to 83 years of age, in the course of his evidence said (in effect):- On 1 May 1936 he took possession of the house (Farthing Green) which he had built. After that he kept the Unit Land as a lawn knowing it belonged to the Parish Council, for 20 years; he then sold the house to Mr. Whitlock (he occupied the house for 6-8 years and then it was bought by Mr. Philip Pugh who is now in possession). During the War



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the Military "took possession" of the Unit Land; troops were billeted at Geldeston Lodge and 6 times a day a bus came up and down the lane (from the said Village motor road) to take the troops from Geldeston Lodge (there is still a gate near the Unit Land) for messing purposes.

When asked by me why he though the Unit Land belonged to the Parish Council, he said when you live in a village you know that odd pieces of land must belong to the Parish Council, and that he made up the lane (from the said Village motor road) with the consent of the Parish Council (although he did the paying). He added that local reputation is that the Unit Land used to be the annual hiring place.

Mr. M.H. Dobson, who is vice chairman of the Parish Council, in the course of his evidence said (in effect):- He is a Civil Engineering Labourer, and he had ever since Mr. Pugh came into possession (in about 1960) of the house (Farthing Green) looked after the Unit Land.

Three days after the hearing I inspected the Unit Land. The track from the south crosses over the east part of the Unit Land providing access to the house (Farthing Green); the rest of it including some of Sandy Lane is a well kept piece of grass land, and the general appearance is attractive.

Nobody present at the hearing before me had been present at the hearing in 1972 before the Chief Commons Commissioner. It appears from his decisions dated 14 July 1972 (Reference nos. 25/D/10 and 25/D/11) that at the time both Mrs. Ashfield and the Parish Council were provisionally registered as owners and that he refused to confirm either registration. The file shows that at one time Mr. Pugh was provisionally registered as owner but that this registration was cancelled he having withdrawn his claim.

I am not sure whether I can on this reference made to me under section 8 of the 1965 Act go against a decision given by another Commons Commissioner given on a reference made to him under Section 6 of the Act. However this may be, I am not inclined to do so; the Chief Commons Commissioner considered the relevant part of the 1806 Inclosure Award, the title deeds produced by Mrs. Ashfield, the evidence of the Mr. F. Baldry (Mrs. Ashfield in 1965 asked him to clear the Unit Land believing she owned it as manorial waste), and the contentions of Mr. Spink (the then clerk of the Parish Council); and after observing that the history of the Unit Land was obscure said he could see no ground for saying that the Parish Council was the owner. I find myself in the same obscurity. While odd pieces of land in a village often do belong to the parish council, I cannot go so far with Mr. Clarke as to presume that because the Unit Land is an odd piece it must belong to the Parish Council. It may be that it would be convenient to many and in the public interest that the Unit Land should belong to the Parish Council, but I have under the 1965 Act no jurisdiction to vest it in the Parish Council for this reason.

On the information given to me at the hearing, and from what I saw on my inspection, I am not satisfied that any person is the owner of the Unit 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 7th — day of August 1975.

a. a. Baden Fuller

Commons Commissioner.