



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/152

In the Matter of Maypole Green,
Toft Monks, South Norfolk District,
Norfolk

DECISION

This reference relates to the question of the ownership of land known as Maypole Green, Toft Monks, South Norfolk District, being the land comprises in the Land Section of Register Unit No VG82 in the Register of Town or Village Greens 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 Mr Thomas A Birt said (letter of 20 January 1975) that a portion of the land comes within the curtilage of Bay Cottage. No other person claimed to be the freehold owner of the land 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 6 December 1978. At the hearing Mr Birt attended both on his own behalf and as representing Toft Monks Parish Council of which he is the clerk.

Of the land ("the Unit Land") in this Register Unit, Mr Birt for himself claimed a comparatively very small portion ("the Claimed Portion"). In the course of his evidence in support of his claim, he produced conveyances dated 4 March 1950 and 13 May 1974 and a Statutory declaration made by Mr B Edge on 3 May 1975. He said (in effect):- In 1974 he purchased a small derelict cottage which was situated between Bay Cottage (his residence) and the east boundary of the Unit Land. The Claimed Portion was at that time fenced off from the rest of the Unit Land and enjoyed with the cottage. The Claimed Portion has ever since been so fenced off, and it and the cottage are now included in the garden land held with Bay Cottage.

Two days after the hearing I inspected the Unit Land.

Page 2 of this decision is an uncoloured copy of the plan referred to in the said 1974 declaration, save that I have on the copy edged with a thick black line the land edged blue on the original; in this decision, the Claims Portion means the land which is on and within the east boundary of the Unit Land and which is on the said copy plan edged with a thick black line.

In the event of my not being satisfied with Mr Birt's claim, the Claim^{ed} Portion (as also the remainder of the Unit Land) would (in the ordinary way) become vested in the Parish Council under Section 8 of the 1965 Act. Notwithstanding that Mr Birt's personal claim might be regarded as conflicting with his duty to the Parish Council as their clerk, there is no legal reason why he should not put it forward at this hearing provided that the Parish Council when they authorised him to represent them knew of this conflict. Mr Birt in answer to a question by myself directed to this



point, said that his Council were aware of the conflict, he having explained ^{the claim} saying he was proposing to make at their meeting on 2 November 1978.

By the 1950 conveyance, Mrs S Osborne conveyed to Mr B Edge a message "bounded on the east by the property of the late Tripp Sharman and the Common on all other sides"; clearly Mr Edge acquired no title to the Claimed portion under this conveyance. By the 1974 conveyance, Mr Edge conveyed all his estate and interest in the Claimed Portion, and in his 1974 declaration said (in effect) that it had been continuously enclosed as part of the garden of his property for 40 years and upwards and that he had been in possession since his 1950 purchase of the cottage (he called it "a storehouse").

On this evidence I am satisfied that Mr Birt as a result of the possession of himself and Mr Edge is now the owner of the Claimed Portion, and I shall accordingly direct Norwich County Council as registration authority to register Mr Thomas Arthur Birt of Bay Cottage, Maypole Green, Toft Monks, Beccles, Suffolk as the owner of the Claimed Portion as in this decision defined under Section 8 (2) of the Act of 1965.

As to the remainder of the Unit Land:- Mr Birt said that it was generally thought in the village that the Green was or might be owned by Kings College, Cambridge. He produced a letter of 9 March 1967 from J Carter Jones & Sons (land agent of Norwich) saying that the College had decided to take no action under the Commons Registration Act 1965, and a letter dated 7 November 1978 (in reply to a letter of 29 October 1978), confirming this. He also produced an extract from the Schedule to the Toft Monks ~~Land~~ Award which included "Maypole Green. Pasture. 4A OR 2P" and in respect of which "landowners" and "occupiers" columns were blank except for the word "Commons".

In the absence of any evidence I am not satisfied that any person is the owner of the remainder of the Unit Land, and I shall accordingly under Section 8(2) of the Act of 1965 direct the Norwich Council as registration authority, to register Toft Monks Parish Council as the owners of the land comprised in this Register Unit except the main portion. Claimed

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 3rd day of January 1978⁹

a. a. Baird Fuller

Commons Commissioner

declaration of Benjamin Sage made before me this 1st day of May 1974.

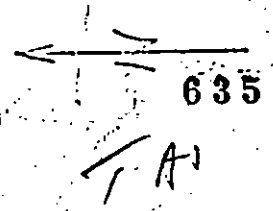
A Commissioner for Oaths

To Test Monks

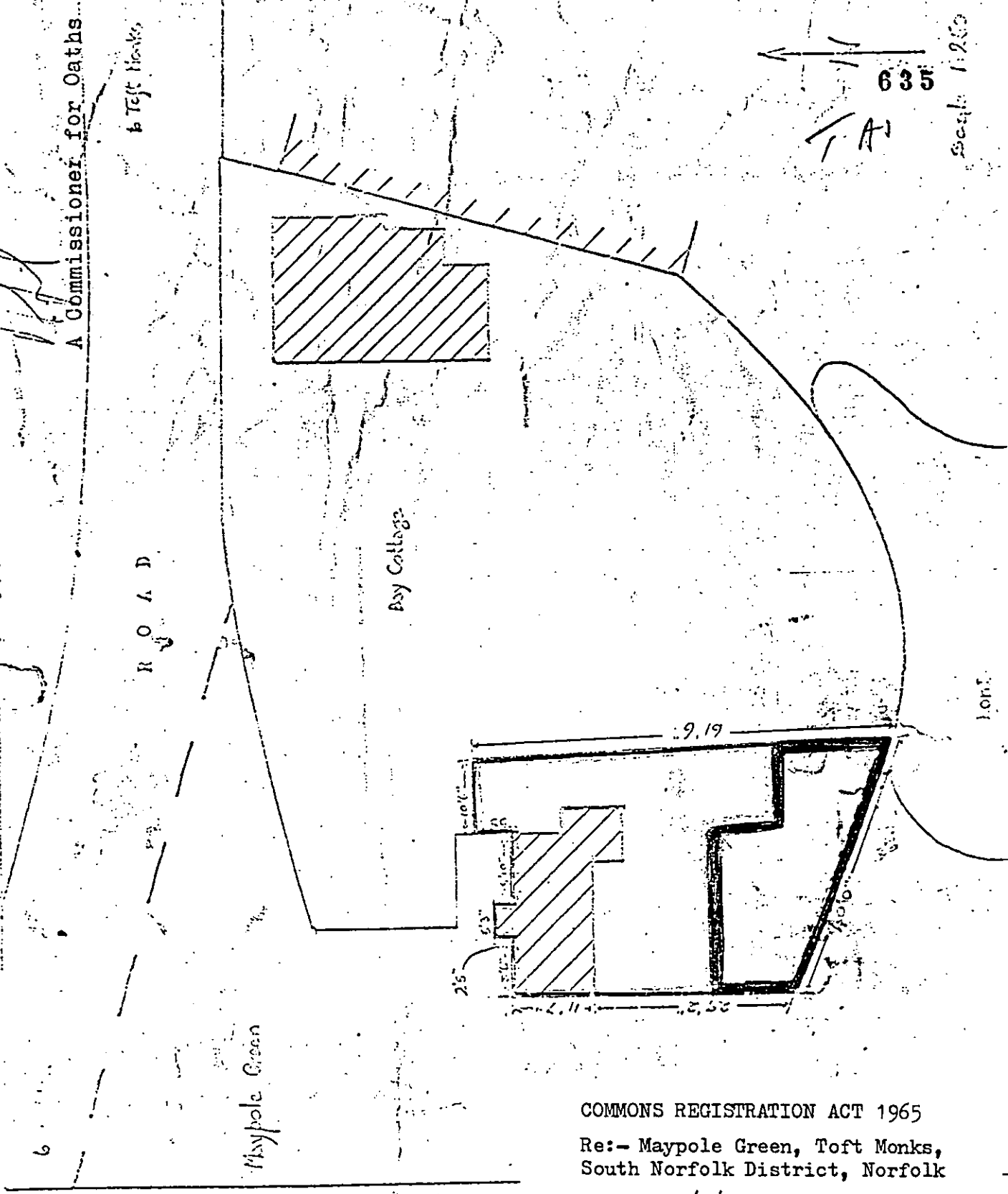
R O A D

Maypole Green

Boys Cottage



Scale 1:250



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This copy plan is page 2 of the decision dated 3 January 1974 and made by the Commons Commissioner in this Matter

A. A. Brian Fuller

Commons Commissioner