



COMMONS REGISTRATION ACT 1965

Reference No. 25/U/109

In the Matter of The Stone Pits, Leziate,  
West Norfolk District, Norfolk

DECISION

This reference relates to the question of the ownership of land known as The Stone Pits, Leziate, West Norfolk District being the land comprised in the Land Section of Register Unit No. CL.34 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 no 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 King's Lynn on 25 November 1975. At the hearing Leziate Parish Council were represented by Mr H Telford their clerk; Mr A D Brand their vicechairman was present.

The Land ("the Unit Land") comprised in this Register Unit consists of two strips each about 300 yards long from east to west and separated by a track, now used as a public footpath. The east side of the Unit Land adjoins a side road (C.55) which runs south from Roydon and Pott Row to join the B1145 road from King's Lynn to Bayton and Litcham. According to the Register map, the Unit Land (including the said track) contains 2.371 acres.

Mr Telford who has lived in the Village for the last 15 years and has been clerk of the Parish Council since 1972, in the course of his evidence produced: (1) a copy certified by the County Archivist of the map accompanying the Leziate tithe apportionment made in 1740; (2) the 2nd edition (1905) Ordnance Survey map 1/2500 (1929 reprint); (3) The Parish Council minute book 1923-1968; (4) a letter dated 2 November 1935 from Mr H L Bradfer-Lawrence to Mr B J Toam (the then chairman of the Parish Council); and (5) a copy of his reply dated 29 November 1971.

Three days after the hearing, I walked along the said track.

The 1740 map shows the Unit Land as plot 65, and a small piece ("the East Plot") at its east end (being C.S. No.115 containing 0.229 acres) as plot 66. Mr Toam in his 1935 letter says he has inspected the tithe terrier and the gravel pit piece is described as:-

65 (Owners)	Common Right Owners.(Occupiers)	Same	2a.0.30
66 ( " )	Parish Officers.	( " )	Burton 30"

The Minute Book (in effect) shows:- (page 67: meeting 12 December 1933) Stone Pit Cottage was sold by public auction on 15 November 1933 to Mr J H Bacon; (page 75: meeting 16 April 1935) a complaint that the purchaser was "encroaching on Parish land adjoining"; (page 76: meeting 30 July 1935) "agreed that... Solicitor...be instructed to write to Bacon (as owner) and if action required take action for encroachment on Parish property"; (page 95: meeting 15 October 1935) "Mr J H Bacon's letter was before the meeting from



Mr H L Bradfer-Lawrence stating his willingness to assign his rights whatever they may be to Leziate Parish Council. The Clerk was requested to write to Mr B-Lawrence thanking him and asking him what payments are liable on this land."

Mr Bradfer-Lawrence in his letter of November 1935 said:- "Re Leziate Gravel Pit. The site of this old gravel pit has always been conveyed in the title deeds from 1810 onwards of the Leziate estate. When I sold Chilver House Farm in that parish to the Duke of Rutland, the site of this old gravel pit was not included in the conveyance and therefore from the title point of view it still rests in my Estate. It is, as you will see, another of the awkward conundrums affecting the Parish of Leziate as to which parish no formal Award seems to be in existence...In any case I am just as anxious as the Parish Council are to have removed the terrible collection of old motor cars, debris, and other rubbish...".

Mr Boam in his November 1935 letter, after setting out the terrier as above quoted says: "It therefore seems that the Parish Council are the owners now, but I do not see that the land is much use to them as all the gravel has been worked out and I think that if you claim this land and are willing to get Bacon to vacate it, they would be glad to be spared the expense of a law case, but this is only my opinion and it has not come before the Parish Council which meets December 10th".

The Minute Book shows:- (page 26: meeting 12 December 1938) "A letter from Mr Bradfer-Lawrence was before the minutes stating that no tithe was charged on the land offered to the Council, and the Clerk was requested to write to Mr Bradfer-Lawrence that the Parish Council accepts the land offered and that Mr A Bantoft solicitor will act for the Council.

Mr Telford said (in effect): The Unit Land within his own memory and the memory of the living residents with whom he had discussed the matter, has always been known as "the Parish Pits". Stone Pit Cottage was on the East Plot, where there is now a bungalow owned by Mr Mangan. No conveyance such as appears to have been contemplated at the December 1938 meeting of the Parish Council, has been found and the Minute Book contains no record of any such conveyance ever having been made; the then Parish Clerk died about 1939 and after his death some of the Parish Council books were burnt; the cash account book of this period is not available. He had asked the solicitors now carrying on business in succession to Mr A Bantoft, and had been told that they could not find any relevant documents. Mr Brand who farmed the lands on both sides of the Unit Land and also on the other side of the C56 road had told him that the Unit Land was not in his title deed; and the Unit Land was not in the title deeds of Mr Mangan who now owned the East Piece.

Mr Brand confirmed what Mr Telford had said about his title deeds adding that his farm (called East Farm, Ashwicken) extends to about 400 acres.

In favour of the Unit Land being now and having for a long time been or reputed to be parish property, I have the following indications:- It has for some time been known as the Parish Pits. Much of what the Parish Council did in 1935-38 was on this basis. The appearance of the Unit Land is consistent with it being such; it is easily accessible at all points from the track which crosses it; there are two disused pits, much overgrown on each side of the track; it looks like public land.



Contra indications are the Tithe Award which suggests ownership of "common rights owners", and the 1935 letter of Mr Bradfer-Lawrence which suggests ownership of him or his successors in title.

As to the Tithe Award, the Valuer was not concerned with the ownership of the Unit Land as it was not tithable. The map shows that at that time the road running to the south from Pott Row turned right at what is now the east end of the Unit Land, went on across the Unit Land then turned left, and joined the Lynn-Gayton road some distance west of the present junction (now the road goes straight on from Pott Row). So at that time, the Unit Land may have been roadside waste, easily confused with any other common land there might be in the Parish.

Mr Bradfer-Lawrence's letter shows that he was not concerned as against the Parish Council to claim ownership. It is possible he made a conveyance to the Parish Council which has been lost. However this may be, I should not I think reject the present claim of the Parish Council merely because he or his successors may have some sort of documentary title.

Upon the above considerations I conclude that I ought to treat the indications in favour of the ownership of the Parish Council as decisive, notwithstanding that they are only slight; I am therefore satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register Leziate Parish Council as the owners of the land under section 8(2) 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 16<sup>th</sup> day of December 1975

*a. a. Baden Fuller*

Commons Commissioner