



COMMONS REGISTRATION ACT 1965

Reference No. 268/U/311

In the Matter of Land at Yederick
Road; Brompton by Sawdon
Scarborough Borough, North Yorkshire

DECISION

This reference relates to the question of the ownership of land lying on either side of Yederick Road, Sawdon in Brompton by Sawdon, Scarborough Borough being the land comprised in the Land Section of Register Unit No. CL249 in the Register of Common Land maintained by the North Yorkshire (formerly North Riding) 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 one 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 Scarborough on 20 February 1985. At the hearing (1) the Attorney-General for the Duchy of Lancaster was represented by Miss S Cameron QC instructed by Farrer & Co Solicitors of London; and (2) Mrs Margaret Whitfield of Moor Cottage, Sawdon attended in person.

This hearing was listed on the same day as, and was held after, the hearing relating to Goathland Moor (Register Unit No. CL4, reference 268/U/304) at which in support of an ownership claim by the Duchy of Lancaster oral evidence was given by Mr Kenneth William Parsons FRICS, FRIBA who is now and has been since 1973 surveyor of the lands to the the Duchy in the course of which he produced from the Duchy Records extracts from documents showing that the Duchy owned much land in the Honour of Pickering.

The land ("the Unit Land") in this Register Unit is a strip about a quarter of a mile long from northwest to southeast on either side of and open to the Yederick Road and having a width narrow at its southeast end near the village of Sawdon and gradually increasing to about 130 yards at its northwest end, near the south part of Cock Moor (Register Unit No. CL261). Questions as to whether the Unit Land was a town or village green and whether it includes Yederick Road itself, were by a decision dated 26 January 1976 of the former Chief Commons Commissioner by agreement without any hearing negatively determined, reference No. 268/D/176-179. Questions about the CL261 land were determined by his decisions dated 21 January 1976 and made by agreement and dated 21 June 1977 and made after a hearing at Whitby on 21 May 1977, reference Nos. 268/D/169-179; by his decision dated 25 June 1979 after a hearing at Malton on 23 May 1979 he directed the registration of the Duchy of Lancaster as the owner of the CL261 land, Reference No. 268/D/217.

At my February 1985 hearing Mr Parsons continued the evidence he was giving at my CL4 hearing, saying (in effect):- He was familiar with the Unit Land. In relation to it, the Duchy is in much the same position as it is in relation to Goathland Moor; both are in the Honour of Pickering (as to this evidence of Mr Parsons see my CL4 decision of even date relating to Goathland Moor). The Duchy did not from the advertisements about the Unit Land having been registered appreciate that it might be in their ownership as being within the Honour of Pickering and were not therefore prepared about it to present a case such as they had in relation to Goathland Moor; however in the short time available they had



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found a relevant file of Mr Richard Hammersley who had been but was not now the Duchy Surveyor for Yorkshire from which it appeared: (a) an agreement dated 5 April 1968 (extract produced D/101) had been made by which the Duchy granted a tenancy of the site of the Village Hall, Sawdon to the Sawdon Village Hall Trustees from 5 April 1966 to expire on notice on the usual quarter days at a yearly rent of £1 payable 29 September in advance; (b) a letter dated 25 November 1977 (copy produced D/103) had been sent by Mr C P Evans as Clerk to Erompton-by-Sawdon Parish Council to Mr Hammersley as "Surveyor of the Lands, the Duchy of Lancaster Estate Office" thanking him for his "assistance with the trees we are to plant", referring to the demolition of the water tower above the Village and suggesting its site be marked "a simple cairn or possibly a disused gatepost suitably inscribed" and (c) a note by Mr Hammersley about the Duchy cutting the grass twice a year.

Next oral evidence was given by Mr Harold Owen Whitfield who is now and has been since 1950 the Duchy Estate Clerk of Works for Yorkshire, in the course of which he said (in effect):- The Unit Land is amenity land the grass of which starting about 10 years ago had been cut by the Duchy, formerly by labour employed by them and now under contract. He remembered the water tower; it was at (or near) the north end of the Unit Land; the Duchy was not responsible for it. Regularly before bonfire night the permission of the Duchy was asked for by telephone; the fire was always on the same site, north of the Village Hall. He thought that the trees mentioned in 1977 letter (D/103) were planted in about 1977 and that the Duchy head forester gave assistance.

Next oral evidence was given by Mr Christopher Peter Evans who had lived for 21 years in the parish, has been Clerk of the Parish Council for the last 9 or 10 years and wrote the said 1977 letter. He said (in effect):- He thought that the trees referred to in the letter were on another piece of land in Erompton; he did not agree that they had been planted by the Yederick Road (on the Unit Land). Nevertheless he would have expected the Parish Council to ask for the permission of the Duchy before the trees were planted and he had always assured that the Unit Land was part of the Duchy property. Further he would expect those concerned with the bonfire to ask permission of the Duchy.

After the hearing, the Solicitors for the Duchy sent to the office of the Commons Commissioners a photocopy of a licence agreement dated 5 April 1966 and made between Sir Robert Sommerville as Clerk of the Council of Her Majesty's Duchy of Lancaster as agent for Her Majesty in right of her said Duchy (the "Grantor") and Messrs James Wilfred Dickinson, John Wilborough Dyers and William Richard Ruston ("the Licensees"); the licence recited that the land verged pink on the plan annexed was vested in Her Majesty in right of her Duchy of Lancaster as "Lady of the Manor of Erompton subject to the rights of commoners" and that in about the year 1958 there was erected on the land a building of timber and felt construction ("the Hall") which had since been used and was then being used as a village hall; by the licence the Grantor granted unto the licensees permission to maintain for the benefit of the inhabitants of Sawdon to use and permit to be used the Hall for all purposes which a Village Hall is customarily used subject to the rights of commoners. The annexed plan showed the Village Hall and a comparatively small area of land surrounding it situated by and within the northeast boundary of the Unit Land a short distance south of the Yederick Pond.



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Upon the evidence above summarised I am satisfied that the Duchy of Lancaster is the owner of the Unit Land and I shall accordingly direct the North Yorkshire County Council as registration authority, to register Her Majesty in right of her Duchy of Lancaster as the owner 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 2nd day of July 1986

a. a. Baden Fuller

Commons Commissioner

