



COMMONS REGISTRATION ACT 1965

Reference No. 35/U/20

In the Matter of Land abutting the
street Gazeley, Forest Heath D.,
Suffolk

DECISION

This reference relates to the question of the ownership of land known as Land abutting the street Gazeley, Forest Heath District Suffolk being the land comprised in the Land Section of Register Unit No. CL.42 in the Register of Common Land maintained by the former West Suffolk 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 Suffolk County Council and Gazeley Parish Council claimed to be the freehold owner of the land in question and 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 Bury St. Edmunds on 22 April 1975. Mr. I.N. Whittaker appeared on behalf of the Suffolk County Council and Mr. V.C. Phillips Clerk to the Gazeley Parish Council appeared on behalf of the Parish Council.

Mr. Whittaker produced the Enclosure Award dated 12 December 1839 whereby the land in question was allotted as a public water pit to the "Surveyors" of the Parish and a tithe apportionment map dated 1845 which disclosed that the land was then owned by the Surveyor of Highways of the Parish. Mr. Whittaker claimed ownership of the land for the County Council on the footing that the land was allotted for highway purposes and that the Suffolk County Council was now the relevant Highway Authority as the successor to the Surveyors of Great Barton. Mr. Phillips did not accept that the land was allotted for highway purposes and relied upon the Enclosure Award. I was referred to the Highways Act 1835 which established the office of Surveyor to the Parish and defined his duties which were confined to duties relating to Highways. In the light of the Highways Act 1835 I am of the opinion that the land was allotted for highway purposes and accede to the submission put forward by Mr. Whittaker.

On this evidence I am satisfied that the Suffolk County Council is the owner of the land, and I shall accordingly direct the Suffolk County Council, as registration authority to register itself 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 30th day of April 1975

C. A. Sefton

Commons Commissioner