



In the Matter of land adjoining Brook Farm,
Rattlesden, Suffolk

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 87 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 Mr Denis E Liddall-Armitage claimed to be the freehold owner of the land in question ("the Unit Land") 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 Unit land at Bury St Edmunds on 8 November 1979.

Mr M P M Prentice, Solicitor, appeared on behalf of the Claimant. The Unit land is a strip of land adjoining the western boundary of farmland forming part of Brook Farm, which belongs to the Claimant. On the other side of the Unit land is a roadway.

Mr Prentice produced the following title deeds:-

- (a) Conveyance on sale dated 20 November 1911, between Arthur Wakerley (1) and Arthur Abbott (2)
- (b) Conveyance on sale dated 10 November 1942, between Philip L Lovegrove (1) and Edward Liddall-Armitage (2)
- (c) Deed of Gift dated 31 July 1962, between Edward Liddall-Armitage (1) and the Claimant (2)

The property comprised in the second Conveyance and the Deed of Gift is identified by reference to the plan on the earliest conveyance and it is difficult to decide whether the property did include the Unit land and Mr Prentice did not contend that it was specifically included. The Claimant, Mr Denis Edward Liddall-Armitage gave evidence and said that during his ownership one half of the Unit land - that lying to the northwest - had been used by him for storing farm implements and the other half for storing harvested sugar beet and manure: and his father before him had stored implements on the Unit land. No one had objected to their use of the Unit land and no one else exercised rights over it. He had seen no other persons on the Unit land, which he also used for access to the road for his tractor.

Mr Prentice submitted (inter alia) that the Conveyances impliedly included the Unit land. The Unit land is a strip of waste land lying between the roadway and land forming part of Brook Farm, owned by the Claimant. Where a strip of waste land intervenes between a highway and adjoining property, there is a presumption that the waste land belongs to the owner of that property and passes under a conveyance of it (see Halsbury's Laws of England 3rd ed. Vol. 19 p. 67). This presumption is in my view, applicable in this case in favour of the Claimant. Alternatively, I find that the user of the Unit land by the Claimant has established a possessory title.



For these reasons I am satisfied that the Claimant is the owner of the land, and I shall accordingly direct the Suffolk County Council, as registration authority, to register Denis Edward Liddall-Armitage 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

9 January

1980

L. J. Morris Smith

Commons Commissioner