



COMMONS REGISTRATION ACT 1965

Reference No. 234/U/59

In the Matter of Small Wood,
Barton Mills, 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 39 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 Forest Heath District Council 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.

At the hearing Mrs K Letley, Solicitor, appeared on behalf of the District Council. By an Enclosure Award on 1798 the Unit land was with other pits allotted to the Surveyor of Highways for the Parish of Little Barton otherwise Barton Mills for public sand, gravel, stone, clay and chalk pits. Under Section 25 and Section 67 of the Local Government Act 1894, Mildenhall Rural District Council was the successor to the highway authority and became owner of the Unit land. On the footing (which I accept) that the Unit land was a quarry, the ownership of the District Council was not affected by the provisions of the Local Government Act 1929, since there was no evidence of a taking over by the County Council pursuant to Section 118 of that Act. Under the Local Government re-organisation in 1973, the District Council is the successor to Mildenhall Rural District Council.

Mr Tando, of the Registration Authority (Suffolk County Council), who was in attendance, did not resist the District Council's claim and stated that there was no record of any use of the Unit land by the County Council for highway purposes. On the evidence I am satisfied that the District Council is the owner of the Unit land, and I shall accordingly direct the Suffolk County Council, as registration authority, to register Forest Heath District Council 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 26 November 1979

L. J. Morris Smith

Commons Commissioner