



COMMONS REGISTRATION ACT 1965

Reference No. 234/U/77

In the Matter of St Michael's Green (part)
 St Michael, South Elmham

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 162 in the Register of Common Land maintained by the former East 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 Trustees of the Estate of H E Whitwham deceased claimed to be the freehold owners 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 land at Ipswich on 26 February 1980.

At the hearing Mr G Howell of the firm of Batchelor, Street and Longstaffe, appeared on behalf of the claimants.

The claim to ownership related to a part only of the Unit land, this part ("the red part") being the land edged red on the plan produced (marked 'A') but excluding the strips hatched red on that plan. The red part was conveyed by a Conveyance dated 4 June 1963 between the Rural District Council of Wainford (1) Hugh Ernest Whitwham (2). Also included in the Conveyance was a strip of land at the south east corner of the property which was conveyed by Mr H E Whitwham (with other land) to Mrs E T Halley by a Conveyance dated 13 September 1968. Mr Whitwham died in 1977: one of the two Executors who proved his will died in 1978 and by a Deed dated 24 July 1978 the surviving Executor, Stuart Lindsay Coulson appointed Patrick Lindsay Coulson a new trustee of the will: they on 24 August 1978 assented in writing to the red part vesting in themselves. The assent would normally, I think, have been made by S L Coulson only as surviving Executor, but it seems to me that the assent made jointly by him and Patrick Coulson would take effect as an assent by the surviving Executor.

On this evidence I am satisfied that the Claimants are the owners of the red part and I shall accordingly direct the Suffolk County Council, as registration authority, to register Stuart Lindsay Coulson and Patrick Lindsay Coulson as the owners of the red part under section 8(2) of the Act of 1965. The remainder of the Unit land will remain subject to protection under section 9 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

13 March

1980

L. J. Morris Smith
 Commons Commissioner