



In the Matter of Waste of Manor adjoining
St Peter's Church, Tandridge

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 500 in the Register of Common Land maintained by the Surrey County Council and is occasioned by Objection No. 568 made by Surrey County Council and noted in the Register on 26 May 1972.

I held a hearing for the purpose of inquiring into the dispute at Oxted on 25 June 1981. The hearing was attended by Mr K I Davison, the applicant for registration; by Mr P G Forsyth, Clerk to Tandridge Parish Council, whose application to register is noted on the Register; and by Mr B E H Cotter, Solicitor, of Surrey County Council. There are no rights of common registered.

The piece of land in question ("the Unit land"), which I viewed, is a stretch of land adjoining on its western boundary a highway, Tandridge Lane. The northern section, about 50 feet in width, adjoins St Peter's Church, and there is a hedge at its eastern boundary between the Unit land and the Church graveyard: on this section, which slopes upwards from the Lane; there is rough grass and three well established trees. The southern section is wider, about 130' in width, and at its eastern boundary is woodland: the surface is rough grass, apart from a U shaped asphalt drive on which cars from the Lane can turn or park, and there is an asphalt footpath running from north to south and leading to the lychgate of the Church.

Mr Davison submitted that the Unit land is waste land of a manor, the manor of Tandridge. On a 1761 map of Tandridge estate and on the OS map of 1885 the unit land appears as open with trees growing on it, and Mr Davison referred me to manorial records of the early 17th century one of which related to waste ground of the Manor lying in Tandridge Street and another to waste ground of the manor lying near Tandridge Church.

Mr Forsyth told me that the Parish Council now supported the County Council's Objection. This Objection, Mr Cotter said, is based on the view that the unit land is highway land and said that from the maps it appeared that the old highway ran northwards across the southern section and then through what is now the Church graveyard. In 1627 there was a court order for the diversion of this highway to its present line along the western boundary of the unit land. He submitted that the unit land was not, while the old highway continued, waste land: I do not accept this, since at most the old highway could have been over only a relatively small strip of the southern section and on the diversion the soil of the old highway would have reverted to the owner of the land and ceased to be highway (see Halsbury's Laws of England 4th ed Vol 21 para 145).

I find that the Unit land is waste land - it is open, unutilized and unoccupied, and land of the manor of Tandridge: and for these reasons I confirm the registration.

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

17 July 1981

L. J. Morris Smith
Commons Commissioner