



COMMONS REGISTRATION ACT 1965

Reference No. 241/U/18

In the matter of part of
Holmere Common Whiteparish

DECISION

This reference relates to the question of the ownership of land part of Holmere Common Whiteparish Wiltshire being part of the land comprised in the Land Section of Register Unit No. CL6 in the Register of Common Lane maintained by the Wiltshire 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 (i) the Executors of the late Ernest Tanner, (ii) F J Reeves Limited and (iii) Eric Curtis, George Curtis and Alan Curtis claimed to be the freehold owners of parts of the land in question and Whiteparish Parish Council 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 Salisbury on 30 July 1987.

Mr Albert Ernest Tanner and Mr Alan George Tanner (the Executors of the late Ernest Tanner) were represented by Mr A Wiltshire, Solicitor of Messrs Wilsons of Salisbury.

F J Reeves Limited (part of the Graham Group of Companies) was represented by Miss Tang of Messrs Stoneham Langton and Passmore of London W1.

Mr Eric Curtis, Mr George Curtis and Mr Alan Curtis appeared in person.

Whiteparish Parish Council appeared by Mrs P M Saunders (Chairman).

Mr Wiltshire produced an Epitome of the title of the Executors of Ernest Tanner to a brickyard and parcels of land at Whiteparish. The title was in 2 parts. Title to the main part commenced with a Conveyance dated 22 December 1924 between (1) Thomas Horatio Earl Nelson, (2) Thomas Horatio Earl Nelson and Edward Agar Horatio Nelson, (3) Eliza Blanche Viscountess Trafalgar, (4) Charles Clement Tudway and Frederick John Dalgety, (5) Ernest Tanner, the original of which was produced to me. Title to the remainder commenced with a Conveyance dated 21 May 1937 between (1) Kate Marsh Smith, William Desmond Blatch and William Levey, (2) Ernest Tanner. The remainder of the documents on the epitome consist of receipted mortgages and farther charges, a Conveyance off by Ernest Tanner of part of the land to which I will refer later, and the Probate of the Will of Ernest Tanner, who died on 7 February 1965. There were originally three Executors of his Will, but I was told that the first named - Edward James Pinniger - died some years ago, leaving Messrs A E and A G Tanner as surviving Executors.

I have mentioned that part of the land was conveyed away by Ernest Tanner in his lifetime. This included the part of the unit land which is now claimed by F J Reeves Limited. Miss Tang produced certified copies of (i) a Conveyance dated 19 March 1962 between (1) Ernest Tanner, (2) Winearls and Company (Timber Importers) Limited and (ii) a Conveyance dated 13 December 1965 between (1) Winearls and Company (Timber Importers) Limited, (2) F J Reeves Limited.



For the sake of convenience I am annexing to this Decision a photocopy of the register map in respect of this register unit on which I have indicated the boundaries between the parts of the unit land claimed by the various claimants by the following lettering:-

- i. the parcel lying between the lines marked A-B and C-D is the part of the unit land claimed by F J Reeves Limited;
- ii. the parcel lying to the east of the line marked C-D and the parcel lying between the lines G-H and A-B are the parts claimed by the Tanners;
- iii. finally the parcel between the lines marked E-F and G-H is the part claimed by the Messrs Curtis.

I am satisfied that all the land to the east of the line G-H was vested in the late Ernest Tanner by one or other of the conveyances to him mentioned above. I am also satisfied that his title to the part of the land between the lines A-B and C-D is now vested in F J Reeves Limited, the remainder of the land east of G-H now being vested in Ernest Tanner's Executors. Mr Wiltshire accepted that the boundaries are as I have marked them with the letters A-B and C-D. Mr Wiltshire and Miss Tang each confirmed that their respective clients were in occupation of the parts of the land claimed, and were not aware of any adverse claims.

The claim by the Messrs Curtis to the part of the unit land lying between the lines E-F and G-H remains to be considered. They stated that their deeds were with the Bank, but produced photostat copies of (i) A Deed of Release dated 2 December 1982 between (1) Lloyds Bank PLC (2) A J S Dairy Supplies Limited and (ii) a Conveyance also dated 2 December 1982 between (1) A J S Dairy Supplies Limited (2) Eric Curtis, George Curtis and Alan Curtis. This Conveyance contains an acknowledgment for production of earlier deeds going back to a Conveyance dated 14 November 1925 between (1) T H Earl Nelson (2) Flora Annie Frith. It may be noted that "T H Earl Nelson" is the same person as Thomas Henry Earl Nelson, one of the conveying parties in the Conveyance of 22 December 1924 relating to both parts of the land which I have already dealt with above.

The Conveyance dated 14 November 1925 relates to part of Glendale Farm being fields 5500 part 6017 and part 5494 shown edged red on the extract ordnance survey ^{map} and annexed thereto. At first I was unable to identify this land with any of the features on the register map. The ordnance survey numbers are different, the fences, hedges and other landmarks are different, and the farm buildings and sawmills which appear on the conveyance plan are not to be found on the register map.

Mrs Saunders on behalf of the Parish Council told me that the register map was based on a very old plan. Holmere Common is bisected by the A36 highway. In about 1976 the line of the A36 was changed. This reference is concerned only with the part of the common north of the old A36, and it is the part of the common to the south of the line of the old road which has been most affected. Nevertheless I was told that the new road did take away some of the roadside verge north of the old road along the western half of the common.

I asked the Messrs Curtis to identify the part of the unit land which they claimed on a copy of the register map. They indicated thereon the land between E-F and G-H on the plan herewith. This does bear some resemblance in shape to the part of OS 5494 shown on the plan to the Conveyance of 14 November 1925. The fact which ultimately persuaded me that the two were the same is that the centre of the strip of land claimed is opposite the exit from Earldoms Lodge on the other side of the A36.



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On this evidence I am satisfied that:-

- i. F J Reeves Limited are the owners of the part of the unit land lying between the lines A-B and C-D on the plan annexed.
- ii. Albert Ernest Tanner and Alan George Tanner are the owners of the part of the unit land lying to the east of the line C-D and the part lying between the lines G-H and A-B.
- iii. Eric Curtis, George Curtis and Alan Curtis are the owners of the part of the unit land lying between the lines E-F and G-H.

I shall accordingly direct the Wiltshire County Council, as registration authority, to register them as the owners of the respective parts of land under section 8(2) of the Act of 1965. The remainder of the unit land west of the line E-F will therefore 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.

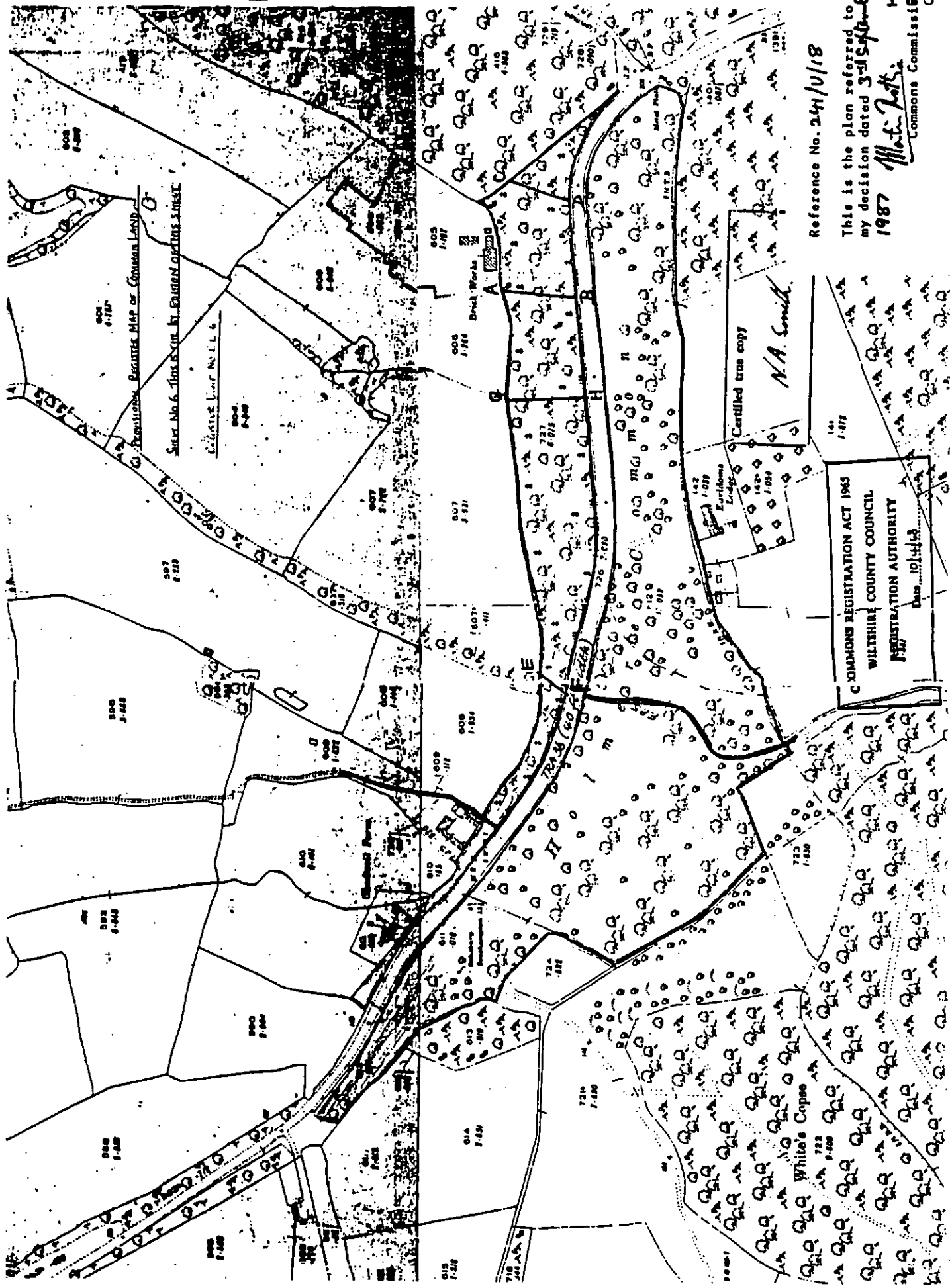
Dated this

3rd

day of *September* 1987

Walter Rott

Commons Commissioner



Reference No. 241/0/18

This is the plan referred to in
my decision dated 3rd September
1987 *Martin Joffe*
Commons Commissioner

COMMONS REGISTRATION ACT 1965
WILMOUTH COUNTY COUNCIL
REGISTRATION AUTHORITY
Date 10/11/84