

Further evidence regarding ownership of the creeks, marshes and foreshore at Burnham Overy Staithe which includes new information from the Land Registry.

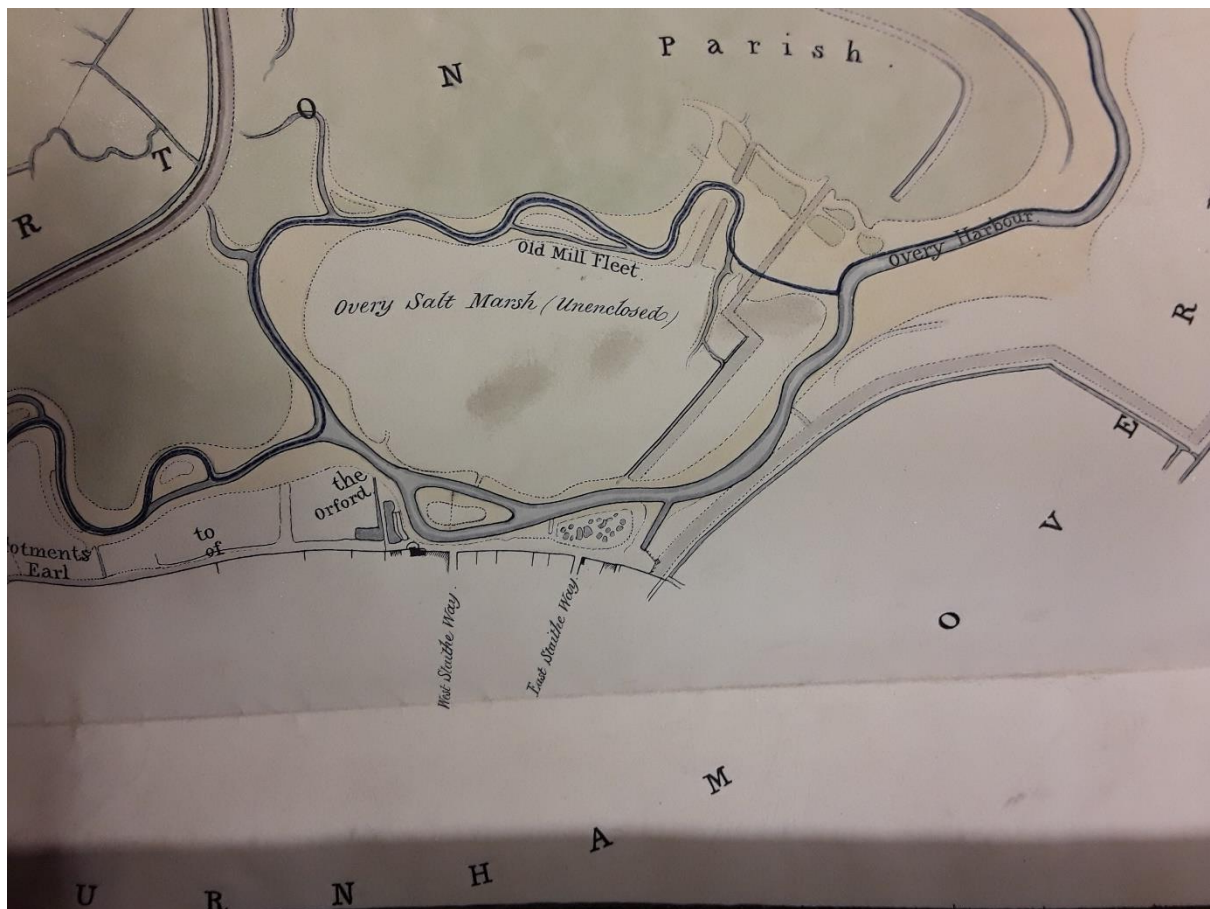
The pictures following are from original documents that can be found at the Norfolk Record Office using the reference numbers provided and from the Land Registry by contacting them with the NK numbers mentioned below. These details to be read in conjunction with the papers previously forwarded concerning these matters.

References for NRO are: PD572/37 – 40 and Csa2/60

There are three issues discussed here:

1. Those areas of the creeks, marshes and foreshore at Burnham Overy Staithe that were left unenclosed and for common use by the Enclosure Act of 1821.

The 1821 Act of Parliament which, as was seen previously, enclosed many acres of Common Land in Overy did also allow some land for the use of the poor and the village. These are numbered 294 and 295 on the Enclosure Award map and relate to the 77 acres of Overy marsh and a further 1 acre which was the island. These can be seen in the following pictures taken from the maps which can be enlarged in the PDF document. There are also pictures taken from the Enclosure Award document and the Act of Parliament of 1821 which gave assent to the enclosures.



Plan
of the Parish of
BURNHAM OVERY,

in the County of

NORFOLK,

to which the annexed Copy of
Award refers.

1825.

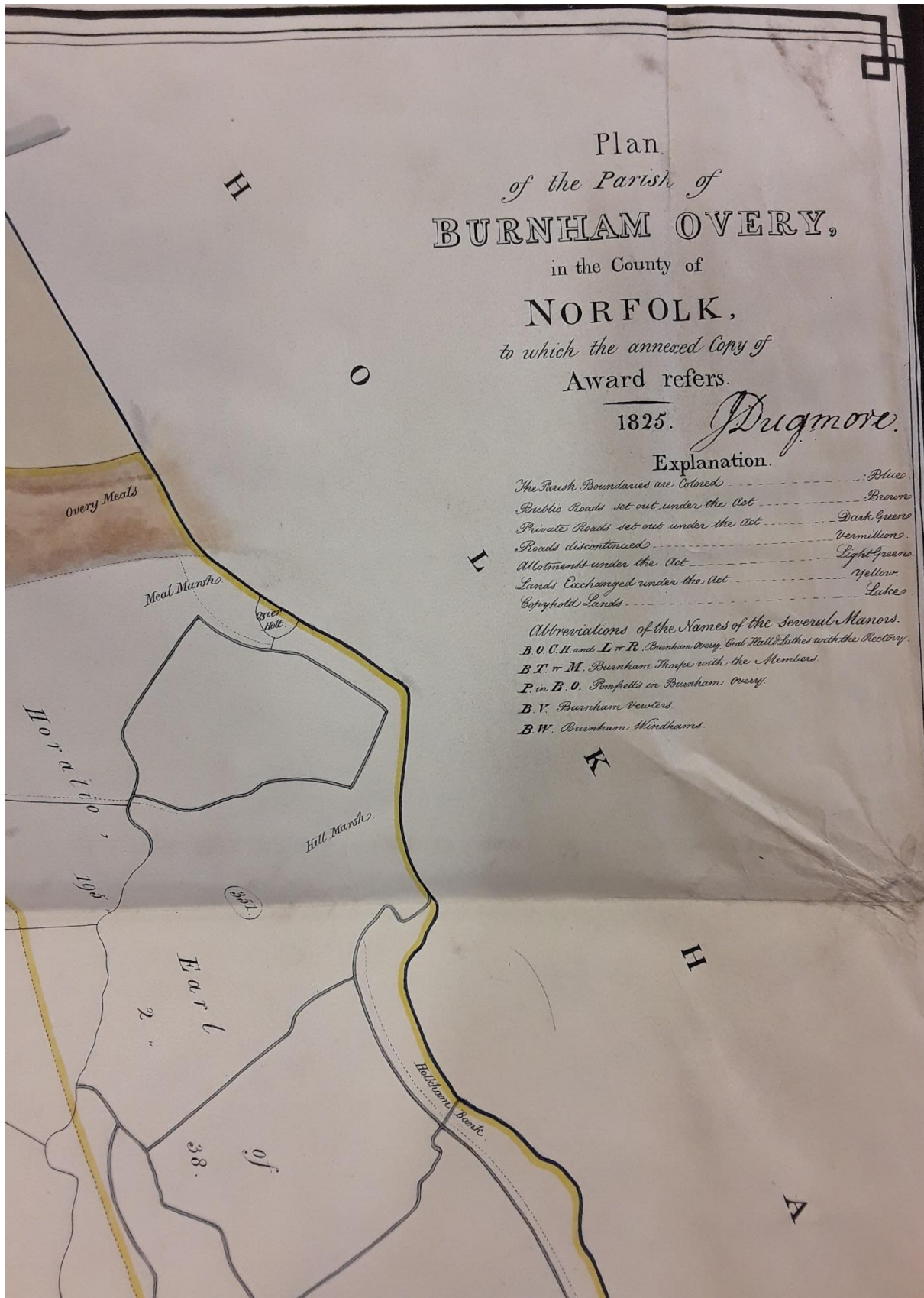
Dugmore.

Explanation.

The Parish Boundaries are Coloured Blue
Public Roads set out under the Act Brown
Private Roads set out under the Act Dark Green
Roads discontinued Vermilion
Allotments under the Act Light Green
Lands Exchanged under the Act Yellow
Copyhold Lands Lakes

Abbreviations of the Names of the several Manors.

B. O. C. H. and L. & R. Burnham Overy, Oak Hill & Lathes with the Rectory.
B. T. & M. Burnham Thorpe with the Members.
P. in B. O. Pomfret's in Burnham Overy.
B. V. Burnham Vewlers.
B. W. Burnham Windham.





302, 278 and 277 are allotted to the said Thomas Wiseman in respect of the rights of Common appendant or appurtenant to the freehold and copyhold Lands in or Burroughs Overly aforesaid belonging to the said Edmund Savory the elder the said Edmund Savory the elder having before the execution of this my Award sold to the said Thomas Wiseman the right interest and property of him the said Edmund Savory in or to the Lands and Grounds in Burroughs Overly aforesaid by the said Indenture art directed to be inclosed and allotted.

Inclosures of
walled salt-
marsh in
Burroughs Overly. -

WITNESSETH the said Commissioner Do in further pursuance of the Directions contained in the said Indenture out of Parliament hereby assign set out and allot unto the said Thomas Earl of Oxford the present Lord of the Manor of Donshott in Burroughs Overly aforesaid and to the Lords for the time being of the same Manor and to the said Philip Candler the Vicar of the Vicarage and Parish Church of Burroughs Overly aforesaid and to the Churchwardens and Overseers of the Poor for the time being of Burroughs Overly aforesaid the two pieces of Land next hereinafter described that is to say First One piece of Land in Burroughs Overly aforesaid marked upon the Map or Plan hereunto annexed with the Number 295 and containing by measure seventy seven

Allotments of
uninclosed salt-
commons in
Burnham Overy. -

77. 0. 0

Every aforesaid be-
having the elder the said
the said Thomas Thelow a
property of him the said Ed-
wards and Grounds in Burn-
Inclosure are directed to be in
Qilred the said Commis-
the Directions contained in the
hereby assign set out and allow
of Oxford the present Lord of the
Burnham Overy aforesaid and to
of the same Manor and to the
Biar of the Viratage and to
Every aforesaid and to the Cau-
of the Poor for the time being
the two piers of Wand next to
say First One pier of Wand in
marked upon the Map or plan
Number 295 and containing by

And bounded by land in Burnham Norton aforesaid towards
the North and towards the west by the aforesaid Outlet or
Creek called Overly Harbour towards the east and towards
the South and by the said Rivulet or watercourse called Overly
River towards the South west And second one other piece
of land in Burnham Overly aforesaid being part of land in
called the Island marked upon the said Map or Plan with
the number 294 and containing by measure one acre and six
pence bounded by the Rivulet or watercourse called the
Old Channel towards the North by the Creek or watercourse
called the new Channel towards the South and by land
hereinafter allotted to the said Richard Dering by way of
exchange between him and the said Thomas Earl of Oxford towards
the west.

And I the said Commissioner do hereby declare that the
two pieces of land lastly described and marked upon the said
Map or Plan with the numbers 295 and 294 comprise the
Commonable Salt Marsh called Overly Marsh in Burnham
Overly aforesaid which in my opinion it will be expedient to
leave in its present uncultivated state and I do hereby order
and direct that the same two pieces of land shall at all
times hereafter continue subject to be stocked for and in
several parts of the Commonable Cattle of the
owners and occupiers of the Commonable Messuages and
lands particularized in the Statute hereof recited and
or hereunder written and by no other person or persons

And I the said Commissioner do hereby certify and
declare adjudge and determine that the several and
pieces of land comprised in the several and
on the said map of land and
General
Adjudication
in regard to
Mortgages in
Burnham Overly

are bounded by Land in Burnham Norton aforesaid towards the North and towards the west by the aforesaid Outfall Creek called Overly Harbour towards the east and towards the South and by the said Rivulet or watercourse called the River towards the South west And second one other piece of Land in Burnham Overly aforesaid being part of Land called the Island marked upon the said Map or Plan with the number 294 and containing by measure one acre and pertained bounded by the Rivulet or watercourse called the Old Channel towards the North by the Creek or watercourse called the new Channel towards the South and by Land hereinafter allotted to the said Richard Dering by way of exchange between him and the said Thomas Earl of Oxford to the west.

Adjudication

Where I the said Commissioner do hereby declare that two pieces of Land lastly described and marked upon the Map or Plan with the numbers 295 and 294 comprising Commonable Salt Marsh called Overly Marsh in Burnham Overly aforesaid within in my Opinion it will be expedient leave in its present uninclosed state and I do hereby order and direct that the same two pieces of Land shall at all times hereafter continue subject to be stocked fed and depastured by the Great and Commonable Cattle of the Owners and Occupiers of the Commonable Mesuaged Lands particularized in the Schedule hereof hereunto or hereunder written and by no other person or persons or corporations.

General Adjudication in regard to Allotments in Burnham Overly

Where I the said Commissioner do hereby rectify and declare adjudge and determine that the several and respective pieces of Land comprised in the several and respective allotments made to the several hereinafore named persons of Land and Grounds in the said Burnham Overly aforesaid within any Commonable Mesuaged Lands previously to the passing of the said Statute in relation to the particular allotments made to the said persons the right of Soil in that Part of the said Burnham Overly aforesaid

(No 1)

A N

A C T

For embanking, draining, inclosing, and
improving, certain Salt Marshes and
Waste Lands, within the Parishes of
Burnham Norton, Burnham Deepdale,
and *Burnham Overy*, in the County of
Norfolk.

[ROYAL ASSENT, 19 April 1821.]

2 GEO. IV.
Sess. 1821.

Fred^c Lane, Lynn,
Solicitor.

And be it further Enacted, That the said Commissioner shall, in the first place, assign, set out and allot unto the Lord or Lords for the time being, of the hereinbefore mentioned Manors, so much and such Part or Parts of the Commons and Waste Lands within the said three respective Parishes, including the Salt Marsh in the said Parish of *Burnham Overy*, but not including any Part of the said Salt Marshes in *Burnham Norton* and *Burnham Deepdale* as aforesaid, as shall in the Judgment of the said Commissioner be equal in Value to One-eighteenth Part of the said Commons and Waste Lands, by way of Compensation and in full Satisfaction for the Right of such Lord or Lords of in and to the Soil of the same Commons and Waste Lands; and that the Allotment or Allotments in this behalf shall be made over and besides, and not to exclude any Allotment or Allotments which would or might otherwise be made to such Lords or Lord, in Satisfaction of or for any Common Right, or Right of Pasturage, or other Right upon or over any Part of the Lands and Grounds by this Act directed to be inclosed and allotted, in respect of, or as appendant or appurtenant to any Messuages, Cottages, Tofts, Lands or Tenements belonging to such Lord or Lords respectively, or in any other respect or upon any other account whatever, and in Right whereof any such Common Right, or Right of Pasturage, or other Right, hath been heretofore used and enjoyed or can be established.

Allotment
for Right of
Soil.

And be it further Enacted, That the said Commissioner shall, if he shall think fit, assign, set out and allot unto the Lord or Lords of the Manors before mentioned, and to the several Rectors or Vicars, and Churchwardens and Overseers for the time being, of the respective Parishes of *Burnham Norton* and *Burnham Overy* aforesaid, and to their Successors, for ever, as Trustees for the Poor Inhabitants of the said Parishes of *Burnham Norton* and *Burnham Overy*, legally settled therein, such Part or Parts of the Commons and Waste Lands within the said respective Parishes, as the said Commissioner shall think most proper, and judge reasonable for the purposes hereinafter mentioned; and that such Allotment or Allotments shall, upon the execution of the Award to be made by the said Commissioner, be vested in the said Lord or Lords, Rectors or Vicars, and Churchwardens and Overseers for the time being, for ever, as Trustees for the Poor Inhabitants of the said Parishes legally settled therein, to the intent that the said Trustees for the time being, shall and do permit and suffer such of the Poor Inhabitants of the same Parishes legally settled therein, as shall not occupy Lands or Tenements of more than the yearly Value of Ten Pounds, to cut take and use Whins, Furze, Turf,

Allotments
to Trustees
for the Poor
Inhabitants,
legally
settled.

For Fuel.

Power to
lease these
Lands.

The Rents to
be laid out in
the purchase
of Fuel.

And the re-
mainder (if
any) of the
Allotment to
be used as
Common
under Regu-
lations.

Flags, Peat and Fuel (if any there be) on such Part or Parts of the said Allotment or Allotments, in such quantities, and at such time or times in every Year, and under such Regulations and Restrictions, as the said Trustees for the time being, or the major part of them, shall from time to time direct or appoint, and not otherwise; and the said Trustees for the time being, or the major part of them, are also hereby empowered, from time to time, by writing under their hands and seals, to lease or demise the Whole, or any Part or Parts of the said Allotment or Allotments, which shall not produce Whins, Furze, Turf, Flags, Peat or Fuel, or which shall not be appropriated by the said Trustees for that purpose, or the Grass Feed and Herbage to grow renew and arise from such Allotment or Allotments respectively, as the said Trustees for the time being, or the major part of them, shall from time to time think proper, to any Person or Persons whomsoever, for any Term of Years not exceeding Fourteen Years, to commence in Possession and not in Reversion, so that in every such Lease there be reserved and made payable to the said Trustees for the time being, by quarterly or half-yearly Payments in every Year, the best or most improved yearly Rent or Rents that can be obtained for the same, without taking any Fine, Premium or Foregift in consideration of granting such Lease or Leases; and that in every such Lease, there be contained proper and fair Covenants on the part of the Lessee, for the usage and management of the Land thereby demised, and for the leaving the same in a proper state and condition at the expiration of such Lease; and also such other Covenants and Stipulations, and such Security for the performance of the same, as the said Trustees, or the major part of them, shall think most proper to be inserted therein; and that the Rents and Profits arising from the said Allotment or Allotments so let or demised, shall from time to time be laid out in the purchase of Fuel, and such Fuel shall be distributed among such poor Inhabitants as aforesaid, of the said respective Parishes of *Burnham Norton* and *Burnham Overy*, as shall be legally settled therein, and delivered at their respective Dwelling Houses there, in such proportions and quantities, in such manner and at such times in every Year, and according to such Rules and Orders as the said Trustees, for the time being, or the major part of them, shall appoint and prescribe for that purpose, and not otherwise; and that the Remainder (if any) of the Allotment or Allotments which shall not be appropriated for taking Whins, Furze, Turf, Flags, Peat or Fuel as aforesaid, nor shall be so let or demised as aforesaid, shall be used and enjoyed solely and exclusively by such poor Inhabitants of the said respective

rest
said
Lan
Po
wh
In
acc
for
and
way
All
ans
to l
the
her
the
me
the
Ex
the
bor
Par
Pro
afor
tive
ther
Ag
wri
pre
tin
no
at

if
fo
P
S
C
a
n
P
s
c

respective Parishes of *Burnham Norton* and *Burnham Overy* aforesaid, as shall be legally settled therein, and shall not occupy Lands or Tenements of more than the yearly Value of Ten Pounds, as a Common Pasture for all Geese, Stock and Cattle, which shall be really and *bonâ fide* the Property of such poor Inhabitants, in such manner and at such time or times, and according to such Rules and Regulations as the said Trustees for the time being, or the major part of them, shall appoint and prescribe for that purpose, and not otherwise: Provided always, That in case the Rents and Profits of such Allotment or Allotments shall at any time or times be more than sufficient to answer the Purposes for which the same is or are hereby directed to be set out, then, and in every such case, the said Trustees for the time being, or the major part of them, shall and they are hereby required to apply and dispose of such Rents and Profits for the Relief of the Poor, for whose Benefit such Allotment or Allotments shall be set out, in such manner as the same Trustees, or the major part of them shall think proper; provided that the Expence of Carriage of any Fuel which may be purchased for the Relief or Benefit of the Poor Inhabitants aforesaid, shall be borne and paid out of the general Poor's Rate of the said respective Parishes of *Burnham Norton* and *Burnham Overy* aforesaid: Provided also, That it shall be lawful for the Lord or Lords of the aforesaid several Manors, and the said Rectors or Vicars respectively, to act in the execution of the Trusts by this Act reposed in them as aforesaid, by their respective Agents or Proxies, such Agents or Proxies respectively being or having been appointed by writing under the hand of the Person or Persons exercising this present Power, and producing their respective Appointments at the time of acting, by virtue thereof, if required so to do; but that no Person shall act as Agent or Proxy for more than one Trustee at the same time.

Application
of the Over-
plus Rents
(if any) of
the Poor's
Allotments.

Certain
Trustees for
the Poor may
act by Proxy.

And be it further Enacted, That the said Commissioner shall, if he shall think fit, assign set out and allot unto the Surveyors, for the time being, of the Highways within the said respective Parishes of *Burnham Norton* and *Burnham Overy*, and to their Successors for ever, such Part and Parcel, Parts and Parcels of the Commons and Waste Grounds by this Act directed to be allotted and inclosed, as the said Commissioner shall think necessary and most convenient for public Watering Places for Cattle, and for public Gravel Pits; and that the said Allotment or Allotments shall be fenced in such manner as the said Commissioner shall direct, and when set out, shall for ever thereafter be used by the

Allotment
for watering
Places for
Cattle, and
for public
Gravel Pits.

Surveyors, for the time being, of the Highways, and by the respective Proprietors of Estates within the said respective Parishes of *Burnham Norton* and *Burnham Overy*, and their respective Tenants, for the time being, in such manner and under such Rules and Regulations as the Churchwardens and Overseers of the Poor, and the Surveyors of the Highways, for the time being, within the same respective Parishes, or the major part of them, shall order direct and appoint, and not otherwise.

Allotment of
the Residue
according to
Rights.

And be it further Enacted, That the said Commissioner shall then assign set out and allot all the Lands and Grounds within the said respective Parishes of *Burnham Norton* and *Burnham Overy*, over which any Commonable Rights shall have been exercised or exercisable previously to the passing of this Act, and which shall remain, after making the several Allotments before directed, and every part of the same, unto and among the several Owners and Proprietors thereof, and unto and among the several other Persons and Body and Bodies Politic Corporate and Collegiate, having any Right or Interest in to upon or over the same Lands and Grounds respectively, or any Part thereof, in such Shares and Proportions as the said Commissioner shall adjudge and determine to be proportionate to the Value of, and a full Compensation and Satisfaction to such Owners and Proprietors, and Body and Bodies Politic Corporate and Collegiate respectively, for his her and their respective Parts and Shares of such Lands and Grounds, and for his her and their respective Rights and Interests in to upon or over the same respectively: Provided always, That if the said Commissioner shall think it expedient to leave the Commonable Salt Marsh, called *Overy Marsh*, in its present uninclosed state, without inclosing or allotting the same, it shall be lawful for him so to do, and then and in that case the said Salt Marsh shall be subject to such Orders Rules and Regulations with regard to the stocking, feeding, and depasturing the same, as the said Commissioner shall in and by his said Award, order and direct.

Proviso re-
specting
Overy Salt
Marsh.

Scheme of
the Allot-
ments to be
shown to the
Proprietors.

And be it further Enacted, That when and as soon as the said Commissioner shall have ascertained the several Rights and Interests of the several Proprietors in the Lands and Grounds to be allotted and inclosed by virtue of this Act, and also the respective Shares and Proportions by him, the said, Commissioner, proposed to be allotted to the same Proprietors respectively, in lieu thereof, or for or in respect of such Rights and Interests, he the said Commissioner shall give Notice, in manner aforesaid, of some convenient time and place when and where the said Proprietors may be informed of

As an aside from the creeks, marsh and foreshore, this is the entry confirming ownership of the land now used as a boat park in Gong Lane.

Allotment to
Surveyors of
Highways in
Burnham Overy.

A. R. T.
O. O. 20

Fences

Adjudication
that the said
Allotment is to
be used as a
Public Land
Pet. —

Attachments to

right upon or over any part or parts of the Lands and Tenements therein Over and above by the said Surmises Act directed to be reserved and allotted in respect of or as appurtenant or appurtenances to the said Lands and Tenements or to the said Manors Cottages Tofts Ponds or Tenements belonging to any other respect or upon any other account whatever.

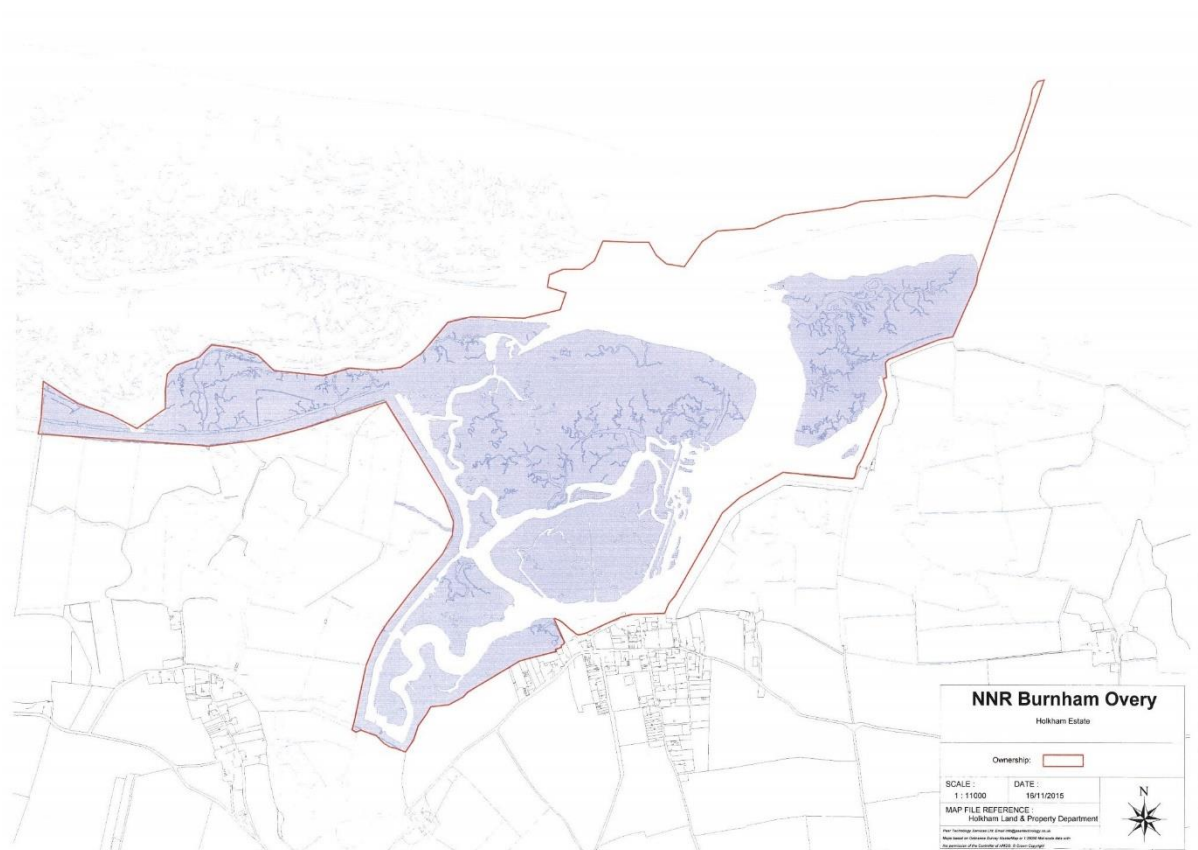
Shid the said Commissioner do in further pursuance
Directions for this purpose contained in the said Injunctions of
Parliament thereby assign set out and allot unto the present owner
of the Highways within the Barons of Durham Dway and
and to their Successors the Surveyors for the time being of
Highways within the same Barons the Piece of Land use
after described that is to say One Piece of Land in Durham
aforesaid marked upon the Map or Plan herewith annexed
Number 270 and containing by measure twenty perches bound
Land hereinafter allotted to the said William Deott towards
North and towards the West by the said Road or way to
Road towards the East by Land belonging to the said William
in part towards the South and by Land hereinafter allotted to
Thomas Earl of Oxford by way of Exchange between him and
Thomas William Coke on the remaining part towards the

And I do hereby declare that I have raised or given
for raising Wences in the piece of Land lastly described against
allotment to the said William Brett and against the Land
that I have placed or given directions for placing a Gate and
the piece of Land lastly described And I do hereby order and
the Surveyors for the time being of the Highways within
Parish of Duntreath Overy well at all times hereafter to
the last mentioned figure.

And I do hereby declare and direct that the piece of
land so described and allotted to the said Surveyors of the said
within the said Parish of Dartmouth Docks is to be allotted to
and for a Public Sand Pit and that the same piece of land
at all times hereafter be used by the Surveyors for the line of
the Highways and by the respective Owners and Occupiers of
within the said Parish of Dartmouth Docks in such manner
under such rules and regulations as shall from time to time
ordered directed or appointed pursuant to the Power in that behalf
expressed and contained in the said Statute Act of Parliament.

2. Those areas of the creeks, marshes and foreshore at Burnham Overy Staithe that have been registered (wrongly?) by Holkham Estate.

The following map, seen previously, appears on the Burnham Overy harbour Trust website which appears to show that Holkham Estate has registered all of the creeks, marshes and foreshore or river bed bordered in red as theirs. This was confirmed by Holkham Estates solicitors, Howes Percival in the letter shown again below. However, as can be seen from the following maps provided by the Land Registry, this does not seem to be the case and seems to be very misleading





The Guildyard, 51 Colegate
Norwich, NR3 1DD DX 5280
Norwich www.howespercival.com
Telephone 01603 762103

To whom it may concern

Our Ref : TJH/ASR/220932.53
Date : 5 November 2015

Dear Sirs

The Honourable Thomas Edward Coke
Land at Burnham Overy

We act on behalf of The Trustees of the Honourable Thomas Edward Coke, Earl of Leicester.

The Estate of The Earl of Leicester owns the land shown edged red on the plan attached to this letter part of which is pursuant to a Conveyance dated 8 June 1922 and made between Robert Horace Earl of Orford (1) and Thomas William Earl of Leicester (2) and the remainder which is registered at the Land Registry under title numbers NK419143 and NK416721.

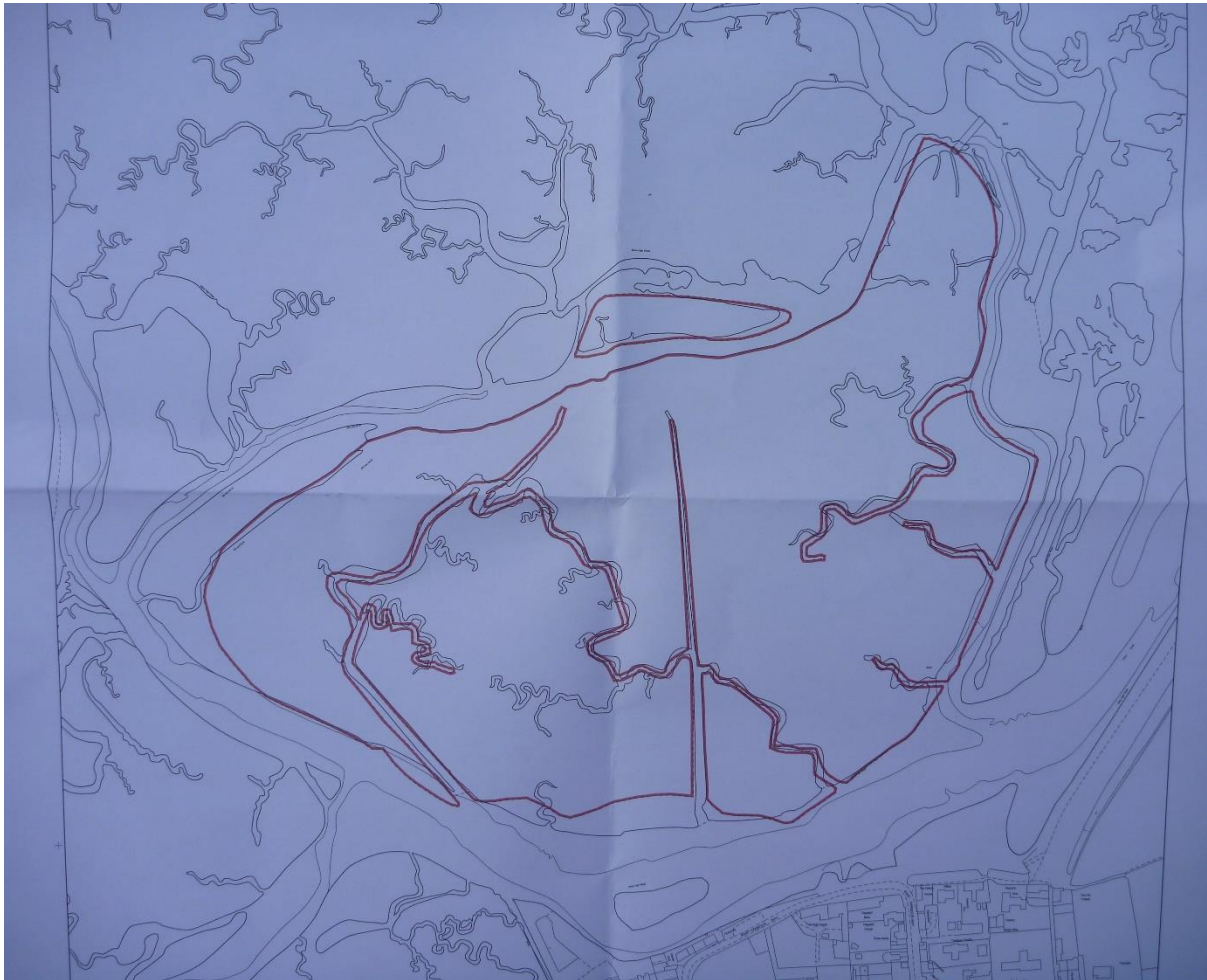
Yours faithfully

Howes Percival LLP

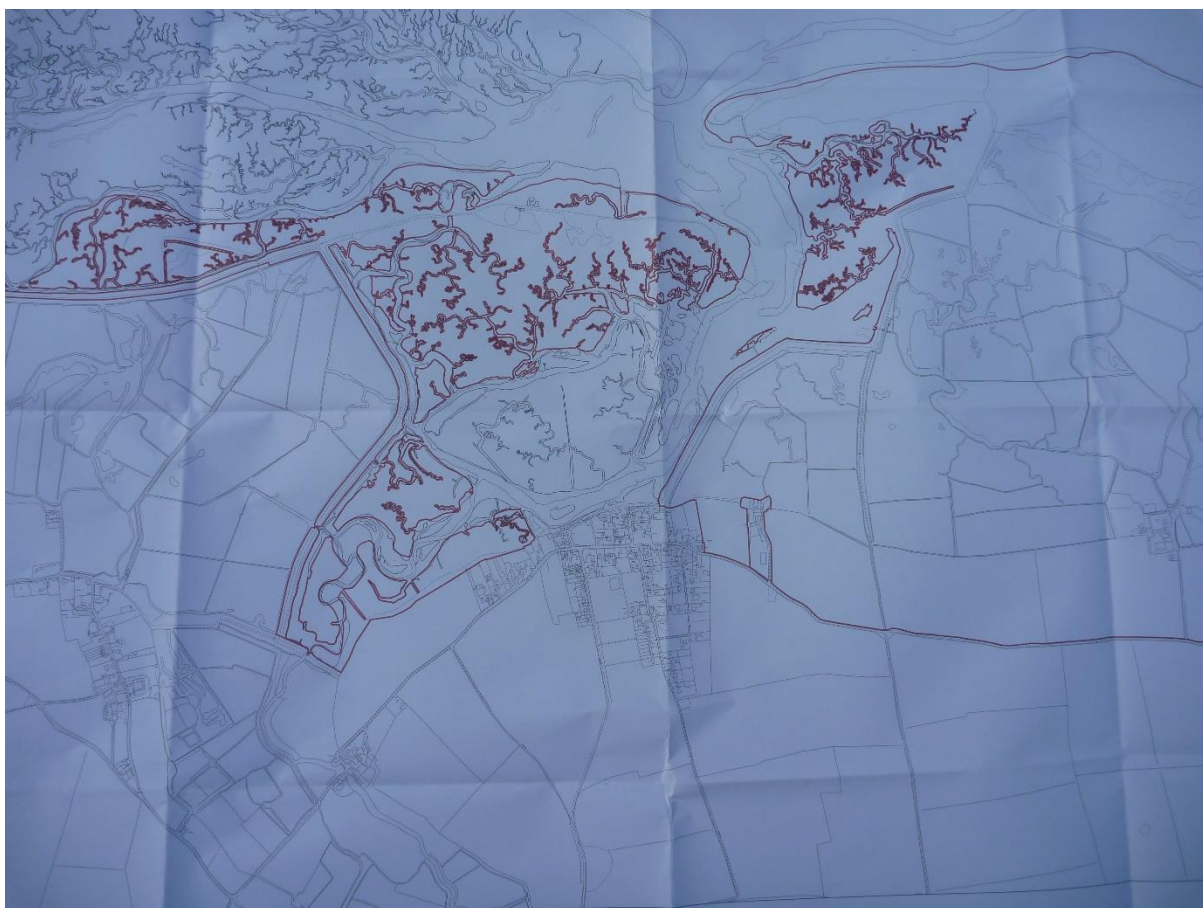
Direct Dial : 01603 580078
Fax : 01603 632132
E-mail : abi.rudd@howespercival.com

Enc

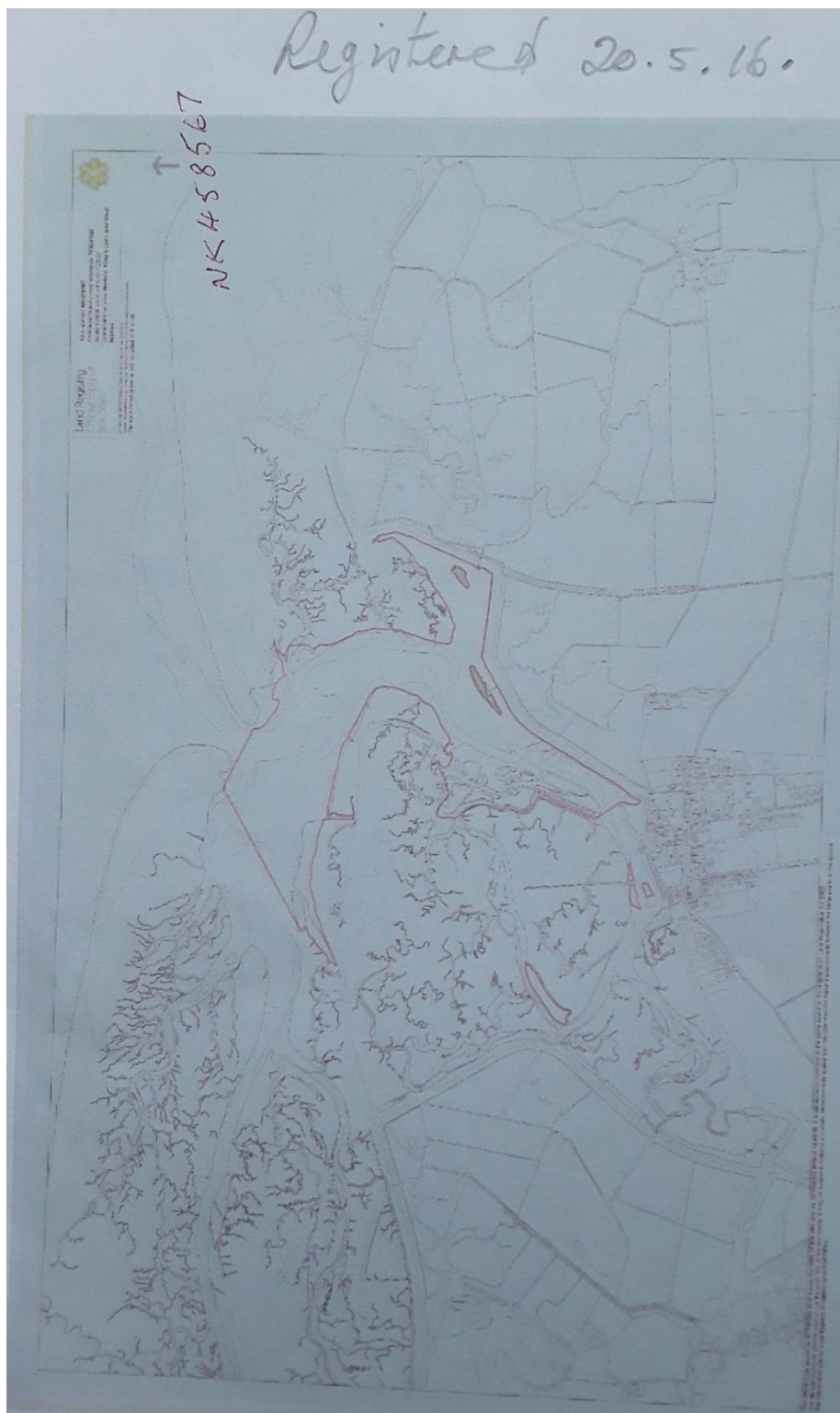
The following maps show the creeks, marshes and foreshore or river bed registered (wrongly?) by Holkham Estate as belonging to them and relate to Land Registry numbers, NK 458567, NK419143 and NK416721. The actual creeks, marshes and foreshore or river bed registered by Holkham Estate is as follows:



This map is for Land Registry number NK419143 showing that Holkham Estate have registered all 77 acres of Overy Marsh (wrongly?) that is clearly shown on the Enclosure Award as belonging to the parish of Burnham Overy Staithe. The creeks, marshes and foreshore or river bed were registered by Holkham Estate on 8th February 2012.



This map is for Land Registry number NK416721 showing other creeks, marshes and foreshore or river bed registered by Holkham Estate as belonging to them on 15th May 2012.



This map is for Land Registry number NK458567 showing parts of creeks, marshes and foreshore or river bed being registered by Holkham Estate as belonging to them on 20th May 2016. **NOTE:** Holkham Estate do at this point also claim half of the island the whole of which was left to the parish by the Enclosure Award. **NOTE ALSO:** This registration by Holkham Estate took place **AFTER** they were challenged about land ownership in Overy during 2014/15.

3. Those areas of the creeks, marshes and foreshore at Burnham Overy Staithe which remain unregistered, as far as we can tell.

The following map shows, coloured green, the creeks, marshes and foreshore or river bed that would not appear to have been registered by anybody:



What this map clearly shows is that, with the existing situation, the majority of the moorings in Burnham Overy Staithe are at present on creeks, marshes and foreshore or river bed that appears not to be registered. This does raise the question about who gives permission for moorings to be laid down and used. **It seems that Common Rights Holders are the only users with legal rights to moorings therefore it would be in the interests of SH&DCRHA to be fully involved in any discussions.**

Summary of all the evidence:

The evidence from primary sources held at the Norfolk Record Office show the legal position with regard to the land numbered 294 and 295 on the Enclosure Map. This land was enclosed in Burnham Overy Staithe in the 1820's; the land was enclosed by Act of Parliament. That legal status of the land in question was further evidenced when the tithe maps were drawn in the 1840's. Ownership of the land was passed to the Parish Council under the terms of the 1894 Local Government Act. Whilst there seems to have been an encroachment onto the 1 acre plus island by Dewing in the 1800's, ownership of the island by the Parish Council is asserted in the 1927 minutes of the council. There is no evidence, at present, to show that any sales of the creeks, marshes, and foreshore or river bed have ever been made by Burnham Overy Parish Council to Holkham Estate, or anybody else. It is very difficult therefore to understand on what grounds Holkham Estate felt that it could register ownership of land that did not, on the face of it, belong to them. The 77 acres of Overy Marsh and 1 acre of island would appear to be extremely valuable to Holkham Estate, they having placed a value of £3,000,000 on the creeks, marsh and foreshore registered under NK458567.

Burnham Overy Harbour Trust (BOHT) has on its website a map and a solicitor's (Howes Percival) letter which would appear to be very misleading with regard to ownership of the creeks, marsh and foreshore at Burnham Overy Staithe. When compared with the actual land registration maps and documents from the Land Registry, it is quite clear that the claims in the above documents on the BOHT website made by Holkham Estate and Howes Percival are at variance with the facts.

A dispute was begun by a common right holder in December 2014 when Holkham Estate appeared to be trying to exercise control over the commoners; letter of 2nd December 2014. Evidence of Holkham Estate's ownership was asked for; 3rd December 2014. No reply was received and no further claims to ownership seemed to have been made by Holkham Estate after that. However, as can be seen, recent research shows that Holkham Estate proceeded to register creeks, marsh and foreshore or river bed at Burnham Overy Staithe during 2016; NK458567. Included in that particular registration was half of the island which, as is seen above, belongs to the parish of Burnham Overy Staithe.

There would appear to be a large section of creek, marsh and foreshore or river bed at Burnham Overy Staithe which remains unregistered with the land registry. This is an area which has become heavily populated with moorings and boats, few of which seem to belong to those with a legal right to moor their boats in this area. It would seem that, as the land abutting this area is Overy Marsh, Burnham Overy Parish Council should register this with the Land Registry as belonging to the parish.