

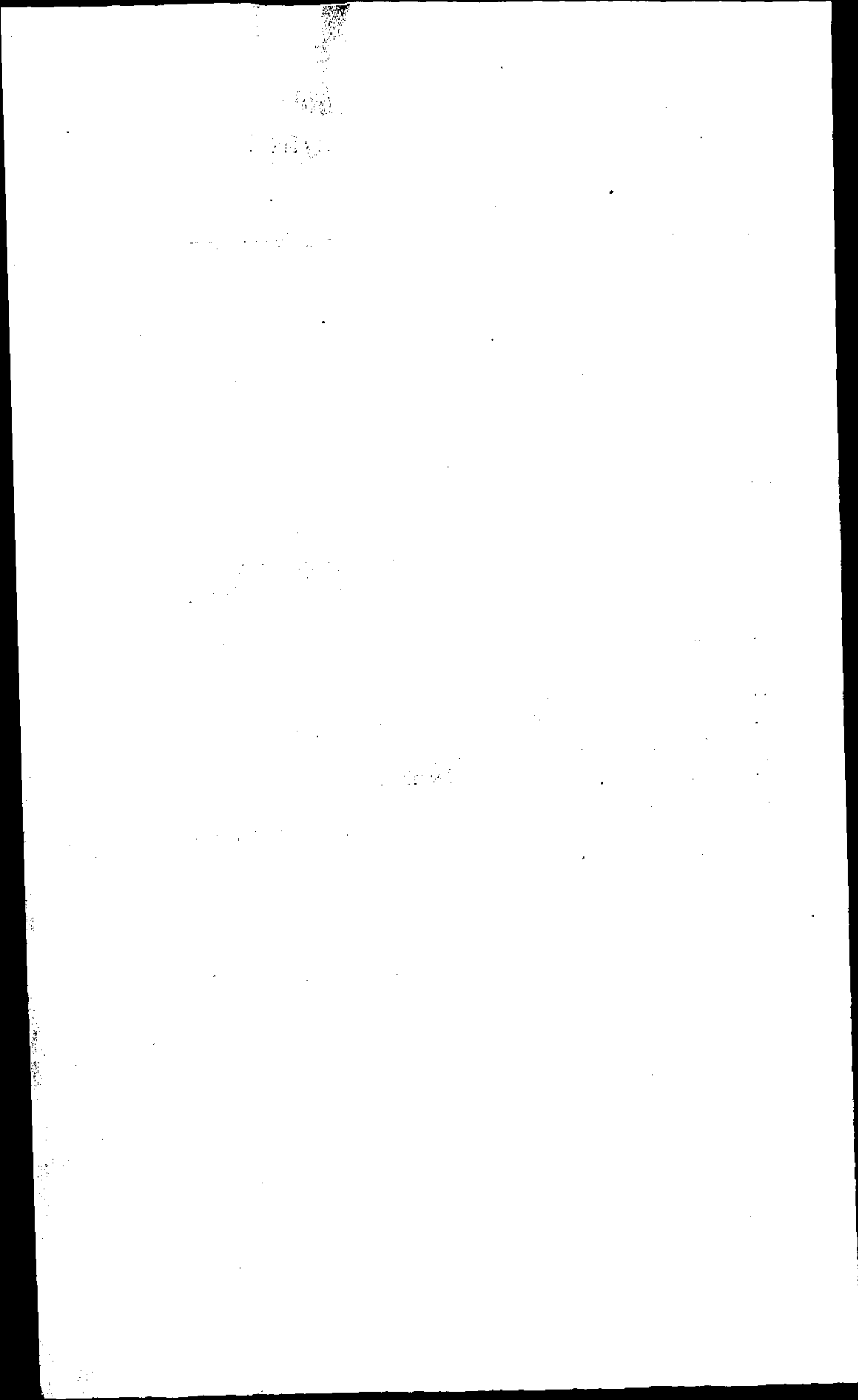
Saint Stephen Walbrook (Saint Antholin's Churchyard) Act, 1956

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CHAPTER xlv

An Act to authorise the sale of the churchyard known as Saint Antholin's Churchyard to authorise the erection of buildings on such churchyard and for other purposes.

[17th May 1956.]

WHEREAS Saint Antholin's Churchyard was formerly attached to the church of Saint Antholin in the city of London and is believed formerly to have been used for the interment of human remains:

And whereas the said church was destroyed in the Great Fire of London in the year sixteen hundred and sixty-six was subsequently rebuilt by the late Sir Christopher Wren and became the parish church of Saint Antholin with Saint John the Baptist upon Walbrook:

And whereas pursuant to an Order in Council of Her late Majesty Queen Victoria dated the seventeenth day of July eighteen hundred and seventy-three the benefice of Saint Mary Aldermary with Saint Thomas Apostle was united with the benefice of Saint Antholin with Saint John the Baptist upon Walbrook so as to form one benefice with a cure of souls under the name and style of "the United Rectory of Saint Mary Aldermary with Saint Thomas Apostle Saint Antholin and Saint John the Baptist upon Walbrook" and the said Order in Council provided that the church of Saint Antholin should be demolished except as to the spire and tower thereof and that the site of the said church except the site of the spire and tower should be sold by the Ecclesiastical Commissioners for England:

And whereas pursuant to an Order in Council Her late Majesty Queen Victoria dated the fifth day of August eighteen hundred and seventy-five it was provided that the spire and tower of the church of Saint Antholin should be demolished and the site thereof sold by the said commissioners:

And whereas Saint Antholin's Churchyard has not been used for the interment of human remains since the year eighteen hundred and fifty-three when burials therein were discontinued pursuant to an Order in Council of Her late Majesty Queen Victoria dated the eighth day of August in that year:

15 & 16 Geo. 6.
& 1 Eliz. 2.
c. xxxviii.

And whereas pursuant to a reorganisation scheme prepared by the Church Commissioners in pursuance of the Reorganisation Areas Measure 1944 (and the City of London (Guild Churches) Act 1952) and confirmed by an order made under the common seal of the said commissioners and dated the twenty-ninth day of January nineteen hundred and fifty-four certain areas including parts of the parishes of Saint Stephen Walbrook with Saint Benet Sherehog Saint Mary Abchurch with Saint Laurence Pountney Saint Swithun London Stone with Saint Mary Bothaw and Saint Mary Aldermary with Saint Thomas Apostle Saint Antholin and Saint John the Baptist upon Walbrook were united together and became one parish for ecclesiastical purposes to be known as the parish of Saint Stephen Walbrook and Saint Swithun London Stone with Saint Benet Sherehog and Saint Mary Bothaw with Saint Laurence Pountney and a new benefice with a cure of souls under the name and style of "the benefice of Saint Stephen Walbrook and Saint Swithun London Stone with Saint Benet Sherehog and Saint Mary Bothaw with Saint Laurence Pountney" was formed:

And whereas the freehold of the said churchyard is now vested in the incumbent of the united benefice of Saint Stephen Walbrook and Saint Swithun London Stone with Saint Benet Sherehog and Saint Mary Bothaw with Saint Laurence Pountney and the present incumbent thereof is the Reverend Edward Chad Varah:

And whereas Cantling Property Company Limited whose registered office is at 51 Eastcheap in the city of London are in course of erecting a building on a site adjacent to the said churchyard and are desirous of acquiring the said churchyard:

And whereas the said churchyard is surrounded by buildings or sites for buildings including the site being built on by Cantling Property Company Limited as hereinbefore recited and cannot be used or developed otherwise than in conjunction with that site:

And whereas a conditional contract has been entered into by the present incumbent of the said united benefice of Saint Stephen Walbrook and Saint Swithun London Stone with Saint Benet Sherehog and Saint Mary Bothaw with Saint Laurence Pountney of the one part and Cantling Property Company Limited of the other part dated the twenty-second day of November nineteen hundred and fifty-five whereby the said incumbent has agreed to sell and Cantling Property Company Limited have agreed to purchase the said churchyard:

And whereas it is expedient that the said churchyard should be sold and that the purchaser thereof should be enabled to develop the same:

And whereas it is expedient that such provisions as are contained in this Act with respect to the sale and development of the said churchyard and the removal therefrom of any human remains interred therein should be enacted:

And whereas it is expedient that the several provisions contained in this Act should be enacted:

And whereas the objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be cited as the Saint Stephen Walbrook Short title. (Saint Antholin's Churchyard) Act 1956.

2. In this Act unless the subject or context otherwise Interpretation. requires—

“the bishop” means the Bishop of London for the time being and during a vacancy in the see of London includes the guardians of the spiritualities thereof;

“the churchyard” means the lands comprised in Saint Antholin's Churchyard in the city which said lands are described in the schedule hereto and are shown and coloured pink on a plan marked “Plan of Saint Antholin's Churchyard” signed in triplicate by the Right Honourable the Earl of Drogheda the chairman of the committee of the House of Lords to whom the Bill for this Act was referred one copy of which has been deposited at the office of the Clerk of the Parliaments House of Lords one in the Private Bill Office of the House of Commons and one at 1 The Sanctuary in the city of Westminster being the office of Messrs. Lee Bolton and Lee the solicitors to the incumbent;

“the city” means the city of London;

“the Company” means Cantling Property Company Limited whose registered office is at 51 Eastcheap in the city;

“the conditional contract” means the conditional contract between the present incumbent of the one part and the Company of the other part dated the twenty-second day of November nineteen hundred and fifty-five for the sale of the churchyard by the incumbent to the Company;

- “ the corporation ” means the mayor and commonalty and citizens of the city ;
- “ the council ” means the mayor aldermen and commons of the city in common council assembled ;
- “ the date of completion ” means the date upon which the purchase by the Company pursuant to section 3 (Power to sell churchyard and application of proceeds) of this Act of the churchyard is completed ;
- “ enactment ” has the same meaning as in the Town and Country Planning Act 1947 ;
- “ the incumbent ” means the incumbent for the time being of the united benefice or during any period when the united benefice is vacant the bishop ;
- “ the parochial church council ” means the parochial church council of the united benefice ;
- “ the united benefice ” means the united benefice of Saint Stephen Walbrook and Saint Swithun London Stone with Saint Benet Sherehog and Saint Mary Bothaw with Saint Laurence Pountney.

Power to sell churchyard and application of proceeds.

3.—(1) The incumbent may carry into effect the conditional contract or may enter into and carry into effect other agreements with the Company for and with respect to the sale by the incumbent and the purchase by the Company of the churchyard for such price or consideration in such manner and upon and subject to such terms and provisions as the incumbent may think fit.

(2) The incumbent shall pay the net proceeds of any sale effected under the powers conferred by this section to the parochial church council who shall hold and apply the capital and income thereof as part of their fabric fund.

Discharge of trusts and restrictions affecting churchyard and saving for private rights.

4. As from the date of completion the churchyard shall be freed and discharged from all trusts uses obligations disabilities and restrictions whatsoever which immediately before the date of completion attached thereto under ecclesiastical law or otherwise and from all rights and interests of any person who is an heir executor administrator or relative of any deceased person whose remains are interred in the scheduled lands and from all other trusts uses obligations disabilities and restrictions whatsoever which attached thereto immediately before the said date by reason of the churchyard or any part thereof being a disused burial ground or forming the churchyard or enclosures of a church or otherwise :

Provided that nothing in this Act shall operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the churchyard or any part thereof which attached thereto immediately before the date of completion.

5. Notwithstanding anything contained in any enactment but subject to the provisions of this Act it shall be lawful at any time after the date of completion to use deal with or dispose of the churchyard or any part thereof for building or for any other purpose in like manner as if no part thereof had ever been consecrated or used or set apart for the purpose of burial of human remains or had ever been or formed the churchyard or enclosures of a church.

Power to use churchyard for building or other purposes.

6.—(1) Before erecting or causing to be erected any building on the churchyard the Company shall remove or cause to be removed therefrom the remains of all deceased persons interred therein.

Removal of human remains from churchyard.

(2) Before proceeding to remove any such remains the Company shall give notice of their intention so to do by publishing a notice once in each of two successive weeks in a newspaper circulating in the city with an interval between each publication of not less than six clear days and by displaying the notice in a conspicuous place in the churchyard and such notice shall have embodied in it the substance of subsections (3) (4) (5) (6) (7) and (8) of this section.

(3) At any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person whose remains are interred in the churchyard or any part thereof may give notice in writing to the Company of his intention to undertake the removal of such remains and thereupon he shall be at liberty without any faculty for the purpose but subject as hereinafter mentioned to any regulations made by the bishop to cause such remains to be removed to and reinterred in any consecrated burial ground or cemetery in which burials may legally take place but in the case of a churchyard only with the consent of the incumbent of the parish.

(4) If any person giving such notice as aforesaid shall fail to satisfy the Company that he is such heir executor administrator or relative as he claims to be the question shall be determined on the application of either party in a summary manner by the Registrar of the Consistory Court of the Diocese of London who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(5) The expenses of such removal and reinterment (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the Company such sum to be apportioned if necessary equally according to the number of remains in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Company in respect

of the remains in any grave or if after such notice has been given the persons giving the same shall fail to comply with the provisions of this section and with any regulation of the bishop the company may without any faculty for that purpose remove the remains of the deceased person and cause them to be interred in such other consecrated burial ground or cemetery in which burials may legally take place as subject to the consent of the bishop the Company thinks suitable for the purpose but in the case of interment in a churchyard the previous consent of the incumbent of the parish shall also be required.

(7) Upon any removal of remains from the churchyard a certificate of removal and reinterment shall be sent to the Registrar General by the Company giving the dates of removal and reinterment respectively and identifying the place from which the remains were removed and the place in which they were reinterred showing the particulars of each removal separately and every such certificate shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar General.

(8) All monuments and tombstones relating to the remains of any deceased person removed under this section shall at the expense of the Company be removed and re-erected at the place of reinterment of such remains or at such place as the bishop may direct on the application (if any) of such heir executor administrator or relative as aforesaid or failing such application on the application of the Company and the Company shall cause to be made a record of such monuments and tombstones and of their situation when re-erected showing the particulars respecting each monument and tombstone as a separate entry and such record shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar General.

(9) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the city.

Deposit of
objects of
interest.

7. All objects of geological or antiquarian interest discovered on or under the churchyard during the execution of any works therein by the Company shall subject to the rights of the Crown and except so far as they may be the property of any other person be carefully preserved and removed and shall be deposited in the Guildhall Museum as the property of the corporation and the corporation acting by the council shall during the execution of any such works have power to enter and inspect such works for the purposes of this section.

8.—(1) The Company shall before dealing with the churchyard or any part thereof for building or any other purpose at their own expense remove therefrom the existing memorial tablet recording the fact that the churchyard is the site of Saint Antholin's Churchyard and the former existence of the church of Saint Antholin and shall at their own expense re-erect or cause to be re-erected the same together with an intimation in a form to be approved by the incumbent and the bishop that it has come from the churchyard in such other churchyard within the united benefice as may be selected by the incumbent with the consent of the bishop.

Removal and provision of memorial tablet etc. and direction sign.

(2) The Company shall within six months after the completion of the erection by them of a building on a site in the city to be known as Bucklersbury Section II at their own expense erect or cause to be erected on that building near the entrance thereto and shall thereafter maintain—

- (a) a plaque or tablet to be approved by the incumbent and the bishop recording the former existence of the church of Saint Antholin; and
- (b) a direction sign indicating the whereabouts of the church of Saint Stephen Walbrook.

9. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 (Development Orders) and subsection (1) of section 118 (Application to land regulated by special enactments) of that Act.

Saving for town and country planning. 10 & 11 Geo. 6. c. 51.

10. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

THE SCHEDULE

DESCRIPTION OF THE LANDS DEALT WITH BY THE FOREGOING ACT

A piece of land in the city being the former churchyard of Saint Antholin and believed formerly to have been used for the burial of human remains and containing four hundred square feet or thereabouts bounded on or towards the north by land of Cantling Property Company Limited on or towards the east by Sise Lane on or towards the south by Watling Street and on or towards the west by land of Cantling Property Company Limited.

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