



COMMONS REGISTRATION ACT 1965

Reference No. 202/U/58

In the Matter of Littlewick Village
Green, White Waltham, Windsor and
Maidenhead District, Berkshire

DECISION

This reference relates to the question of the ownership of land known as Littlewick Village Green, White Waltham, Windsor and Maidenhead District being the land comprised in the Land Section of Register Unit No. VG18 in the Register of Town or Village Greens maintained by the Berkshire 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 Mrs S M Davis of Littlebury claimed (her Solicitor's letter received by County Council on 3 June 1976) to be the owner of the piece of land between Littlebury and the road which they understood had been included in the registration; and White Waltham Parish Council claimed (their Clerk's letter of 9 January 1980) that they should be registered as the owners. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

Mr Commons Commissioner Hesketh held a hearing for the purpose of inquiring into the question of the ownership of the land at Reading on 16 July 1981 and at Maidenhead on 8 December 1982. After hearing evidence and argument by or on behalf of Mrs S M Davis and White Waltham Parish Council, Mr Commons Commissioner Hesketh gave his decision dated 26 January 1983.

By an order of the High Court of Justice (Chancery Division, reference 1983 H 3430) dated 2 February 1984 and made by the Honourable Mr Justice Harman it was ordered that the said 1983 decision be discharged and the matter be remitted to the Commissioner for rehearing.

I held the rehearing so ordered at Maidenhead on 5 March 1985. At the rehearing Mrs S M Davis attended in person and White Waltham Parish Council were represented by Mr C Joseph of counsel instructed by Harris and Cartwright Solicitors of Slough. Also present were: Mrs Agnes Brown as vice chairman of the Parish Council; Mr R V Eden as clerk of the Parish Council who asked that the copy of this decision and all notices and letters from the Clerk of the Commons Commissioners intended for his Council should be sent to him at Trevestan, 17 Compton Drive, Maidenhead, Bucks; and Mr P Ripley of Bow House as an interested party.

The land ("the Unit Land") in this Register Unit is in the middle of the Village being for the most part flat grass land, in several pieces, the largest of which has an average length and width of about 150 yards and includes a cricket pitch; the other pieces adjoin, some on the other side of the public road (Jubilee Road) which runs north-south across the Unit Land. Numerous dwellinghouses



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some with front gardens, front on the Unit Land. For their occupiers and for many others in the Village the Unit Land is a valuable amenity. Littlebury is one of the houses so fronting, being on the west side of the Unit Land; by Littlebury and within this side of the Unit Land, runs another public road (Coronation Road), which at its south end joins up with Jubilee Road. The Unit Land includes a strip ("the West Strip") about 50 yards long and about 15 yards wide which projects westwards from its west side; the back land of Littlebury is on the north side of this strip.

Before the rehearing Godfrey Davis & Baldwin as solicitors for Mrs S M Davis sent to the Clerk of the Commons Commissioners a letter dated 22 February 1985 enclosing a copy of the terms of an agreement reached between her and White Waltham Parish Council under which (among other things) they acknowledged that Mrs Davis was entitled to be registered in the VG18 Ownership Section as owner of the land ("the Pink Land") coloured pink on the plan annexed thereto, and she agreed not to pursue her claim to ownership of the land coloured blue on the said plan (being the north part of the West Strip).

Mr Joseph opened the rehearing by producing another copy (PC/1) of the said annexed plan and a plan (PC/2) dated 7.11.83, scale 1" = 8'-0"., showing in detail the Pink Land, the shed, wall, gates and garages to the west of it, the metalled tracks and path on it and the edge of the carriage way of the road to the east of it. He said (in effect):- The Parish Council had agreed that Mrs Davis should be registered as owner of the Pink Land on the basis that her property Littlebury (meaning the dwellinghouse and the enclosed land held with it which adjoined the west side of the Pink Land) was formerly part of the waste of the Manor of Berry (or Bury). The said waste now or formerly included the Unit Land. The agreement accorded with the legal principles established in *Doe d Pring v Pearsey* (1827) 7 B&C 304, and *Simpson v Denby* (1860) 8CBNS 433 (discussed at the appeal hearing before the Honourable Mr Justice Harman) under which the Pink Land being the land between the front wall of Littlebury and the edge of the nearby carriage way of the said public road (Coronation Road) was (or should be presumed to be) in the same ownership as Littlebury. Mrs Davis would produce an acknowledgement dated 18 December 1915 which showed that Littlebury was then treated as customary freehold, formerly part of the waste of the Manor. The Parish Council could offer no evidence of their ownership, so as regards the remaining part of the Unit Land he asked me to direct their registration as owners pursuant to subsection (3) of section 8 of the Commons Registration Act 1965.

Mrs S M Davis in the course of her oral evidence produced: (1) an extract (SD/1) from the Court Rolls of the Manor of Berry otherwise Bury from which it appeared that in 1915 Henry James Nethercliff acknowledged to the Deputy Steward that he held a piece of land containing about 30 poles with two messuages known as Victoria Cottage and Berry Cottage as customary freehold of the Manor; the said extract recited a previous acknowledgement of 27 December 1860 by James Nethercliff that the said premises then "known by the description of a certain piece of parcel of land formerly enclosed from the waste at Littlewick Green containing about thirty poles ..."; (2) a land certificate (SD/2) Title No. BK160460 under the Land Registration Acts 1925 to 1971 showing Sheila Mary Davis as having been registered on 21 June 1978 with an absolute title to Littlebury; (3) a conveyance



(SD/3) dated 25 July 1943 by which Miss Mary Isabel Hogarth and her co trustee conveyed to Mrs S M Davies (then and therein called Sheila Mary Purser) the freehold messuage "now known as Little Berry (or Little Bury) ... containing thirty poles more or less", it being therein recited that in 1920 the premises were customary freehold of the Manor of Berry otherwise Berry; and (4) a number of other documents including an indenture dated 10 January 1916 by which Henry James Nethercliff conveyed to Edith Lillie Horwood two messuages known as Victoria Cottage and Berry Cottage; and an indenture dated 30 April 1920 by which she conveyed the customary freehold messuage known as Little Berry formerly two messuages known as Victoria Cottage and Berry Cottage to Mary Isabel Hogarth and Margaret Hogarth.

Mrs Davis said (in effect):- She had known Littlebury since 1928; in 1947 under the conveyance (SD/3) she became the owner; she married in 1948; she allowed her vendor Miss Hogarth who was a friend to remain in occupation until her death in about 1954 or 1955; after that she had been in occupation of Littlebury herself. She had looked after the Pink Land, mowing the grass. The shed opposite the south end of the Pink Land had been there ever since she could remember; the two garages opposite the north end of the Pink Land were built about 1964; the stones (large flints) marking the east side of the Pink Land (to discourage motorists parking on the grass) had been there for about 9 years. The front wall of Littlebury (west side of the Pink Land) is an extraordinary mixture of brick and flint (curiously worked) including two portaits (low relief brick) of HM Queen Victoria as a young woman.

For the purposes of this decision, I define the Pink Land in the Schedule hereto by reference to the Decision Plan therein referred to and being page 4 of this decision.

I am required by Section 8 of the 1965 Act to say whether I am "satisfied" that Mrs Davis is the owner of the Pink Land. To answer this question by reference only to the information and evidence put before me at the rehearing, would raise difficult subsidiary questions of fact and law. I shall disregard these subsidiary questions, because I consider the compromise circumstances in which the proceedings before me were conducted, themselves provide good grounds for my being satisfied that the ownership is now as has by way of compromise been agreed; so as far as the Unit Land is not registered in the name of Mrs Davis, it will as a result of the 1965 Act certainly have to be registered in the name of the Parish Council; so formally they are the only persons concerned for ownership. Informally the public have an interest; having inspected the Unit Land ~~they~~ I consider that the Pink Land is extraordinary in the sense that there is no other dwellinghouse adjoining any part of the Unit Land which has between it and any public road any piece of land in all respects comparable with the Pink Land. Many of the said subsidiary questions of fact and law are mentioned in the oral judgement of the Honourable Mr Justice Harman, and he (as I read the shorthand note) considered that the answers he could give would not be decisive. I think ~~that~~ I can properly give effect to the compromise without considering in detail whether it is in law the only possible consequence of the evidence and information I have.

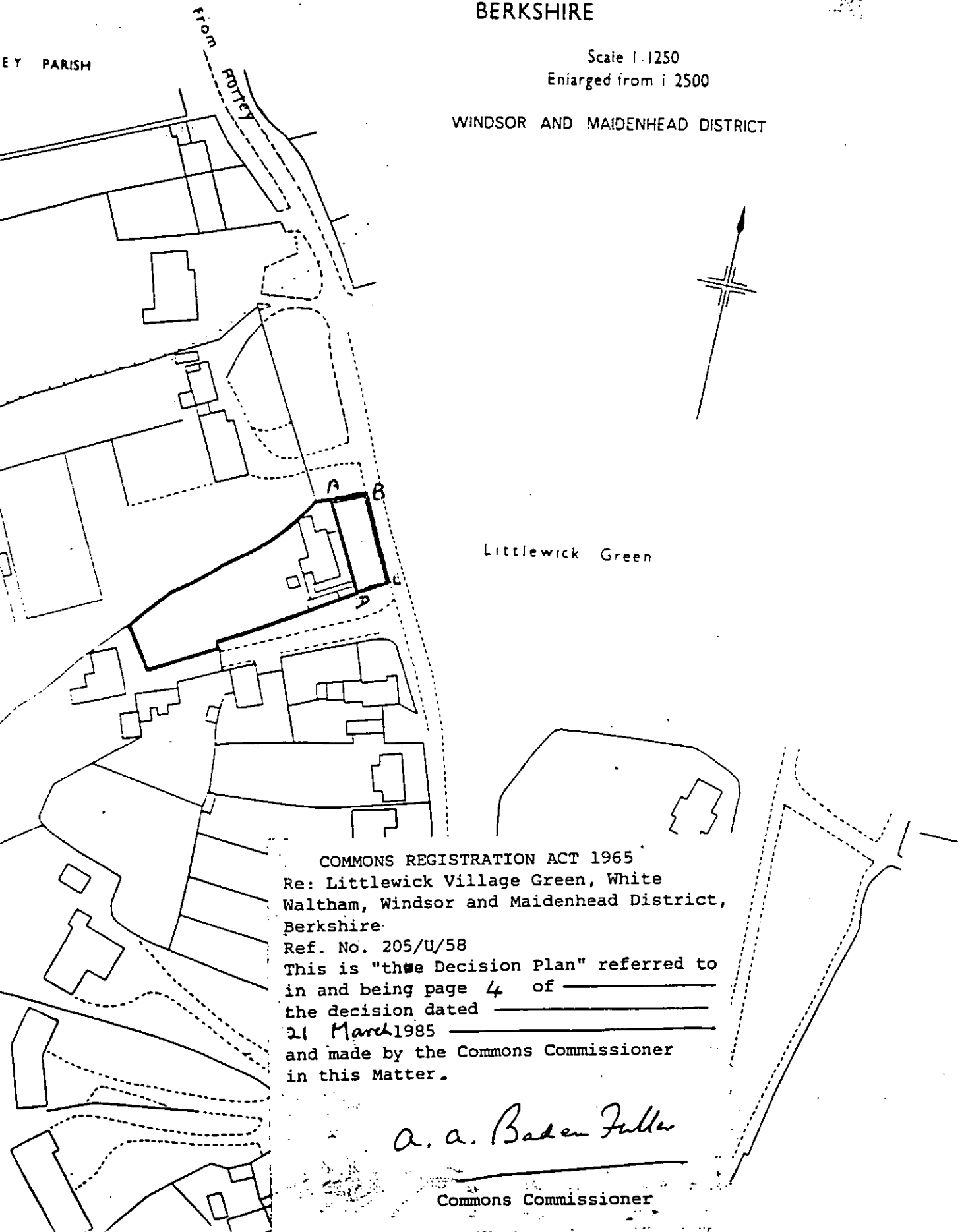
H. M. LAND REGISTRY

NATIONAL GRID PLAN
BERKSHIRE

SU 8379SECTION A

Scale 1:1250
Enlarged from 1:2500

WINDSOR AND MAIDENHEAD DISTRICT



COMMONS REGISTRATION ACT 1965

Re: Littlewick Village Green, White
Waltham, Windsor and Maidenhead District,
Berkshire

Ref. No. 205/U/58

This is "the Decision Plan" referred to
in and being page 4 of _____
the decision dated _____

21 March 1985 _____

and made by the Commons Commissioner
in this Matter.*a. a. Baden Fuller*

Commons Commissioner



For the above reasons I am satisfied that Mrs Davis is the owner of the Pink Land and I shall accordingly pursuant to section 8(2) of the 1965 Act direct the Berkshire County Council as registration authority to register Mrs Sheila Mary Davis of Littlebury, Littlewick Green, White Waltham as the owner of the Pink Land being the part of the land in this Register Unit in the Schedule to this decision defined as the Pink Land.

In the absence of any evidence I am not satisfied that any person is the owner of any other part of the land in this Register Unit and I shall accordingly pursuant to section 8(3) of the 1965 Act direct the Berkshire County Council as registration authority to register White Waltham Parish Council as the owner of all the remaining parts of the land in this Register Unit.

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 this decision is sent to him, require me to state a case for the decision of the High Court.

SCHEDULE
(the Pink Land)

In this decision "the Pink Land" means the land which is part of that in this Register Unit and which is marked ABCD on the Decision Plan referred to in and being page 4 of this decision. The Decision Plan is a copy of the plan annexed to the Land Certificate for Title No. BK160460, being therein described as of land known as Littlebury; except that the red edging on the certificate plan appears on the Decision Plan as a thick black line and except that the thick black lines AB, BC and CD have been added as next mentioned. The thick black line BC is over the dotted line on the Certificate plan apparently intended to mark the western edge of the made up carriageway of the public road (fit for motor traffic) in front of Littlebury. The thick black lines AB and DC are continuations in a straight line of the nearby straight line boundaries of Littlebury as shown on the Certificate plan.

Dated this 21st — day of March — 1985

a. a. Baden Fuller.

COMMONS COMMISSIONER