



COMMONS REGISTRATION ACT 1965

Reference nos 203/U/29
203/U/30

In the Matter of (1) the Rag Pit in Beacon Road
and (2) the Rag Pit at Ivinghoe Aston, both in
Ivinghoe, Aylesbury Vale District, Buckinghamshire

DECISION

These references relate to the question of the ownership of (1) land known as the Rag Pit in Beacon Road and (2) land known as the Rag Pit at Ivinghoe Aston, both in Ivinghoe Parish, Aylesbury Vale District being the lands comprised in the Land Section of Register Unit (1) No CL. 240 and (2) No CL. 241 in the Register of Common Land maintained by the Buckinghamshire 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 Ivinghoe Parish Council sent a statement about the ownership of the lands. No other person claimed to be the freehold owner of the lands in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Aylesbury on 4 October 1977. At the hearing Ivinghoe Parish Council were represented by Mr D Leach their chairman and Buckinghamshire County Council as registration authority were represented by Mr C D Durrant of the County Secretary and Solicitor's Department.

The said statement (so far as it related to the ownership of these lands) is to the following effect:- The Ragpits were allotted by the Parish Award to provide chalk for the upkeep of the roads and tracks. The writer remembered the Ivinghoe Ragpit (CL. 240) being so used. The Ivinghoe Aston Ragpit (CL. 241) was used for many years by the Wing RDC as a refuse dump and it is for their successors Aylesbury Vale to prove ownership. The Ivinghoe pit (CL. 240) was never officially so used. On the Award maps the two pits are designated "Public Chalk Pits", but the Schedule puts them in charge of the Surveyors of Highways (originally a Parish administration but eventually road maintenance was taken over by the Wing RDC). The writer maintains that the chalk was also used for farm tracks and gateways, and should still be available for that purpose.

Mr I A Horn who made —————> the said statement and who has lived in the Parish all his life (he was born in 1919), been a member of the Parish Council since about 1950 and was chairman from 1967 to 1976, in the course of his evidence produced the Parish Council Minute Books from 1894 to March 1922, and from April 1922 to August 1941, and referred me to the Ivinghoe Inclosure Award dated 10 August 1825, made under the Ivinghoe Inclosure Act 1822 (2 Geo 4 c. 1).



This Award which was produced from the County Record Office by Mr Durrant included an allotment as follows:- "And we...hereby award unto the Surveyors of the Highways of the Parish of Ivinghoe and the Hamlets thereof for the time being the two pieces of land or ground next hereinafter mentioned for the purpose of getting Stone Chalk and Materials for the repairs of the several public and private Roads and Ways within the parish of Ivinghoe that is to say One Allotment of land situate near Ivinghoe Aston in the Parish of Ivinghoe containing one acre three roods and twenty-four perches bounded on the north by the Leighton Road and on the east south and west by Allotments to...the fence of which said Allotment against the said Road shall be made and maintained by the Surveyors of the Highways of Ivinghoe Aston for the time being One other allotment of land situate near the Town of Ivinghoe at the Junction of the Pitstone and Dunstable Roads containing one acre and twenty-four perches bounded on the north and west by allotments to...and on the south-east and the south-west by the said Roads the fences of which said allotment against the said roads shall be made and maintained by the Surveyors of the Highways of Ivinghoe and the Hamlets thereof for the time being which said two allotments shall and may for ever hereafter be used by the said Surveyors and by the proprietors of lands tenements and hereditaments within the said Parish of Ivinghoe and the hamlets thereof and their tenants for the time being as and for Public Stone and Chalk pits And we direct that the grass and herbage arising and renewing in and upon the said allotments shall at all times hereafter be enjoyed had and taken by such person or persons to whom the Surveyors of the Highways for the time being shall or may demise or lease the same the rents and profits thereof to be by them applied to the repairs of the highways of the said Parish of Ivinghoe and the Hamlets thereof". The said two allotments are plot Nos 24 and 39 on the Award map.

Mr Horn identified the CL. 240 which according to the Register contains 1.34 acres and according to the Register map comprised OS nos. 98, 98a and 98b together having an acreage of 1.135 acres as being the same as plot no 39 on the Award map and identified as CL. 241 land which according to the Register contains 1.88 acres with plot no 24 on the Award map.

Mr Horn said (in effect):- The CL. 240 land is waste land covered with scrub; the CL. 241 land has been used by the Rural District Council as a rubbish tip and was now wasteland. Two days after the hearing I inspected the CL. 240 land; it is a strip about 200 yards long, the east end of which is at the junction of the Dunstable Road (B489, Icknield Way) and the Tring Road (B488) just south of the Village of Ivinghoe; it is a strip which throughout its length adjoins the B489 Road and slopes up steeply from it; it is densely covered with scrub making it inaccessible except at a place where it is made inaccessible by a corrugated iron barrier about 8 feet high and about 10 yards wide. I also inspected the CL. 241 land both from the road and from the field to the southeast and southwest; it too is covered by dense scrub but it is accessible on foot although very rough; on it there are two notices "WING RDC, NO RUBBISH TO BE TIPPED: OFFENDERS WILL BE PROSECUTED" and "TIP NOW CLOSED".

By the Local Government Act 1894 → land in rural areas formerly vested in the Surveyors of Highways became vested in the Rural District Councils as successors of the Highway Board for the estate and purposes and subject to the



covenants subject to which it was formerly held, see section 25 and section 67(2) of the 1894 Act. It follows therefore that unless the CL. 240 and CL. 241 lands have since 1894 been divested, the Aylesbury Vale District Council as successors of the Wing Rural District Council must now be the owners. Much highway land as a result of the Local Government Act 1929 came into the ownership of the county councils as highway authorities; they were "if desired" by any rural district council obliged to take over any quarry belonging to such council "in their capacity as highway authority", see section 118; in the absence of evidence and having regard to the present state of these lands, I infer that the Wing Rural District Council never so desired the County Council to have these lands. Mr Horn drew my attention to the minutes of the Parish Council meetings held on 7 August 1919, 10 April 1933 and 23 May 1933 as showing the concern of the Parish Council for these pits. Bearing in mind that the inhabitants of the Parish were at the time interested in the pits as beneficiaries under the "purpose" established by the 1825 Award, I am unable to infer from such minutes that the Parish Council were claiming ownership adverse to the Rural District Council as trustee. Although in law the Parish Council might under the Limitation Act 1939 have acquired a title by possession adverse to the Rural District Council these minutes are not I think evidence of any such possession, and none other was offered.

On the considerations outlined above I am satisfied that the District Council as successors of the Wing Rural District Council are the owners of these lands and I shall accordingly direct Buckinghamshire County Council as registration authority to register Aylesbury Vale District Council as the owners of the lands under section 8(2) of the Act of 1965.

Because the District Council may not have known of the 1825 Award, I give them liberty within 42 days from the date on which notice of this decision is sent to them to apply to me to have this decision set aside and the hearing reopened on the grounds that they have evidence available to show that these lands are not vested in them as I have from the information available concluded. Any such application should be made by letter to the Clerk of the Commons Commissioners accompanied by a brief statement of the evidence which would be given at any such reopened hearing.

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 24th day of October — 1977

a. a. Baden Fuller

Commons Commissioner