



COMMONS REGISTRATION ACT 1965

Reference No. 212/U/194

In the Matter of Parndon
Mead (two pieces), Harlow,
Essex

DECISION

This reference relates to the question of the ownership of land in two pieces known as Parndon Mead, Harlow being the land comprised in the Land Section of Register Unit No. CL338 in the Register of Common Land maintained by the Essex 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 British Petroleum Pension Trust Limited and Harlow Development Corporation Limited claimed ownership of parts of the land. No other person claimed to be the freehold owner of the land 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 land at Chelmsford on 10 November 1981. At the hearing (1) British Petroleum Pension Trust Limited ("BPPT") were represented by Mr P Clark solicitor with Linklaters & Paines, Solicitors of London; (2) Commission for the New Towns ("CNT") established under the New Towns Act 1959 (being successors of Harlow Development Corporation) were represented by Mr S D Corke solicitor with their Legal Department; (3) Mr David Morris Camp on whose application jointly with his brother Mr Murray Camp the registration at Ownership Section Entry No. 1 was made, attended in person on his own behalf and as representing his brother; and (4) Essex County Council as registration authority were represented by Mr S Gardner administrative officer (countryside) in their Chief Executive and Clerk's Department.

The land ("the Unit Land") in this Register Unit is in two pieces; one north of railway just under $\frac{1}{2}$ a mile long from east to west and having an average width of about 200 yards or perhaps less; the other on the opposite side of the railway about $\frac{1}{4}$ of a mile long and extending in part for about 200 yards southwards. In the Rights Section there are registrations made on the application of Mr Richard John Carter and Mr Edward Hales Carter as tenants of rights attached to Greenman Farm Eastwick, and to Eastwick Lodge to graze cattle and horses from 1 August to 1 March and sheep from 11 November to 1 March and (for Greenman Farm) to take hay; and also a registration made on the application of Messrs D M and M Camp as owner of a right attached to Roydon Lea to graze cattle and sheep for like periods. In the Ownership Section Messrs E M and M Camp are registered as owners of those parts of the Unit Land marked A, B, C, D, E and F on an inset map therein referred to.

Mr Clark and Mr Corke produced the documents specified in the Schedule hereto. Oral evidence was given by Mr D M Camp whose father in 1919 became tenant of Roydon Lea Farm (adjoining the Unit Land), in the course which he described the Unit Land: now grassland, low lying a short distance south of the River Stort and liable to occasional flooding. He said (in effect):- From about 1922 they (meaning his

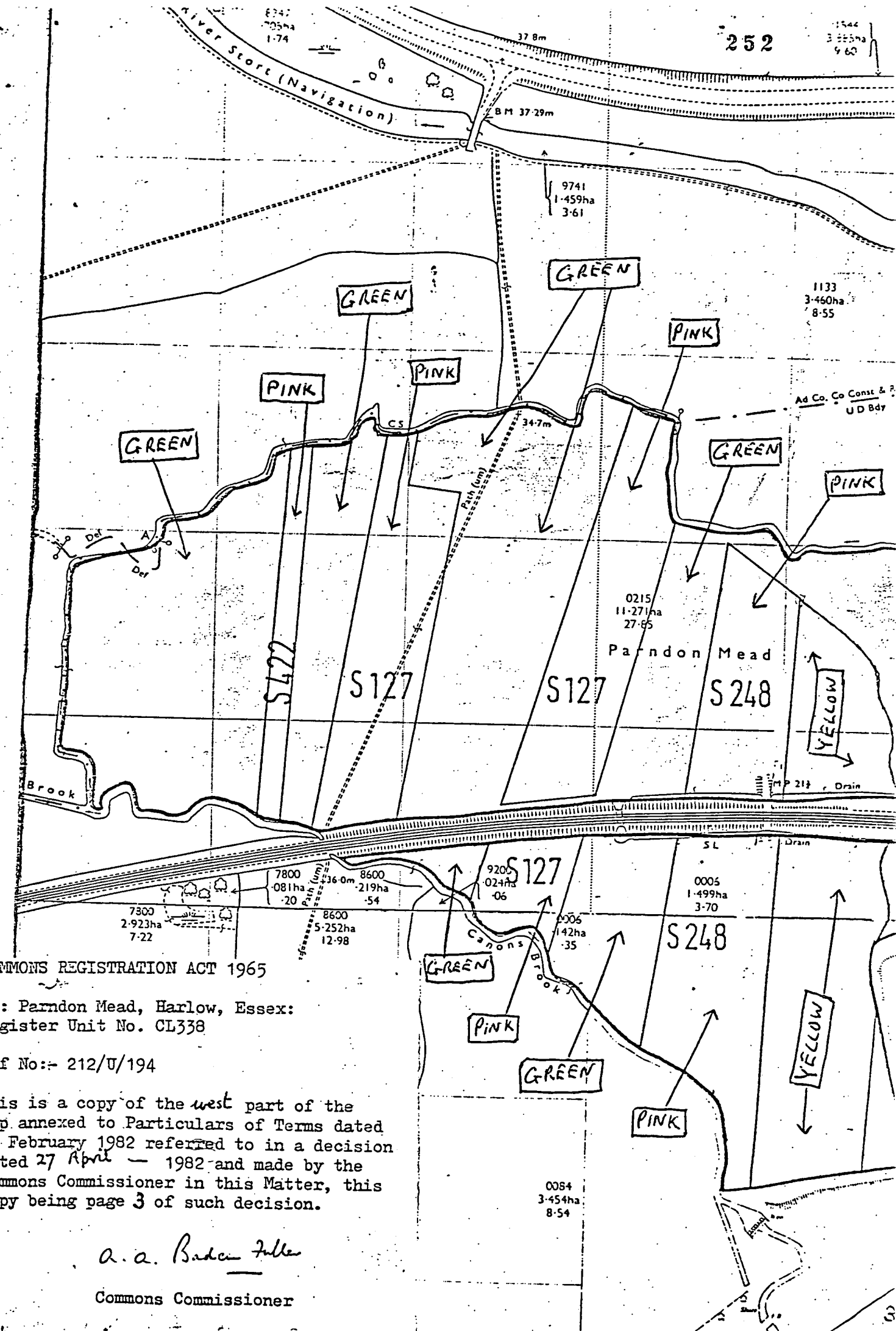


father and after him his brother and himself) had farmed the Unit Land exclusively although until recently they cut the hay on it and from 12 August to the end of February grazed it with cattle. Owing to the building of the New Town with its new roofs bringing down much more water into the River so that it floods, they have ceased cutting the hay (the floodwater is dirty) and grazed the Unit Land all the year round. When his father first became tenant the Unit Land was much marshier than now; before then a Mr Lodge at one time cut the hay, but in about 1921 nobody had cut it for about 3 years; his father was approached by the chairman of the Parish Council and asked if he would cut it because there were bushes growing there. At one time his father regarded the land as common land he could have for nothing. However claims were made against either his father or against his brother and himself by DPPT and CNT or their predecessors in title, and they had since paid rent to them in respect of the Unit Land or some part of it. Shortly after he applied for the Ownership Section registration Mr Carter asked him to pay rent for the part at Parndon Mead within the Gilston Estate because he Mr Carter was one of their tenants; they paid him rent accordingly although Mr Carter was unable to state which part of Parndon Mead was included in this Estate. He (the witness) produced a letter dated 2 July 1970 from the agent of Gilston Estates Company saying that they do own land on the Parndon Mead. In the result they agreed to pay Mr Carter a small rent although he could not identify the land in respect of which it was paid.

The Unit Land is not in Eastwick (the parish adjoining on the north). Messrs Carter have had notice of my hearing and have not attended. In these circumstances I infer that the rights of common registered by them represent the whole interest of them and of Gilston Estates Company in the Unit Land and that any rent paid by Messrs Camp to Messrs Carter can be ascribed to such interest. On this basis and in the absence of any evidence, I am not satisfied that Messrs Carter of Gilston Estates Company are owners of any part of the Unit Land.

The Tithe Award map shows the Unit Land as divided into about 30 smaller pieces mostly being strips with 2 parallel boundaries apparently drawn quite arbitrarily. The documents specified in the Schedule hereto and the parts of the Unit Land referred to in the Ownership Section indicate that (1) Messrs Camp, (2) CNT, and (3) BPPT or their predecessors own a large number of these strips but the plans attached or referred to in these documents do not altogether correspond with the Tithe map or with each other; it seems that some of the strips would correspond exactly if they were treated as rotated in relation to the points of the compass shown on the map. From the documents specified in the Schedule hereto and the oral evidence summarised above of Mr Camp I was at the hearing satisfied that Messrs Camp, CNT and BPPT are together the owners of all the Unit Land but to determine upon these documents and this evidence the exact boundaries of the strips owned by each of them, would involve a detailed and lengthy consideration of the documents and the result might be unsatisfactory. Accordingly in the course of the hearing I indicated that I would consider any agreement they might reach.

Since the hearing I have received a letter dated 22 February 1982 from the Solicitor for CNT enclosing Particulars of Terms dated 22 February 1982 and signed by solicitors on behalf of (1) Messrs David Morris Camp and Murray Camp, (2) ~~CNT~~ (BPPT) and (3) CA. To these Terms are annexed ~~a~~ a map, an uncoloured extract from which is at pages 3 and 4 of this decision. On such extract I have slightly thickened the black line indicating the boundary of the Unit Land and marked on it the parts which are on



COMMONS REGISTRATION ACT 1965

Site: Parndon Mead, Harlow, Essex:
Register Unit No. CL338

Ref No:- 212/U/194

This is a copy of the west part of the map annexed to Particulars of Terms dated 12 February 1982 referred to in a decision dated 27 April 1982 and made by the Commons Commissioner in this Matter, this copy being page 3 of such decision.

a. a. Baden Fuller

Commons Commissioner

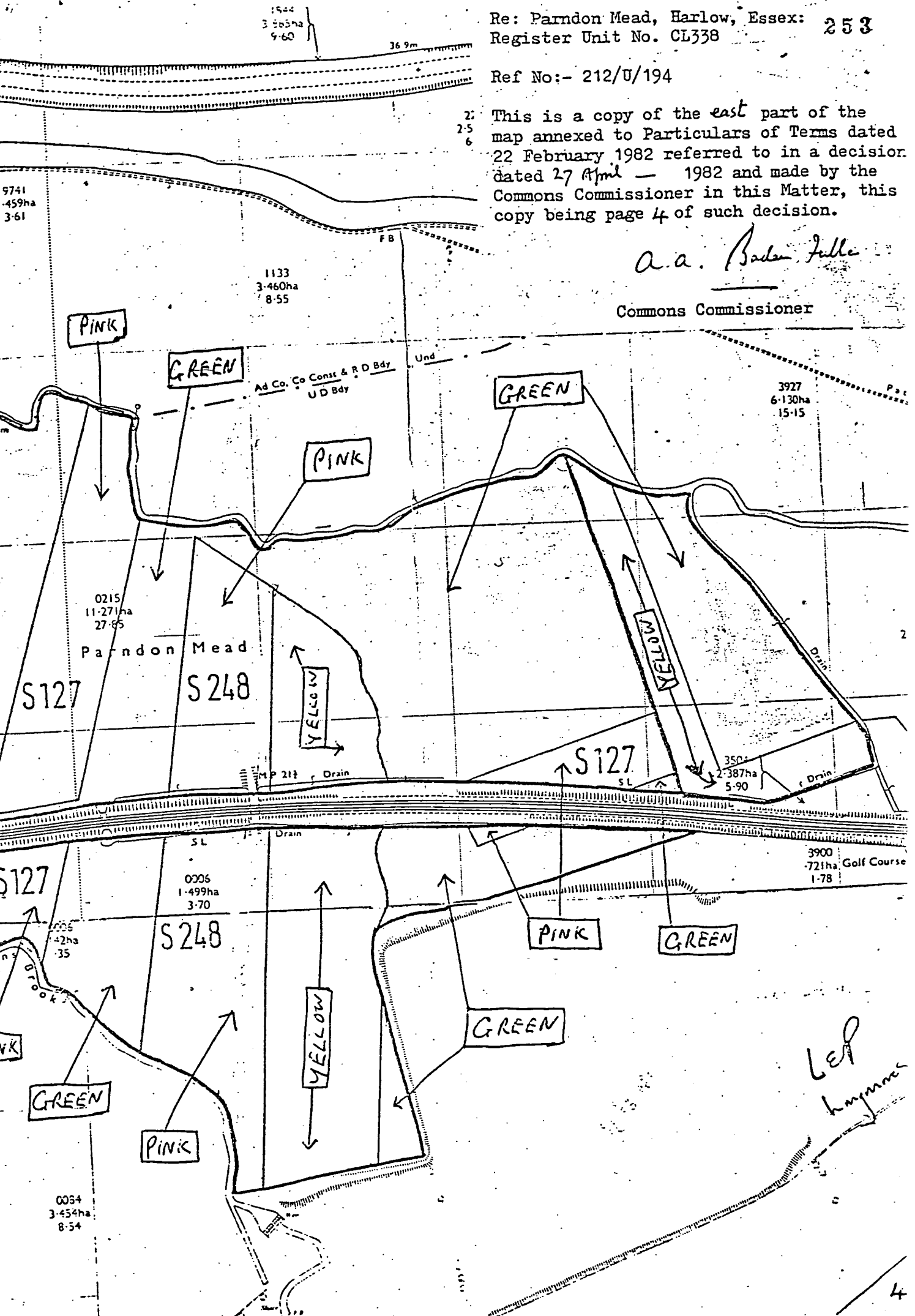
Re: Parndon Mead, Harlow, Essex: 253
Register Unit No. CL338

Ref No:- 212/U/194

2: This is a copy of the east part of the
2.5: map annexed to Particulars of Terms dated
6: 22 February 1982 referred to in a decision
dated 27 April - 1982 and made by the
Commons Commissioner in this Matter, this
copy being page 4 of such decision.

a.a. Baden Fuller

Commons Commissioner





I
 the original coloured green, pink and yellow. ~~The~~ substance of the Terms are that it is agreed that Messrs Camp, CNT and BPPT are respectively owners of the parts of the Unit Land on the said plan coloured green, pink and yellow. By the Terms I am invited to direct the registration authority to register the ownership of CNT of the pink land and of BPPT of the yellow land.

Having regard to section 12 of the 1965 Act I feel some doubt whether I can properly direct the registration of any part of the Unit Land that is registered at HM Land Registry under the Land Registration Acts 1925-1971 under title No HD127528; however so much of the Unit Land as is registered under the 1925 ~~and~~ 1971 Acts will I suppose in due course be deleted pursuant to regulation 21 of the Commons Registration (General) Regulation 1966, this had not yet been done at the date of my hearing; and it is provided by the Terms that BPPT shall procure the rectification of the register of title relating to Title No. HG127528 and that any registration in favour of BPPT pursuant to my direction shall be deleted under section 12 of the 1965 Act. I also feel some doubt as to whether I can direct a registration for the benefit of CNT which in any way conflicts with the now final Ownership Section registration at Entry No. 1. The Terms specifically state that the registration authority is willing to amend the said Entry so as to make it accord with the Terms. In my view I ought to give effect to the Terms as far as I am able leaving the parties concerned to deal with any difficulties that may arise as best they can.

For the above reasons, pursuant to section 8(2) of the 1965 Act I shall direct Essex County Council as registration authority to register (1) Commission for the New Towns of Glen House, Stag Place, Victoria, London, SWE 5AJ as the owner of the part of the land in this Register Unit which is coloured pink on the plan annexed to the Particulars of Terms hereinbefore mentioned, an uncoloured extract from which plan with an indication on it of the parts so coloured being at pages 3 and 4 of this decision; and (2) British Petroleum Pension Trust Limited of Britarnic House, Moor Lane, London, EC2Y 9BU as the owner of the part of the said land which is coloured yellow on the said plan, which part is on the said extract marked as so coloured.

Because I am not giving exact effect to said Terms I give to every person who attended or was represented at the hearing liberty to apply to me within 3 months (or such extended time as I may on application allow) to alter or add to this decision for the purpose of more perfectly giving effects to the said Terms.

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.

SCHEDULE

(Documents produced at hearing)

Part I: By Mr Clark for BPPT

4 March 1980

Land Certificate showing BPPT with an absolute title freehold under Title No. HD127528



Copy Land Registry plan (48" x 36") referred to in above certificate.

- 29 April 1935 Vesting assent by the personal representatives of Arthur Salvin Bowlby (he died 12 August 1932) in favour of Francis Edward Salvin Bowby of 970a. 3r. 33p. and 155a. 2r. 6p. coloured green and yellow on the plan.
- 29 January 1948 Statutory declaration by Francis Edwin Salvin Bowlby.

Part II: By Mr Corke for CNT

- CNT/1 22 August 1980 Harlow Development Corporation (Transfer of Property and Dissolution) Order 1980, being SI 1980 No. 1284.
- CNT/2 27 June 1845 Extract from map referred to in Tithe Rentcharge Apportionment for the parish of Great Parndon.
- 2 November 1981 Affidavit of David Morris Camp and Murray Camp.
- A Copy Ownership Section of this Register Unit.
- B Copy of plan referred to said Section.
- C 18 September 1964 Agreement by which Harlow Development Corporation let to Ernest Camp, Ernest Henry Camp, David Morris Camp, and Murray Camp arable field and portion of Lammas lands.
- D 1 December 1977 Rent of above increased.
- E Map of land admitted by deponents to be owned by CNT.
- 5 November 1981 Affidavit of Graham Kenneth Jones, Senior Estates Officer of CNT.
- A 30 November 1977 Conveyance by Alfred Ferdinand Hazell as judicial trustee of the estate of William Henry Twynham (he died 8 November 1962) to Harlow Development Corporation of Parndon Mill and allotment of Lammas Lands known as Half Acre Piece.
- B Copy of Register map referred to in (CL338) Ownership Section.
- C 25 May 1956 Conveyance by Arthur Cowdray, James George Eve and The Mark Estate Company to Harlow Development Corporation of first 368.282 acres of land.
- D 29 September 1959 Conveyance by Winifred Leeson Collins, Walter William John Collins and Joseph Herbert Fellows to Harlow Development Corporation of secondly 3.275 acres in Great Parndon.



E Plan of Parndon Mead the ownership of which was claimed
(subject to the 1964 tenancy as varied in 1977) by
CNT

G 18 September 1964 Tenancy agreement (being also exhibit C to affidavit
of Messrs Camp).

Dated the 27th — day of April — 1982

a. a. *Baden Fuller*

Commons Commissioner