



## COMMONS REGISTRATION ACT 1965

Reference No. 14/U/85

In the Matter of Broad Oak Common, Odiham  
Hart D., Hampshire

DECISION

This reference relates to the question of the ownership of land known as Broad Oak Common, Odiham, Hart District being the land comprised in the Land Section of Register Unit No. CL.52 in the Register of Common Land maintained by the Hampshire 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 the Clerk of Odiham Parish Council wrote saying that the Council had in the past attempted to trace the owner of the land in question without success, that for some years the Council have "managed" the area and that they would be prepared to consider "taking over" the Common. No person claimed to be the freehold owner of the land in question and no other person claimed 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 Winchester on 15 October 1974. At the hearing Odiham Parish Council were represented by Mr A.C. Bull, one of their members. Squadron Leader C.H. Robinson (a grazing right and a right of estovers attached to Wharf House was registered in the Rights Section on his application) attended in person.

The land ("the Unit Land") comprised in this Register Unit is a tract of about 6.7 acres, the north end of which adjoins the Basingstoke Canal over which there is a bridge nearby. The Rights Section contains (including the entry above mentioned) 8 (?) entries of grazing and other rights.

Mr Bull said (in effect):- The Parish Council have no evidence of ownership. Some believed that the Unit Land formed part of an Estate owned by Sir Gerald Mildmay whose successor was believed to be Colonel Wallington: his solicitors had been approached, but it appeared that he was not interested in claiming ownership.

Squadron Leader Robinson said that as a result of researches in the Archives of the County Council and in the Public Record Office, he had discovered that the Manor of Odiham in 1714 passed by purchase to Sir Henry Paulet St John Mildmay (he gave particulars of the devolution from 1454 when the Manor was owned by Margaret consort of King Henry 6), and that in 1739 there was an Inclosure Act relating to Odiham (12 Geo. 2 cap. xxxi) from which it appeared that the Mildmays were then the owners of all the common land. He produced a copy of a conveyance dated 7 March 1945 by which Brigadier H.V.S. Charrington as a gift conveyed to



Hartley Wintney Rural District Council for the purpose of being preserved as an open space all his estate and interest in Odiham Common (an area much larger than the Unit Land on the north side of the Canal); this 1945 conveyance contained a recital of a conveyance dated 31 January 1934 made in favour of the Donor by Sir Anthony St John Mildmay of all his estate and interest "as Owner of the Hundred and Manor of Odiham in or over the lands known as Odiham Common ...". Squadron Leader Robinson said that on 22 November 1949 a scheme for the regulation and management of Odiham Common ~~was~~ ~~had been~~ made under the Commons Act 1899.

Mr Bull said that the general local view was that the Unit Land should be vested in a local authority. The land looked like a village green; the local hunt met there quite often. After the hearing, I walked over the land; much of it is open grass land (with some trees) and it is obviously a valuable amenity for the houses which front on to it; the part near the canal is overgrown; there are indications that works to the canal (clearing it of reeds and repairing the banks) near the Unit Land are contemplated, and it may be that these works when completed will improve the Unit Land.

From the plan annexed to the 1945 conveyance, it is clear that the Unit Land is not included in the land conveyed. I have no jurisdiction under the 1965 Act to vest the Unit Land in the Parish Council or in any other local authority merely because it is expedient. In the absence of any evidence as to who is the owner of the Unit Land (the information given me by Squadron Leader Robinson related to the past, not to the present, ownership), I am not satisfied that any person is the owner of the land and it will therefore remain subject to protection under section 9 of the Act of 1965.

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 16<sup>th</sup> day of December 1974

a. a. Baden Fuller

Commons Commissioner