



COMMONS REGISTRATION ACT 1965

Reference No.45/U/214

In the Matter of Old Gravel Pit, New Mill Field,
Great Heck, Osgoldcross R.D., Yorkshire West Riding

DECISION

This reference relates to the question of the ownership of land known as Old Gravel Pit, New Mill Field, Great Heck, Heck, Osgoldcross Rural District being the land comprised in the Land Section of Register Unit No.CL.414 in the Register of Common Land maintained by the West Riding 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 Balne Parish Council 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 Wakefield on 5 February 1974. At the hearing Balne Parish Council were represented by Mr. J. R. Naylor, their clerk.

Mr. Naylor who was born in 1916 in the Village, lived there until 1940 and from 1959 onwards and has been clerk of the Parish Council since 1967, gave evidence.

The land ("the Unit Land"): according to the Register having an area of 0.567 hectares (a little less than $1\frac{1}{2}$ acres) is now grass land let by the Parish Council to the occupier of Windmill House (a few yards to the north: marked on the Register map) who (among other activities) keeps poultry.

Mr. Naylor produced a copy (dated 10 December 1896) of an extract from an Award relating to the township of Balne dated 1 June 1775 containing an allotment in these words:- "We set out and appoint one acre and two roods of land parcel of the New Mill Field in the Township of Great Heck and Little Heck for getting of Stone, Gravel, Sand, and other materials for repairing the Roads and ways set out by virtue of the said Act or other ancient Roads within the said Township of Baln, and for the use of the Inhabitants of the said Township of Baln and bounded by lands herein awarded to the inhabitants of the said Township of Great Heck and Little Heck for getting gravel for repairing the Roads within the said Township of Great Heck and Little Heck towards the north ... and by a public highway herein awarded and called Pontefract Road towards the west".

Mr. Pickersgill who was representing the County Council as registration authority produced from the West Riding Deeds Registry a bound volume containing a complete copy of the Award showing that it was made for the townships of Pollington, Baln, Whitley and Whitley Thorpe, Great Heck and Little Heck in the parishes of Snaith and Kellington pursuant to a 1772 Inclosure Act (12 Geo. 3. c. cccviii).



-2-

The 1772 Act not only authorised an allotment such as that above quoted, but also provided (stating its effect shortly) that "the herbage" should vest in the Surveyor of the Highways in trust to let the same and apply the rent received for the repair of the Highways.

Mr. Naylor identified the land so allotted with the Unit Land, explaining that when the Parish Council applied for its registration under the 1965 Act they agreed the north boundary with the Heck Parish Council. When he was a boy the Unit Land and the adjoining land on the north (apparently that allotted for Heck) appeared to be one quarry: all hills and holes without any distinction between the parts allotted for Balne and that allotted for Heck; he remembered going there to dig out gravel.

Between 1950 and 1960 the Parish Council sold the remaining gravel under the Unit Land to gravel operators who levelled it off and seeded it; from them the Parish Council received between £100 and £150. It was then (before Mr. Naylor became clerk) that as above mentioned and ever since the Parish Council have received the rent.

On the evidence outlined above, I conclude that the Parish Council are in possession of the Unit Land, and that whether or not under the Award they or some other local authority would, apart from such possession, be owners, it is now practically certain that their possession will never be successfully disputed.

Possession in such circumstances is equivalent to ownership and I am therefore satisfied that the Parish Council are the owners of the Unit Land, and I shall accordingly direct the West Riding County Council, as registration authority, to register Balne Parish Council as the owner of the land under section 8(2) 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 12th day of March 1974.

a. a. Baden Fuller

Commons Commissioner