



In the Matter of land (2 pieces)
east and west of Fairhouse Road,
Barwick, Yeovil District, Somerset

DECISION /

This reference relates to the question of the ownership of land (2 pieces) east and west of Fairhouse Road, Barwick, Yeovil District being the land comprised in the Land Section of Register Unit No CL. 8 in the Register of Common Land maintained by the Somerset 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 Barwick 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 Taunton on 5 and 11 October 1976. At the hearing Barwick Parish Council were represented by Mr G D Bevir solicitor of Ffooks Bartlett & Co Solicitors of Sherborne.

The land ("the Unit Land") comprised in this Register Unit is in two strips, each a little under 500 yards long, on opposite sides of Fairhouse Road (the main access from the south to the village of Barwick). The south end of each strip is by the Yeovil-Dorchester road (A.37); the north end of each strip is at or near the south side of a new Council housing estate. The north half of the west strip is about 15 yards wide; the east strip and the south half of the west strip is narrower, averaging about 7 yards wide. The strips on one side are open to the Road and on the other side are in most places bounded by a ditch and a hedge. There is a hard standing about 50 yards long near the south end of the east strip and a hard area (apparently used as a lay by or carpark for one or two cars) near the north end of the west strip. The rest of the Unit Land (apart from access tracks or paths) is grass land (except in places where the hedge is overgrown and spread across the ditch). The general appearance of the Unit Land as an entrance to the Village is attractive, a prominent feature being Stoford Fair House, (an old thatched dwelling house, now called Fairhouse Farm)
→ with a small enclosed front garden which projects a little into the Unit Land.

Oral evidence was given by Mr J W Sweet who is now and has been since March 1973 clerk of the Parish Council, in the course of which he produced: (1) a statement signed by Mr H J Guppy who is 81 years of age and has known the Unit Land for 65 years; (2) a statement signed by Mrs V N Brown; (3) a statement signed by Mr W G Thorne who will be 79 this year and who has lived in the Village all his life; (4) extracts from (obtained by Mr B Gane, a member of the Parish Council) (a) Somerset and Bristol Directory 1872, (b) notes on Barwick and its church, (c) historical notes on South Somerset by J Batten (1894), (d) the Western Gazette at 10 June 1932, and (e) a talk on Barwick and Stoford given to the Womens Institute in June 1970 by Mrs Priddle; (5) an extract from the Vestry Minutes



(in the custody of the Vicar) for 30 May 1855; (6) Minute Books of the Parish Council for the periods (a) 1925-1935, (b) 1953-1967, (c) 1967-1973 and (d) 1973 to date; and (7) some 1971 and 1972 correspondence between the Parish Council and Yeovil Rural District Council, Bere Regis District Motor Services and British Road Services Ltd. Four days after the hearing I inspected the Unit Land.

Up to and for many years before the end of the last century, at least one cattle fair was held annually on the Unit Land: the 1872 Directory says on 11 June and 28 September; the Notes, the 1932 Article and Mrs Priddle say on the feast of St Mary Magdalene. Mr Guppy and Mr Thorne had in the past met persons who remembered these fairs. Mrs Priddle says: "I well remember being told by my grandmother that on the brow of the hill turning left from Higher Bullen fairs were held, when horses, sheep and cattle were brought and sold; where gypsies encamped along the common land, bringing the usual stalls and side shows. She told me of the large 'granny dumps', a kind of mint sweet and fairings she bought from these stalls...I have often wondered if 'Fairhouse Farm' took its name from these fairs". Whether or not Mrs Priddle is right about the name, there is so Mr Sweet said no place other than the Unit Land on which any such fairs could possibly have been held.

The only reference to the Unit Land which has been found in the Vestry Minutes is (1855):- "...resolved that the Profits arising from the Tolls of the Fairs at Stoford in this Parish be henceforth rated to the relief of the Poor at 20s per annum.

Mr Sweet said that the earliest reference he could find in the Parish Council Minute Books (they are complete back to 1894 except that the book for the period 1935-1953 vanished some time before he became clerk) is an entry headed "Waste Land at Fair House", as follows:- "The clerk was also asked to inform the District Council that the Landlord of Fairhouse House had erected Cart shed on this waste land, And the Barwick Parish Council asked them to see that the people's rights was protected in this matter". The record of a meeting on 25 October 1934 includes (under the same heading): "A letter was read from the RDC with reference to this matter. The following was the reply they received from Messrs Batten & Co. In their opinion the land in question was certainly not part of the highway, nor was it part of the Grass Verge; it was a field through which the Highway passed, and been for a great many years, always let as part of Fairhouse Farm. Furthermore it might be within recollection of members of the District Council that the fair was held on this field and under the lease to the tenant, the tenant was entitled to receive and did in fact take the fees and Poundages from the fair. Apart from any other arguments in their favour, this was in their opinion conclusive of the owner's right to do as he wished with his own Property..." The clerk was instructed to reply to the RDC and that he should write to the Somerset CC in this matter and also to the Commons and Open Spaces Preservation Society, enclosing copy of letter received from RDC". No minutes describing what ultimately happened had been found, possibly because the record was in the Minute Book which has vanished. However from the statements of Mr Guppy, Mrs Brown and Mr Thorne I conclude that the shed to which the Parish Council objected was pulled down by the Batten Estate and erected on the other side of the hedge (not on the Unit Land) on the opposite side of the road to Stoford Fair House.

In and after 1963 there are various references in the Minute Books indicating the interest of the Parish Council in the Unit Land; these together with the 1971 and 1972 correspondence show that at any rate in recent years the Parish Council's requests relating to the Unit Land have been complied with by Somerset County Council, Yeovil District Council, Bere Regis and District Motor Services and British Road Services Ltd; exceptionally (so Mr Sweet said) one person who he understands is shortly leaving the Village, insists that the Parish Council have no right to prevent her parking on the Unit Land.



Both from the present appearance of the Unit Land and the information given to me about the fairs formerly held on it, I conclude that it has from time immemorial been public land in some sense; the ownership alternatives are I think either it has always been Parish Property or it has belonged to the owner of the Fair franchise, being the Batten Estate or their predecessors.

The 1855 Minute although consistent with the franchise owner being also the owner of the land is inconclusive; Mr Thorne of the annual fairs says "No charge was ever made - there was no fixed toll or anything". The 1934 minutes indicate that the Batten Estate claimed ownership but because they removed the shed, I conclude that they then abandoned their claim.

Mr Sweet said that the Batten Estate formerly included Stoford Fair House, the farm lands around it and the farm lands on the opposite side of the road. Under the 1965 Act the owner of the House, Mr F G Musson, objected to the inclusion in the Land Section of this Register Unit of a small area, being the enclosed front garden above mentioned; this objection (by consent) was upheld by a decision dated 17 November 1972 of the Chief Commons Commissioner. The circumstance that Mr Musson objected to no more than this small area of land is an indication against the claim made in 1934 by his predecessors in title that all the Unit Land was then part of the Farm.

The Parish Council are by operation of law owners of all land which has from time immemorial been Parish property. They have since 1963 done effective acts of ownership in relation to the Unit Land, and can I think reasonably be regarded as being in possession.

Some of the evidence summarised above is as regards Parish ownership inconclusive; but adding it all up and weighing as best I can the part of it which points to other ownership, I am satisfied that the Parish Council are the owners of the land and I shall accordingly direct the Somerset County Council, as registration authority, to register Barwick Parish Council as the owners 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 25th day of October _____ 1976

a. a. *Bruce Fuller*

Commons Commissioner