



COMMONS REGISTRATION ACT 1965

Reference Nos 2/U/51
2/U/64

In the Matters of (1) Five Oaken Common and
(2) Brewery Common both in Stratfield Mortimer,
Bradfield R.D., Berkshire.

DECISION

These references relate to the question of the ownership of lands known as (1) Five Oaken Common and (2) Brewery Common both Stratfield Mortimer, Bradfield Rural District being the lands comprised in the Land Section of Register Unit No CL.30 and CL.25 respectively in the Register of Common Land maintained by the Berkshire 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 these references Stratfield Mortimer Parish Council claimed to be the freehold owner of the lands in question; no other person claimed to be the owner 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 Reading on 20 March 1973. The hearing was attended by Stratfield Mortimer Parish Council who were represented by Mr J O H Kirkwood their clerk. He agreed that I should hear these two references together.

Mr Kirkwood who has been the clerk of the Council for nearly 25 years in the course of his evidence produced (i) a copy of the Stratfield Mortimer Inclosure Act 1802 (42 Geo 3 chap xxii), (ii) a copy of the Award dated 1 December 1804 made under the Act and (iii) a map entitled "Map of Commonable Lands in the Parish of Stratfield Mortimer ... as the same were allotted by Act of Parliament passed in 1802". The copy of the Award was certified in 1891 by the Clerk of the Peace and of the County Council as a true copy of that which had been enrolled, with a note that the enrolled copy had no plan annexed. Notwithstanding that the map produced by Mr Kirkwood was not certified, on its appearance and Mr Kirkwood's statement that it had been kept with the copy Award, I accept it as being a true copy of the Award Map.

By the Act of 1802 it was enacted "That the Said Commissioners ... shall and they are hereby required to set out and allot such Part and Proportion of the said Common, Commonable Places, and Waste Lands, so intended to be divided allotted and inclosed as they shall think sufficient, as and for public Stone and Gravel Pits, with a convenient Road or Roads to and from the same, to be used in Common by the Proprietors of Lands and Estates within the said Parish of Stratfield Mortimer and their tenants as well for their own necessary Uses as for the Repairs of the said Roads within the said Parish and for Repairs of the Roads to be set out and allotted by the said Commissioners by virtue of the said recited Act (the General Inclosure Act 1801)".

The 1804 Award contained an allotment as follows:- "EIGHTHLY We the said Commissioners in pursuance of the Direction in the said first recited Act contained have set out and allotted and by these presents do allot and award such parts and proportions of the said Common called Mortimer Heath as are next hereinafter mentioned and described as and for public stone and gravel pits with convenient road to and from the same to be used in common by the proprietors of lands and estates within the said



parish of Stratfield Mortimer and their tenants as well for their own necessary uses as for the repairs of the roads within the said Parish as directed by the said first recited Act (that is to say) ALL THAT piece or parcel of land at or near a place called Whites Corner numbered 30 on the said map containing seven acres and thirty five perches exclusive of the public road marked D passing through the same ALSO ALL THAT piece or parcel of land at or near a place called Five Oak Slade numbered 31 on the Sd. Map containing one acre one rood and eight perches bounded on the south by an allotment of Thomas Dreweatt and numbered 64 ALSO ...", and there follows a description of six other pieces of land similarly allotted as stone or gravel pits.

Mr Kirkwood identified the land now known as Brewery Common with that awarded as Whites Corner and numbered 30 on the map. As a gravel pit it had been worked out before living memory and up until about 1925 had been used as a refuse dump. Byelaws had been made under the Commons Act 1899 by Bradfield Rural District Council on 15 November 1927 and approved by the Minister of Health on 11 January 1928. It is now just an open space: scrubland and some wild life; In recent years ~~has been~~ built up all round.

Mr Kirkwood also identified the land now known as Five Oaken Common with that awarded as Five Oak Slade and numbered 31 on the map. The land is not perhaps ^{of} ~~such~~ great value, looking to the future of the Village it might become of value.

In my opinion the pieces of land allotted by the 1804 Award under the words above quoted became land belonging to the Parish and upon the considerations set out in my decision dated 15 March 1973 re Gravel Pits reference 1/U/24 (the Award I then considered was in many respects similar to the above quoted) I conclude that these lands were at one time vested in the Churchwardens and Overseers and have now by operation of law passed to the Parish Council. Mr Kirkwood also produced a plan described as being of a piece of land at Five Oak given by Richard Beynor Esq. to the parish of Stratfield Mortimer for the purpose of digging gravel; although this plan may be of some historical interest, it being unsupported by any other document, I do not base my decision on it.

For the above reasons, I am satisfied that the Parish Council is the owner of the lands and I shall accordingly direct the Berkshire County Council as registration authority to register Stratfield-Mortimer Parish Council as the owner of the lands 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 4th day of May 1973

a. a. Baden Fuller.

Commons Commissioner