



COMMONS REGISTRATION ACT 1965

Reference No 2/U/78

In the Matter of the Pound and Heath Elm Pond,
Stratfield Mortimer, Bradfield R.D., Berkshire

DECISION

This reference relates to the question of the ownership of land known as the Pound and Heath Elm Pond, Stratfield Mortimer, Bradfield Rural District being the land comprised in the Land Section of Register Unit No CL.53 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 this reference Stratfield Mortimer Parish Council claimed to be the freehold owner of the land 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.

This hearing followed a hearing dealing with other lands in this Parish (Five Oaken Common and Brewery Common), at which there was produced an Inclosure Award dated 1 December 1804 and made under the Stratfield Mortimer Inclosure Act 1802 and a map which I accepted as a true copy of the Award Map mentioned in the Award. In this case this map was used as evidence of the appearance of the land the subject of this reference in 1804, and my decision of even date references 2/U/51 and 2/U/64 should so far as it relates to this map be treated as part of this decision.

Mr Kirkwood in his evidence said in effect:- The land ("the Unit Land") comprised in this Register Unit is on the 1911 edition of the Ordnance Survey map (1/2500) shown as 2 adjoining pieces: no.249 area 0.218 acres, marked "Pound", and no.250 area 0.162 acres apparently the pond; and shown as surrounded on the north and west by the Fair Ground, a piece of land having an area of about 20 acres. Mr Kirkwood remembered that in or about 1920, the pound was still there, but the pond is now smaller than it was then. Now the pound is no more, and the Unit Land is a piece of grass land with a pond; it is fenced from the Fair Ground but open to the roads on the south and east. By the Award the ground now called the Fair Ground was thereby specifically allotted as "the Fair Place" (20 acres); the Unit Land is shown on the Award Map but is not allotted or otherwise dealt with by the Award. The road now known as Mortimer Street (about a mile long) commences at the fork in the road near the south west corner of the Fair Ground, runs along the south side of the Fair Ground and the south side of the Unit Land, continues approximately due east, and ends (having passed near to St Mary's Church) at Tun Bridge (a bridge over the River). The 1804 Award in two places contains the words "the West end of Mortimer Street", clearly referring to a point near the south west corner of "the Fair Place". Under the Award and a scheme or order of the Charity Commissioners the Fair Ground is now vested in the Parish Council on Charitable trusts. From the time when Mr Kirkwood first remembers to about ten years ago the Unit Land was much overgrown; for the last ten years the Parish Council have interested themselves in it; at first they arranged for the County Council to cut the grass, but currently the grass is being cut



under an arrangement with the Parish Council by one of their members. The Parish Council contributed to the cost of the construction by the County Council of a culvert under the road to reduce the water level in or under the Fair Ground and the Unit Land, being a drainage work beneficial to both pieces of land.

From the 1804 Award, I infer that the "Fair Place" was thereby deliberately allotted next to the Unit Land because it would be convenient that the Fair Place, the Village Pound and the Village Pond should be all near each other at the end of the Village Street. From this and the other evidence summarised above, I also infer that it has ever since 1804 been generally accepted in this village that the Unit Land belonged to the Parish in the popular sense of that expression. For the reasons set out in my decision dated 15 March 1973 in re Gravel Pits, Wrestlingworth reference 1/U/24 I conclude from the fact that this Unit Land belonged to the Parish in the popular sense of that expression that it was vested in the churchwardens and overseers of the Parish and is now vested in the Parish Council as their successors.

For the above reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Berkshire County Council, as registration authority, to register Stratfield Mortimer 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 14th day of May 1973

a. a. Baden Fuller

Commons Commissioner