



COMMONS REGISTRATION ACT 1965

Reference No. 25/U/115  
25/U/116.

In the Matters of (1) Beighton Sand Pit and  
(2) Moulton Sand Pit, both in Beighton,  
Broadland District, Norfolk.

DECISION.

These references relate to the question of the ownership of lands known as (1) Beighton Sand Pit, (2) Moulton Sand Pit, both in Beighton, Broadland District being the lands comprised in the Land Section of Register Unit (1) No. CL.18 and (2) No. CL.15 in the Register of Common Land maintained by the Norfolk 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, (a) Broadland District Council claimed to be the owners of the Moulton Pit (CL.15) under the Beighton, Lingwood and Moulton Inclosure Award 1803 (as successors of the Surveyors of Highways therein mentioned) and observed that it may well be that the Award makes reference to the Beighton Pit (CL.18); and (b) Beighton Parish Council claimed ownership of both Pits. No other person claimed to be the freehold owner of the lands in question or to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Norwich on 16 July 1975. At the hearing (1) Beighton Parish Council were represented by Mr. P. King their clerk, and (2) Broadland District Council were represented by Mr. Jefferson their assistant clerk.

Beighton Pit (CL.18) contains 1.420 acres and is a short distance southwest of the Village. Moulton Pit contains 0.859 acres and is about 1½ miles southeast of the Village.

Mr. King, who has lived in Beighton for 15 years and been clerk of the Parish Council since 1969, in the course of his evidence said (in effect):- According to their minute books, the Parish Council have kept the Pits tidy for 20 years. They have erected notice boards to prevent dumping. In 1958, after a complaint by a local landowner, they paid for the Pits to be cleared of rabbits. In 1968 they effectively refused a request by the Rural District Council that one of the Pits be filled in with sewage waste. A local club is now with the permission of the Parish Council using Beighton Pit (CL.18) for clay pigeon shooting.

Mr. D.E. Everson who has lived in the parish all his life (55 years), has been a member of the Parish Council for about 10 years, and is now their chairman, in the course of his evidence (in effect) confirmed and amplified the evidence given as outlined above by Mr. King.



-2-

Mr. Jefferson produced the 1803 Award (from the County Record Office) made under the Beighton Lingwood and Moulton Inclosure Act (41.Geo.3 c.54). By the Award three pieces of land were allotted "unto the Surveyor of the Highways" and it was certified that the allotment was made "as and for a public Sand Pit and to the intent that the same allotment should forever hereafter be used by the Surveyors of the Highways and by the proprietors of lands and estates within the said parish of Moulton and their Tenants for the time being" and it was ordered in effect that such sand should be used by the Surveyors for the repair of the public highways and roads and by the said proprietors upon their estates or for the repair of private roads and that no sand taken from the said allotments should be used in any other manner or for any other purpose. It was agreed that Beighton Pit (CL.18) and Moulton Pit (CL.15) are the same as two of the pieces of land allotted as above.

Mr. Jefferson contended (rightly I think) that apart from any question there might be as to the Parish Council having acquired a title under the Limitation Act 1939, the ownership of these lands under the 1803 Award and the Local Government Act 1894 vested in the Rural District Council, and, not having been by the Local Government Act 1929 vested in the County Council as highway authority, is now vested in the District Council. In my view these lands are within the definition of "parish property" in section 305 of the Local Government Act 1933, and accordingly by section 166, if they were sold the proceeds would be held for the advantage of the parish of Beighton; so to this extent at least the District Council are trustees for the parish. Mr. Jefferson said that if the District Council received rent from these lands they would (following I suppose section 166) apply the money for the benefit of the parish.

In my opinion it is <sup>much</sup> within the purpose of the ownership of a District Council that they should permit lands such as these to be used for parish purposes, that I cannot properly treat the acts done by the Parish Council in relation to these lands as being against the District Council ~~as~~ "adverse possession" within the meaning of section 10 of the Limitation Act 1939. Accordingly in my opinion the ownership is still in the District Council.

For these reasons I am satisfied that the District Council are the owners of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register Broadland District Council as the owner of the lands under section 3(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 7<sup>th</sup> —

day of August — 1975

a. a. Bader Fuller

Commons Commissioner.