



COMMONS REGISTRATION ACT 1965

Reference No.26/U/33

In the Matter of The Common,
Evenley, Brackley R.D.,
Northamptonshire

DECISION

This reference relates to the question of the ownership of land known as The Common, Evenley, Brackley Rural District being the land comprised in the Land Section of Register Unit No.CL.10 in the Register of Common Land maintained by the Northamptonshire 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 no person claimed to be the freehold owner of the land in question and no 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 Northampton on 28 June 1973. The hearing was attended by Evenley Parish Council who were represented by Mr. S. Fox, their chairman from 1966 to 1971.

Mr. Fox who is and has for the last 14 years been a member of the Parish Council and has lived for 17 years in the Village gave evidence. It appearing that the land ("the Unit Land") comprised in this Register Unit was such as might have been allotted under an inclosure award, Mr. D. G. Nightingale who was present representing the County Council as registration authority produced from the County Archives the copy (enrolled 1 August 1781 by the Clerk of the Peace) of the Evenley otherwise Bury Inclosure Award dated 23 March 1780. After the hearing I inspected the land, it having been agreed that I might do so unattended.

The Unit Land on its west side fronts (as I scale the Register map) for a little over 200 yards on the road running southwards from Evenley; it has a depth (similarly scaled) of about 40 yards at its south end tapering to 3 or 4 yards at its north end; it contains (according to the O.S. map) 1.752 acres. The Unit Land is scrub land, with some bushes (in places growing so thickly as to be impenetrable); there is some grass. On its east and south side there is a hedge. On its west side it is open to the road except for a post and double stranded wire fence (put up last year by the Parish Council to prevent squatters).

The 1780 Award contained an allotment as follows:- "And we the said Commissioners ... do hereby award and confirm as and for public stone pits the two following plots of ground situate in the field called Mill Field adjoining the Public Road leading from Evenley towards Monks House containing one acre one rood and twenty eight perches exclusive of Roads and Ways as the same is now admeasured and set out bounded .. on the west by the before mentioned Road ... And one other plot of ground ..."

Mr. Fox identified the land so allotted with the Unit Land; Monks House



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still stands about one mile south of Evenley and it is obvious that the "Public Road" referred to in the allotment is the same as that which now fronts on the Unit Land. There is now no "Mill Field": a lane leading into a near by road from Evenley to Mixbury is known as "Mill Lane" and the proximity of "Fish Pool" and "New Pond" marked not only on the Register map but also on the 1885 edition (also produced from the County Archives) of the Ordnance Survey map is consistent with there having been a mill within half a mile of the Unit Land.

On the 1889 O.S. map, the Unit Land is shown as open to the Road with near its centre two small areas marked "Old Quarries".

Mr. Fox said:- In 1962 the Parish Council purchased the Village Green and at about that time he and Mr. Warren (the then Chairman) became interested in trying to establish the ownership of the Common, so that for the purpose of keeping it tidy, infilling and improvements could be carried out under the authority of the Parish Council. Numerous interviews with elderly and life long residents in the Village failed to produce any evidence of ownership, although it was generally thought that people resident in the Village had a right to extract stone to use in the construction of foot paths etc. round their cottages; Mr. W. Buggins who had lived more than 70 years in the Village had stated that rubbish which was collected in the Village pound (at least 40 years ago the site of the pound was sold for road improvements) had always been dumped on this Common Land and then covered with ashes (so as to form an infilling). Mr. Fox during his chairmanship had sprayed with weed killer about three quarters of the Unit Land (being as much as he could; the other quarter was too uneven for a tractor). As chairman, on a few occasions he had authorised dumping and levelling by a local builder, as had the present chairman. During the last three years the Parish Council had authorised the use of the Unit Land as a designated central point for the placing of bulk refuse preparatory to its collection by the Rural District Council. The Unit Land when closely examined is found to be very stony with for the most part little or no top soil. He had never seen the Unit Land quarried: the stone would have been of poor quality, more in the nature of hard core and rubble.

By the Evenley otherwise Burly Manor Inclosure Act 1779 (19 Geo 3. cap.lxxxx) it is enacted: "That the said Commissioners ... shall ... if they shall think it necessary and proper allot, lay out and appoint One or more Plot or Plots of Land or Ground, Part of the Lands and Grounds intended to be inclosed as aforesaid not exceeding in the Whole the Quantity of Two Acres as and for public Stone or Gravel Pits; which said Plot or Plots of Ground shall ... and shall be appropriated as well for the Purpose of digging Stone, Gravel and other Materials for the Reparation and Amendment of the Public Roads and Highways within the said Parish of Evenley as for such other Ends, Intents and Purposes as the said Commissioners... shall by their Award order and direct."

The circumstances of this case are I think essentially the same as those which I considered when making my decisions in re Goosepool, Staindrop, dated 9 February 1973 reference 11/U/16 and in re Gravel Pits, Wrestlingworth dated 15 March 1973 reference 1/U/24. Upon the legal considerations set out in these decisions, I conclude from the evidence outlined above, that the Unit Land has ever since the allotment "belonged to the parish" in the popular sense of that expression and is therefore now vested in the Parish Council.



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For these reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Northamptonshire County Council, as registration authority, to register Evenley 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 3rd day of August 1973.

a. a. Baden Fuller

Commons Commissioner