



COMMONS REGISTRATION ACT 1965

Reference No. 13/U/31

In the Matter of Hicks Common Pond,
Winterbourne, Northavon D., Avon

a.s.B:
27^b

DECISION

This reference relates to the question of the ownership of land known as Hicks Common Pond, Winterbourne, Northavon District being the land comprised in the Land Section of Register Unit No. CL.176 in the Register of Common Land maintained by the Avon 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 Bristol on 20 March 1975. At the hearing Winterbourne Parish Council were represented by Mr. E.L.K. Mead, their chairman and Mr. D. Holmes their clerk.

Mr. Mead who has lived in the Parish since July 1949, been a member of the Parish Council for about 15 years and chairman for about 12 years, in the course of his evidence said (in effect) :- The land ("the Unit Land") comprised in this Register Unit, which contains (according to the Register) about 0.93 of an acre, is at the junction of Flaxpits Lane with Hicks Common Road, and is in two pieces. The larger ("the Pond Piece"), bounded on the north and east by and open to the Lane and the Road, is for the most part pond; there is a footpath around the west and south sides of the pond; apart from the path and the water, the Pond Piece is grass with some trees. The smaller ("the North Piece") is a grass strip bounded on the south by and open to the Lane and for the most part opposite the Pond Piece; although shown on the Register map as two pieces, it appears to be all one. About 10 years ago the land (about $3\frac{1}{2}$ acres) south of the Pond Piece and on the map marked "Allotment Gardens" : (O.S. plot 387) was developed for housing, and is now all built up; the Parish Council arranged for the Developer, Mr. Fox to convey to them all his interest in the strip of land (on which the footpath now runs) between the Pond and the land he was developing; the Parish Council wished to preclude the owners of any houses built nearby having any access to the margin of open land on the south side of the Pond. The banks of the Pond are for the most part stone walls; there are also in the Pond three small islands similarly walled; the Parish Council have over the years spent more than £1,000 on maintaining these walls and doing other works to the Pond, e.g. about 15 years ago they drained the Pond and made the bottom in part hard and shallow so that children could paddle. The Pond never dries up; there is a slope down from the road, suggesting that it could be used as a watering place for cattle, but he (Mr. Mead) had never heard of it being used for this purpose. The local history is that when the land to the north and east now known as Hicks Common was enclosed, the Pond Piece was left unenclosed; he had seen a map dated about 1840 (either an inclosure award map or a tithe award map) which showed the Pond Piece as a pond. When he first knew the North Piece, there were two seats on it commemorating the Silver Jubilee of H.M. King George 5; recently they had been destroyed by vandals. The North Piece had always been treated by the Parish



Council as part of the Pond Piece.

After the hearing I inspected the Unit Land. The Pond Piece is attractive to look at, and must be for those living nearby and others in the Parish a valuable amenity; it appears to be Parish property; although on the west side there are the remains of a gate post which suggest (as also does the O.S. map) that the southwest margin may at one time have been a distinct piece of land, the Pond Piece is on its south side now separated from the land of the adjoining house by a substantial brick wall or a wire and mesh fence, indicating that the Pond Piece is now and has for some time been all one piece of land. I incline to the view that the Pond Piece has always been Parish property and is therefore now by operation of law vested in the Parish Council; however this may be, on the evidence outlined above, I conclude that the Parish Council are now in possession, and that it is practically certain that their possession will not be disturbed; possession in such circumstances is equivalent to ownership. I agree with Mr. Mead that the North Piece can as regards ownership be properly considered as part of the Pond Piece.

For the above reasons I am satisfied that the Parish Council are the owners of the land and I shall accordingly direct the Avon County Council, as registration authority, to register Winterbourne 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 7th —

day of April —

1975

a. a. Baden Fuller

Commons Commissioner