



## COMMONS REGISTRATION ACT 1965

Reference Nos. 25/U/82  
25/U/83

In the Matters of (i) The Water Pit  
and (ii) Mundham Sand Pit, both in  
Mundham, Loddon R.D., Norfolk

DECISION

This reference relates to the question of the ownership of lands known as (i) The Water Pit and (ii) Mundham Sand Pit, both in Mundham, Loddon Rural District being the lands comprised in the Land Section of Register Unit (i) No. CL.172 and (ii) CL.171 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 Mundham Parish Council claimed to be the freehold owner of the lands in question and no other person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Norwich on 13 June 1973. The hearing was attended by Mundham Parish Council who were represented by Rev. G. F. Walker, incumbent for the last 2½ years of the parishes of Mundham, Seething and Thwaite. He thought it would be convenient if I heard both these matters together.

Mr. Walker produced an Inclosure Award dated 17 August 1814 (held in the custody of the County Council) containing an allotment as follows:- "AND I the said Commissioner do hereby assign set out and allot unto the surveyors of the highways within the said Parish of Mundham the two pieces of land next hereinafter described, (that is to say) FIRST, One piece of Land marked No.59 on the said map or plan of the said parish of Mundham annexed, containing by measure one acre, bounded ... SECOND One other piece of Land marked No.100 on the said map or plan, containing by measure one rood thirty five perches, bounded ... And I, the said Commissioner do hereby declare that the land comprised in the said allotment hereby made to the said surveyors of the highways in Mundham, is set out and allotted as and for a public watering place for cattle, and as and for a public sand and gravel pit." Mr. Walker also produced the map dated 1814 of the Parish of Mundham to which the Award refers.

Mr. Walker giving evidence identified The Water Pit (CL.172) with the land numbered 100 on the 1814 map and Mundham Sand Pit (CL.171) with the land numbered 59 on the 1814 map, and said:- The Sand Pit is not used commercially although inhabitants of the Village go there if they want sand and gravel for their gardens: it has grown up with gorse and brambles, although the inner area is still accessible and children play there; the windmill marked on the Award map has gone. The Water Pit is still open to the road but grown up at the back: no water is visible in the pond except in very wet weather; there is considerable reed growth where it is damp. The Register map shows the land in Register Unit No. CL.172 (the Water Pit) as divided into two pieces; the land in the gap has silted up and is used by the local farmer to provide access to the field on the west side.



-2-

The 1814 Award was made under the Seething, Kirstead, Mundham, and Sisland Inclosure Act 1813 (53 Geo. 3 cap xxi). By this Act it was enacted "That the said Commissioner shall, if he shall think proper or necessary, assign set out and allot unto the Surveyors of the Highways for the time being in the respective Parishes, Seething, Kirstead, Mundham and Sisland aforesaid, so much and such Part or Parts of the Lands and Grounds hereby directed to be divided and allotted, as he the said Commissioner shall think necessary, as and for public Watering Places for Cattle and as and for public Sand and Gravel Pits; and the same shall be fenced round, and such Fences maintained by such Person and Persons, and in such manner as the said Commissioner shall in and by his Award direct and appoint; and the same Allotmen when set out shall for ever thereafter be used by the Surveyors of the Highways, and by the Proprietors of Lands and Estates within the said Parishes of Seething, Kirstead, Mundham and Sisland respectively and their Tenants in such manner and under such Rules and Regulations as the Surveyors of the Highways within the said Parishes respectively for the time being shall order direct and appoint and not otherwise: and the Feed and Herbage arriving upon the last mentioned Allotments should be taken and disposed of by such Surveyor or Surveyors within the said respective Parishes for the time being for the benefit of the respective Poor thereof."

By section 25 and 67 of the Local Government 1894 all property in a rural district vested in a highway authority was transferred to the appropriate Rural District, to hold the same for the same purposes to which the property would have been held if the Act had not been passed, so far as the same are not modified by or in pursuance of the Act. Notwithstanding that under the Local Government Act 1929 the County Council became the highway authority, the ownership of this land did not pass, see section 117; so it remains vested in the Loddon Rural District Council for the same purposes.

For these reasons I am satisfied that the Rural District Council is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register Loddon Rural District 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

30<sup>th</sup>

day of

July

1973.

a. a. Baden Fuller

Commons Commissioner