

The following report was produced by Michele Sherman, The Commons Registration Officer, West Berkshire Council in October 2016.

STRATFIELD MORTIMER COMMONS – REPORT

COMMON LAND CL25: BREWERY COMMON

The Piece of land called Brewery Common marked on Sheet SU66NE. Application No 43 made by Bradfield Rural District Council as this was undisputed became final on 1 October 1970.

There are no rights of access claimed

Not subject to any rights of common

Subject to Final Ownership registration by Stratfield Mortimer Parish Council – registered pursuant to Direction No 35 dated 26 June 1973. Decision letter dated 04 May 1973 after hearing held 20 March 1973 reference 2/U/64.

Regulated by a Scheme of Regulation under Commons Act 1899 (excluding land forming road across the Common

COMMON LAND CL29 DRURY LANE (SUMMERLUG) COMMON

Two pieces of land known as Drury Lane (Summerlug) on Sheet SU66SE – Application No 46 made by Bradfield Parish Council as this was undisputed became final on 1 October 1970

No claims of rights of way

Rights of Common held in gross over the land

The land shown coloured red on the plan marked GDS1 annexed to the Direction is subject to final ownership registration by Mrs Doris M Harrison of Woodlands Drury Lane Stratfield Mortimer Berkshire registered pursuant to Direction No 57 dated 9 June 1978.

Remainder subject to protection under Section 9 of the Act of 1965 – Decision letter dated 3 Ma 1978 after hearing held 2 February 1978 refernce 202/U/20)

Regulated by a Scheme of Management under Commons Act 1899 (including CL30).

COMMON LAND CL30 FIVE OAKEN COMMON

The piece of land known as Five Oaken Common Berkshire as marked on Sheet SU66NW. Application No 47 made by Bradfield Rural District Council as this was undisputed became final on 1 October 1970

No rights of way claimed

Land not subject to any rights of Common

Subject to final ownership registration by Strafield Mortimer Parish Council registered pursuant to Direction No 34 dated 25 June 1973. Decision Letter dated 4 May 1973 after hearing held 20 March 1973 reference 2/U/51.

Regulated by a Scheme of Management under Commons Act 1899 (Including CL29)

COMMON LAND CL53 THE POUND AND HEATH ELM ROAD AND ADJOINING LAND

The piece of land known as The Pound and Heath Elm Pond and adjoining land in the parish of Stratfield Mortimer Berkshire as marked on Sheet SU66SE. Application No 143 by Stratfield Mortimer Parish Council as this was undisputed became final on 1 October 1970

No notes on land section

Land not subject to any rights of common

Subject to Ownership registration by Stratfield Mortimer Parish Council registered pursuant to Direction No 36 dated 25 June 1973. Decision Letter dated 4 May 1973 after hearing held 20 March 1973 under reference 2/U/78

COMMON LAND 48 WOKEFIELD COMMON

This land was removed from the Register on 9 January 2001

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As you will see the above, there are Schemes of Regulation which indicate that the Rural District Council of Bradfield was to administer the Commons. Obviously, Bradfield Rural District Council was abolished in 1974 when many Rural District Councils in Berkshire became one District Council under the Newbury District Council. Therefore the maintenance of these Commons would have then fallen to Newbury District and subsequently to West Berkshire as the successor to Newbury District Council

With regard to Summerlug – you will see that there is an entry for Mrs Harrison and Woodlands. There is a very small area on the Common which was in fact owned by Mrs Harrison and the Commons Commissioner acknowledged this. Whosoever owns the property now would have that small part of the Common. The rest is under a Section 9 Commons Act 1965 ruling. This means that when the applications were put forward no one owned the land and no owner came forward to confirm their ownership. As you will appreciate this was an old gravel site. The protection of the Commons comes under the auspices of this Council but these are limited in what can be done on the Common.

The relevant clause under Section 9 Commons Registration Act 1965 was: *“...any local authority in whose area the land or part of the land is situated may take such steps for the protection of the land against unlawful interference as could be taken by an owner in possession of the land, and may...institute proceedings for any offence committed in respect of the land”*

There was no incentive to act under this Act and the power was limited. Parliament was considering that they would pass an Act whereby all unclaimed claim having a section 9 ruling would have a statutory vesting. This did not happen and Section 45 of the Commons Act 2006 has now been passed which unfortunately contained pretty much the same criteria. However under the 2006 Act the local authority, to include a parish or community council, confers powers to protect land registered as a common where the land has no ownership recorded at the Land Registry. This power allows the authority to take steps to protect the land against unlawful interference that could be taken by an owner of the land and to institute proceedings for any offence committed by a person in respect of the land.

I understand with Summerlug that some of the owners have obtained prescriptive rights over the Common to allow them to drive to their properties.

Where there is no Scheme, the Parish Council as owners can legitimately allow Members of the public to have vehicular rights to drive across the Common. A Deed of Easement can be given because it is the fact that the Council is the landowner and can give these types of agreements to Occupiers who need to cross the Common Land, albeit that the strip they cross is very small indeed, in some cases.

WINDMILL COMMON

This Common although given the titular name of Common is not own that has been registered under the Commons Registration Act 1965. However, I understand that the Parish Council is the actual Landowner and therefore it is permissible that an application could be made to the Registration Authority under Section 53(8) whereby a Landowner can voluntarily register the land as a Village Green. However, having village green status does mean that there are limitations on the land. An example of this would be that any works of improvement would need to be agreed with the Planning Inspectorate and no buildings can be erected on the land unless the land is removed from Commons status.

I will not go into this in great detail unless you are interested in registering Windmill Common as a Village Green.

Michèle Sherman
28 October 2016