

# **TONY BOSTOCK'S LOCAL HISTORY NOTES: LITTLE BUDWORTH**

## **LITTLE BUDWORTH COMMON**

### **The Common**

The term 'common' does not as some might suppose mean that the land was in common ownership, rather it was an area of land upon which certain people had rights to use the land, primarily for grazing. The ownership of the common was in the hands of whoever was lord of the manor in which it lay. Immediately after the Norman Conquest the area of Budworth Common was owned by succeeding Earls of Chester. From them the land was held by the lords of the manor of Little Budworth - firstly the Grosvenors, then the Troutbecks and then the Talbots, Earls of Shrewsbury.

The main features of common land are that it is generally open and unfenced and on the outskirts of townships. Rights of common can include grazing sheep or cattle (herbage); taking peat or turf (turbary); taking wood, gorse or furze (estovers); taking of fish (piscary); the feeding of pigs on acorns or beechmast (pannage); grazing other livestock and the minerals such as coal or stone. However these rights were at the discretion of the lord of the manor and were exercised through the manorial court system. Where a lord deemed that there was sufficient lands for the grazing of his tenants' animals he could and often did 'inclose' (that is remove the common rights) and physically 'enclose' remaining areas.

By the 16<sup>th</sup> century inclosure was a fairly common practise as demand for grazing land increased due to the thriving trades in dairy produce, especially cheese, along with wool and leather goods. This was of course in direct opposition to the demands of an ever growing population and their needs for land for food production and housing. Nevertheless despite serious opposition inclosure and enclosure went ahead. As right of common had legal status inclosure could only occur by consent of the lord and his tenants or else by means of a private Act of Parliament, following which the land would be surveyed, roads and boundaries set out and land allocated by virtue of an award. Over the 17<sup>th</sup> and 18<sup>th</sup> centuries much of England's common land was inclosed and by the 19<sup>th</sup> century general Acts were introduced to streamline the process.

During the Medieval period, so far as the 'commoners' of Little Budworth were concerned, there was a serious obstacle to their rights. Little Budworth Common lay in the Forest of Mondrem.

### **The Medieval Forest**

The Forest of Mondrem together with the contiguous one of Mara (Delamere) originally covered an extensive tract of central Cheshire that lay between the river Gowy to the west and the Weaver to the east, and between the Mersey in the north and the town of Nantwich in the south. This whole area was declared to be a forest in the 1070s by Hugh, the first Norman earl of Chester: one of three that were eventually formed in the county - the other two forests being Wirral and Macclesfield. The division between Mara and Mondrem lay along the Roman Road now known as the A49 anciently known as *Peytevinesty*.

The term forest is a legal one, rather than botanical or geographical as it signified an area under a specific legal code. According to mediaeval law forests were a form of nature reserve where special rules and regulations were imposed to protect the deer and wild boar - the 'beasts of the chase' - their habitat and their food in order that the earl might enjoy his hunting. Such legislation has its origins in the days before Norman rule but it was they who formalised the forest law. A man might enjoy lawful possession of his lands within the metes of the forest but his use of that land was restricted. Thus ownership of the forest did not imply

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possession of the land, but a special jurisdiction over the people living within the territory. Accordingly, woodland was not a criteria, in fact in some areas, such as the Wirral, there was extremely little woodland and elsewhere in England some forests were entirely moorland, e.g. Exmoor, Dartmoor and the High Peak. Spatially a forest might encompass within its bounds previously cultivated lands and meadows, woodlands heaths and moors, villages, hamlets and farms, and general areas of waste and common.

Forest dwellers and owners of lands within the forest were all subject to the forest law. In essence they were prohibited from cutting down trees even within their own woods; they were not allowed to plough new land; could not enclose areas of land or build upon it and could not run with their dogs unless the animals had been 'lawed', that is having their front paws maimed so that they could not leap on the deer. Some allowances could be made under licence and the supervision of the foresters who would ensure that there was no detriment to the forest. Offences were dealt with by the special courts and all forest dwellers had to appear before them or else incur a penalty. Times were difficult for the forest dwellers and for those who had traditionally looked to the woods commons and wastelands to supplement their livelihood. In England political pressures ensured that the extent of the forest and the severity of the law's enforcement was a bargaining point, especially so under the anarchy of Stephen's reign (1153-54). But such changes had little or no effect in Cheshire where the king's writ did not run. However, during King John's reign pressure upon him ensured concessions being made in England and the Cheshire barons, that is those men who held there land directly from the earl of Chester, were able to receive something similar from Earl Ranulph III.

The 'Magna Carta of Cheshire' allowed the barons the right to enclose their arable lands that lay within the bounds of the forest and to cultivate land that had been formerly cultivated and free of wood. They were also allowed to take wood from within their own woodlands for erecting and repairing their buildings and fences, without the supervision of the foresters. However a clause specifically disallowed shooting rights, the running of dogs and the feeding of swine in the forests. In comparison to the privileges granted in England, Earl Ranulph's charter is rather limited for there is no mention of disafforestation; no mention of barons being quit in respect of purprestures; only limited rights of assart; no references to freedom of pannage; and no allowances for having mills, ponds, marl-pits, ditches or arable lands in the forests. From these details one can take a retrospective view of the nature of the restrictions prior to 1216. First, hunting had been forbidden despite it having been a popular sport for all in earlier times and provided a source of meat in the winter. Second, agricultural improvement was not permitted and agricultural practises were restricted. Third, no one could make use of woods for timber or fuel, or use the woodlands for feeding their cattle and pigs, without paying a fine for the privilege. If one accepts that the forest law in Cheshire was similar to that of England prior to 1215 in respect of its severity, then one can add that after 1217, unlike the rest of England, it remained so until after the end of the Norman earldom.

There can be no doubt that whilst Cheshire was under the Norman earls (1071 - 1237) those who held lands in the forest area were restricted severely in respect of what they could do or could not do with their lands. Forest tenure here, at this time, was not conducive to the development of agriculture so that large tracts of waste remained so for many decades. However, when the Earldom became a crown possession the laws of England gradually took effect. But even after 1237 when the Earldom had lapsed to the Crown, Cheshire did not receive any immediate benefit from the Forest Charters.

Increasing population necessitated the enlargement of the bounds of cultivation but this only accelerated slowly and locally during the late 13<sup>th</sup> and the 14<sup>th</sup> centuries. Henry III acknowledged the provisions of Magna Carta and the Forest Charter and in 1254 his son, Edward, became earl of Chester. When he became king in 1272 he too endorsed the Forest Charter. It was from this time that there may have been a more liberal approach to matters concerning the forest. However, under Edward, the Black Prince, in the mid-14<sup>th</sup> century

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there was a general tightening up of the restrictions, not so much for the sake of preserving the game for hunting, but as a means of making profit - as a source of much needed revenue.

The conjoined forest of Mara and Mondrem was supervised by the master-forester - an hereditary position. During the reign of Henry I this was conferred upon Ranulph de Kingsley and his descendants by marriage - the Dones of Utkinton. Subordinate foresterships were also granted. During the reign of Edward I the Grosvenors of Little Budworth were acknowledged to be foresters of half of Mara by virtue of a charter of the 1150s and the Weever family of Weever had a share in the forestership of Mondrem.

The whole of the area was within the bounds of the twin forests of Mara (Delamere) and Mondrem and therefore a number of the villeins and freeholders of the lands appear in records dealing with forest matters. Notable amongst them were members of the Grosvenor family, and not just because they held a forestership in Delamere. In 1347/8 Warin Grosvenor lost the hereditary forestership in favour of John Hoofield due to misdemeanours committed in the Forest. John was succeeded by John Wettenhall in 1352 and a succession of others until 1431 when Sir William Troutbeck purchased the manor of Little Budworth and with it the role of forester from an heiress of the Grosvenor family. Sir William claimed to be the sole forester in an area bounded by the Chester Road, between Stamford Bridge and Northwich; the river Weaver as far as the Ash Brook which was then followed as it became the Darley Brook as far as Darley Hall; the boundary between Rushton and Oulton Lowe to Yanelegh on the Wettenhall Brook; the Wettenhall Brook as far as Tarporley; and a line across to the Gowy and Stamford Bridge. Thus an area that included Little Budworth and its Common.

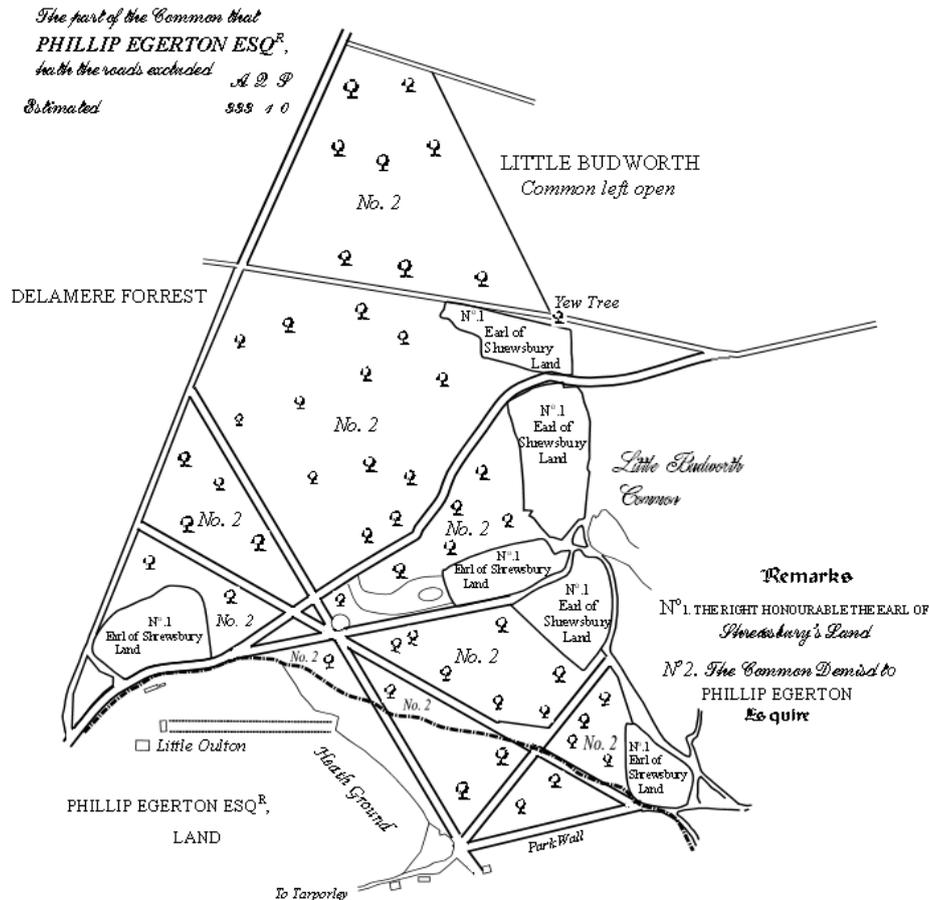
The area of the forest gradually declined so that the forest of Mondrem became non-existent and by 1815 a map of Delamere Forest indicates the south-eastern boundary along the Tarporley to Cuddington Road, the ancient *Peytevinnesty*.

### **The Common in the mid-18<sup>th</sup> Century**

Philip Egerton, esquire, of Oulton Hall (1694-1766) was responsible for adding to and improving the family estates: it was he who about the year 1752 enclosed the park at Oulton. In January 1752 Egerton took out a 1000 years lease from his neighbouring landlord, the Earl of Shrewsbury, to obtain for himself the area we now know as Budworth Common which lay between the north wall of his park and the Tarporley to Cuddington road: the agreed rent was £2 2s. per annum. He was no doubt concerned that as there had by then been some encroachment onto the common he had had no wish to spoil the approach to his residence by additional tenant farmsteads.

Whilst the lease recording this transaction does not survive it is referred to in a schedule of leases, and there is a plan of the common at this time endorsed 'The Part of the Commons that Philip Egerton, Esq., is to have, the roads excluded contains 333A 1R 00P'.<sup>i</sup> The plan, which is well drawn, shows the common extending from the north wall of the park towards the Tarporley road, on the other side of which lay Delamere Forest, and also beyond the Chester to Middlewich Road. The areas of enclosure that remained in the Earl of Shrewsbury's hands are clearly shown and drawn in such a way that they are easily identified on later maps. The various intersecting roads and paths formed ten wooded compartments. To the east of the area under discussion lay the remaining parts of Little Budworth Common that were 'left open' and which were to remain so until the turn of the century.

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### The Inclosure and Enclosure of Budworth Common

By the 1750s seven areas of Budworth Common had been enclosed which are clearly indicated on the plan of part of Budworth Common which has already been referred to. We shall now consider the development of each of these.

The first enclosure to consider lies to the south-west in the Cotebrook area and includes the public house known as the 'Fox and Barrel'. According to the tithe return of 1839/40 this whole area, consisting of almost twenty-five acres, was held by three tenants: Robert Dunn, Mary Billington and Thomas Hinde, each with a house and land. To the original enclosure there had been added four small plots in lease to Thomas Hinde amounting to a further six acres, and a quarter acre garden held by John prince. At the time of the 1841 census Thomas Hinde, described as an agricultural labourer, lived here with his family, but the other two cottages were then uninhabited. Ten years later Thomas Hinde, then aged sixty-seven, farmed a total of eleven acres.

By 1863 there were seventeen plots of land here with five dwellings occupied by William Billington, who had five acres including the 'Fox'; Richard Done had one acre and a house; William Hales fifteen and a half acres and a house; Richard Hinde, with nearly three acres; and Charles Davenport, a butcher, with a house with a small plot of land.

The history of the site can be traced back to at least 1770 when it was occupied by Samuel Frazier and then subsequently by Thomas Cowap (1822-34), Abraham White (1835-50) and William Billington (1850-75).

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The next parcel of enclosed land lay just north-east of the Oulton Park gates. Although marked on the 1839 tithe map as field number 187, it is not listed in the apportionment, however a field of the same size was held by a William White and this may be the same. By 1863 these nine acres were divided into two fields of almost equal size in the hands of Thomas Booth (Worry's Field) and Ann Houlbrooke (Common Field).

Further north sixteen and a half acres became the site of a small estate known as 'White Hall' or 'Whitehall'. The first known person living here is John Houlbroke who died on 10 August 1762 aged sixty-seven and to whose memory there used to be a plaque in Little Budworth church. It is likely that John was son of a man of the same name who was tenant of Budworth Hall and Mill during the late seventeenth century. The memorial in the church also recorded his wife Ellen, who died in 1778 aged seventy-seven, their son John who died aged twenty-five in September 1762 and their daughter Frances who died in July 1783 aged forty-seven.<sup>ii</sup> She died from a 'tedious illness' which she had supported with a calmness and resignation which are the certain characteristics of a well spent life'.<sup>iii</sup>

On 2 January 1779 Francis Houlbrooke acquired a lease from the Earl of Shrewsbury for a parcel of land on the Common, in an area known as the Brook Slack, consisting of eleven acres and including three cottages then, or at some time held by Hixon, Kary and Birstall.<sup>iv</sup> The lease cost him £20 and his annual rent was set at £7 6s 1d with a heriot valued at £3 1s, and was to remain in force during the lifetimes of himself, Robert Wainwright Ashley and Ellen Ashley. In 1783 Francis died and a new lease was issued on 5 January in favour of Robert Ashley of Park Place, Frodsham. This was for ninety-nine years and for the lives of himself, then aged forty-three years, his seven years old daughter Ellen and his third son, twelve years old Thomas. It would seem that at this time Whitehall was 'newly erected' on land known as Hixon's tenement. On the same date Roberts Ashley's brother, Francis, aged thirty-one, acquired a lease of Shaw's tenement which had been held previously by Francis Houlbrooke, for the lives of his fourteen years old son Daniel, fifteen years old John son of John Houlbrooke of Hepden, and his niece Ellen. The lease cost £14 with an annual rent of £3 13s 4d and a heriot of ten shillings. Francis also acquired a cottage and two acres for himself and his nephew Thomas. By the time of the tithe survey the Whitehall property with thirty-three acres was held by Helen Ashley. Later, and by 1851, William Jones (50) a race horse trainer and farmer, occupied Whitehall in its two acres of land along with Spring Field, Dob's Croft, Pond Field, the Field before the Hall Door, and a part of Heath Field: a total of twenty-five acres. He also held eight acres on the other side of Budworth village called Stoadleys. His widow Frances still lived here in 1871.

On 3 May 1872 James Hugh Smith Barry of Marbury Hall took a lease of White Hall for thirty-five years at £75 a year. The estate was then described as containing just over twenty-three acres. The lease allowed for a sale to John McClintock of Bunbury for £1,300 which was fulfilled in February 1889. McClintock then sold the lease on to James Henry Stock a Middlesex gentleman who had been residing at Woolton, Liverpool.

To the north of White Hall there was a rectangular parcel containing fourteen acres through which ran Black Brook. Either all or part of this inclosure may date to the early eighteenth century as there are leases referring to Hixons Brook Slack as early as 1716. At the time of the tithe survey this parcel of land was occupied by Helen Ashley of White Hall and Sir Thomas Stanley. Later this area was divided up into several sections. William Jones had two acres of a field aptly called 'Heath Field' once the property of Helen Ashley, whilst Thomas Booth had the larger part of 'Heath Field' and 'Higher Field'. The remainder of this section was divided into five small pieces at its east end which included William Hales' house and Little Croft. Alongside this there was single small plot of half an acre with a house occupied by John Yearsley.

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Running north in another rectangular area there were a further twenty-six acres divided into twenty plots and including several houses. These were in the tenure of Samuel Page an agricultural labourer, Elizabeth Naylor, Lewis Hodgkinson an agricultural labourer, William Penketh, William Cowap, Thomas Booth and James Hopley.

Finally alongside the Middlewich to Chester road there were seventeen acres divided into eighteen plots all held by Daniel Timmis. In 1851 a Daniel Timmis farmed nine acres. This was further extended with the addition of a few small intakes along the roadside.

What then of the rest of the Common; that part shown on the 18<sup>th</sup> century plan as 'left open'. This area it seems was not enclosed until the early decades of the 19<sup>th</sup> century and certainly before the tithe award and its accompanying map of 1839 was drafted. At some time prior to the new layout of fields, the Earl must have recovered about half of Egerton's portion of the Common as the northern section of that ground was enclosed by 1839.

### **Budworth Common and the Tithe Award**

In 1836 Parliament passed the Tithe Commutation Act with the intent that the traditional payments in kind to the Church be replaced by an equivalent rent charge. In order to establish the appropriate amount detailed surveys were undertaken in each parish and accurate maps drawn. Details of each plot of land, its owner, occupier, name, usage and area are listed in the 'Apportionment'.

According to the tithe award for Little Budworth, which is dated 28 February 1839 there were a total of 2778a 1r 2p of land of which 696 acres were arable land, 1725a 3r 2p were put to pasture, 32a of water, 4½a of woodland, 260a of common land, and 60a of roads. However the schedule which lists all the owners and occupiers only records 2763a 2r 9p and of this 87% was owned by the Earl of Shrewsbury, the lord of the manor. Of the remainder Sir Philip de Malpas Grey Egerton, baronet, of Oulton Park held all but 5a 2r 16p which was allocated to the Church as glebe lands.

The vast majority of the Earl's 2124 acres are not mapped in detail, however the six areas of enclosed common land shown on the 18<sup>th</sup> century plan are indicated. Neither are the individual plots and tenements held from the Earl enumerated in the schedule - rather they are clumped together with a list of the names of the forty-six tenants who held their 'house and lands' from him. The 633 acres owned by Egerton are treated similarly. However the Apportionment does list plots of 'new' land enclosed from the Common and their lessees: the plots, located in the north-west of the township, are detailed on the map. Each of these 179 parcels of land is described as 'Inclosure' or else as unnamed crofts, closes and gardens. Eleven of these plots of land had houses and ancillary buildings forming the basis of new farms. In total they represent 437a 3r 38p of the township. There were thirty-four lessees, most of whom were existing tenants of the Earl who held older tenements closer to the village. With their sub-tenants a total of forty-four people were connected with farming the 'new' lands. The largest farms created were those leased by Richard Billington with forty-six acres and John Done with forty. At the other end of the scale James Blain and William Tomlinson each held less than an acre.

A lease to Elizabeth Done dated 2 August 1832 is perhaps typical of the many issued for the 'new' lands. She took ten acres of land at an annual rent of £1 5s, for a ninety-nine years period, and the lifetimes of her daughter Mary Chapman, aged twenty-six, Frances Done aged twenty, and her four years old grandson, Alfred Chapman. Another such lease was that taken by John Billington for eight acres at £1 a year.

The tithe map's importance is in recording the extent of the 'new' enclosure in 1839 and therefore the extent of inclosure and enclosure that had taken place in the first few decades of

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the century. When compared with Bryant's map of Cheshire, which although dated 1830 must be based on a slightly earlier map, it can be seen that much of this 'new' land was still shown as being common and open land, one can judge that those fields shown by him were the earliest of those existing in 1839.

In 1839 the area of common land measured 225a 2r 11p - a significant reduction on what it had been as recently as 30 years previously. According to the tithe award this remaining open land is called the 'Common Training Ground &tc' and was held by Sir Thomas Stanley, baronet.

The overall breakdown of land, in acres, roods and perches, in 1837 is as follows:

	<i>A</i>	<i>R</i>	<i>P</i>
'New' leasehold land (formerly common land)	438	2	5
'Old' tenements held of the Earl of Shrewsbury	1458	2	33
Enclosed area of Oulton Park and the enclosed area of			
'Little Oulton' tenement - Egerton lands	480	0	12
????? Farm - Egerton lands	67	0	19
Fenny Wood Farm - Egerton lands	80	1	5
Town Fields -Egerton lands	5	2	13
Glebe lands	5	2	16
Budworth Common	227	2	23
	<u>2763</u>	<u>2</u>	<u>6</u>

By 1854 further enclosure took place with plots being created along the Tarporley to Cuddington road and also on what had been Egertons' common reaching down to the main route across the common leading to Oulton Park gates and known today as the Coach Road. From this time the extent of Little Budworth Common was as we now know it.

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<sup>i</sup> Chester and Cheshire Record Office: DEO 1/15

<sup>iii</sup> *Cheshire Sheaf*, NS, vol xxiv, 1927, p48

<sup>iii</sup> *Cheshire Sheaf*, NS, vol xii 1915, p.52

<sup>iv</sup> The tern 'slack' can mean a boggy area, a hollow, a fresh water pond, or, as I suspect in this case, a piece of common land.