



COMMONS REGISTRATION ACT 1965

Reference Nos. 8/D/10
8/D/11

In the Matter of nine pieces of land
at Town End, Eyam, Bakewell R.D.,
Derbyshire

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section (8/D/10) and at Entry No. 1 in the Ownership Section (8/D/11) of Register Unit No. CL.29 in the Register of Common Land maintained by the Derbyshire County Council and is occasioned by Objection No. 2 made by Mrs. B. M. Meeke and noted in the Register on 27 February 1969.

I held hearings for the purpose of inquiring into these disputes at Matlock on 22 January 1974. At the hearing (1) Eyam Parish Council were represented by Mr. J. R. Schofield solicitor of J. R. Schofield & Co. Solicitors of Sheffield; (2) Mrs. Meeke was represented by Mr. E. R. Meeke, her husband; (3) Mr. F. H. Hall was represented by Mr. D. King solicitor of Colin Eagle & King Solicitors of Chesterfield; (4) and (5) Mr. P. Nuttall and Mr. P. Bacon appeared in person; and (6) Derbyshire County Council were represented by Mr. D. I. Ross solicitor employed by them. It was agreed that I should hear both disputes together.

The land ("the Unit Land") comprised in this Register Unit consists of nine separate pieces. Both registrations were made on the application of the Parish Council; in the ownership Section they are registered provisionally as owners of the whole of the Unit Land. The grounds stated in the form of objection are:- "As to Land Registration, the land is not a common at the date of registration. As to Ownership, the person named as owner was not the owner on the date of the registration. Generally even if, as is not admitted, either or both of the objections are not valid the Commons Registration Act 1965 section 22 expressly excludes this registration".

Mr. Schofield stated that the Parish Council after careful consideration had decided that they could not support the registration of the piece of land ("the Appendix Land") described in the Appendix hereto, being one of the said nine pieces. Mr. Meeke, having explained by reference to a sketch plan and some photographs that his wife was only concerned to object to the registrations to the extent that they affected Wood West View, adjoining the Appendix Land on the northeast, stated that she did not claim that the other eight (out of the said nine) pieces are not properly registered in both Sections of the Register. Mr. Schofield and Mr. Meeke said that these statements had been agreed between the Parish Council and Mrs. Meeke with a view to disposing of the disputes without hearing any evidence.

Mr. King contended (in effect) that notwithstanding Mr. Hall had never formally objected to the registrations, I should hear his evidence, should conclude that the whole or at least some part of two other of the said nine pieces ("the west disputed piece" and "the east disputed piece") were not common land or alternatively were not in the ownership of the Parish Council, and should accordingly direct the registration to be modified appropriately. In support of this contention, Mr. Hall gave evidence



-2-

in the course of which he produced a conveyance dated 25 October 1949 by which Mr. G. H. Fox conveyed property to Mr. J. D. Knowles under the description: "the property described in the First Schedule hereto and by way of identification only delineated on the plan drawn hereon and edged pink"; the said plan showed two pieces ("the west pink piece" and "the east pink piece") separated by a road or track ("the brown track") coloured brown. The First Schedule was: "ALL THAT Blacksmiths shop and shed situate... adjoining the house that was formerly an Inn known by the sign of "The Bold Rodney". He also produced a conveyance dated 9 September 1965 by which the same property described in substantially the same words by reference to the plan on the 1945 conveyance was conveyed to Mr. Hall.

Mr. Nuttall and Mr. Bacon said they owned land adjoining on the north and south respectively of another of the said nine pieces; they wanted the registrations as regards such piece to be confirmed as soon as possible, and contended that this confirmation should not be delayed by reason of the objection made by Mrs. Meeke or any contention made on behalf of Mr. Hall.

On behalf of the Parish Council evidence was given by Mr. J. A. Carnall who was born in the Village (74 years ago), has been a member of the Parish Council for many years, is now and has for the last 16 years been chairman and has represented Eyam on the Bakewell Rural District Council for the last 10 years. In the course of his evidence he produced from the County Record Office the Eyam Inclosure Award dated 27 November 1812 (made under the Eyam Inclosure Act 1803, 43 Geo. 3 cap. xlv).

After the hearing I inspect all the said nine pieces, it having been agreed that I might do so unattended.

The nine pieces which comprise the Unit Land appear to be or to have been waste land near roads or streets in the Town End (eastern) part of the Village: with the exception of the Appendix Land, all are unfenced and open to the highway. The Appendix Land looks as if it was at one time much like the other eight pieces and as if it has been recently fenced from the highway and converted into a front garden for the adjoining cottage. The west pink piece has on it a substantial building apparently adapted for keeping vehicles, and easily identifiable as the Blacksmiths shop mentioned in the 1929 conveyance and on the plan called "Old Smithy". The rest of the west pink piece consists of hard ground over which vehicles could from the south, drive into the building and a steep grass slope rising up from the Lydgate (a side road, leading out of the Village, between various buildings, by some Plague Memorials to farmlands south of the Village) up to the hard ground and west wall of the building; this slope is divided into two parts by some stone steps. The west disputed piece consists of the southern part of this slope and a narrow strip (which appears to have recently been taken into the made up carriage way of the Lydgate) at the bottom of the northern part of the slope. The east pink piece consists of (south end) some hard concrete standing, (middle) a garage (I suppose replacing the Shed mentioned in the 1929 conveyance) with doors opening north and (north end) hard ground over which cars could be driven into the garage. The east disputed piece consists of the said hard ground and a narrow strip between the garage and the brown track (the strip consists either of some soft ground on which plants are growing up for the ornament of the garage, or of land which has somehow accrued to the brown track).



-3-

Mr. Hall in cross examination said:- As owner he had never done anything either on the east disputed piece or the west disputed piece except to remove a hillock from the former and spread it over the west pink piece (not over the west disputed piece). Miss J. Birks who occupied the garage on the east pink piece paid a nominal rent to the Parish Council for it. As a member of the Parish Council he (Mr. Hall) knew about the registration of the Unit Land under the 1965 Act, referred the matter to his solicitors, discussed the position on the site with a legal executive employed by them, and understood (mistakenly as it turned out) they they would on his behalf make some formal objection.

Mr. Carnall said:- He regarded the Unit Land as manorial waste. Miss J. Birks has paid annually 2s. 6d. or 12 $\frac{1}{2}$ n.p. to the Parish Council for the last 6 or 7 years in respect of her use of the east disputed piece (she had a house near by from which she uses the garage). Under arrangements made by the Parish Council the grass on the Unit Land (with other waste lands in the Village) was regularly scythed (sometimes by paid labour and sometimes voluntarily); the Parish Council had landscaped some of the nine pieces (not the east disputed piece or the west disputed piece) which comprise the Unit Land.

There was no evidence that Mr. Hall had succeeded to the interest or any part of the interest of Mrs. Meeke, and accordingly, he not having himself made any formal objection to the registration, has no entitlement to be heard, see Regulation 19 of the Commons Commissioners Regulations 1971.

To decide whether I should in my discretion hear him in support of Mrs. Meeke's objection I necessarily had to hear his evidence and consider how he would or could support her objection if I allowed him to do this. The relevant considerations are I think as follows:- (i) There was no evidence that Mr. Hall, mistaking the proper procedure, wrongly assumed that he need not because of Mrs. Meeke's objection, make any formal objection himself. (ii) There was no evidence that Mrs. Meeke's objection was made on behalf of the inhabitants or any class of the inhabitants of the Village or otherwise than in Mrs. Meeke's own personal interest as owner of No. 1 West View. Mr. Hall's case as presented was special to himself being based entirely on the apparent inclusion of the west disputed piece and the east disputed piece in the land edged pink on the plan on the 1949 conveyance (iii) The appearance of the nine pieces comprising the Unit Land ~~is~~ such that all could reasonably be supposed to be waste land of a manor and that some public advantage would result from their registration under the 1965 Act. (iv) The primary description in the 1949 conveyance of the property conveyed is: "Blacksmiths shop and shed", words wide enough to include any unbuilt over land appertaining to the shop; but there is now no visible boundary to such land indicating that the west disputed piece is now or ever was so appertaining; the plan on the 1949 conveyance shows (by a dotted line) the south part of the slope (the greater part of the west disputed piece) as a distinct piece of land; the plan is "by way of identification only"; although the plan is some evidence that those responsible thought that this part of the slope then in some way appertained to the Blacksmiths shop, as evidence it amounts to little. (v) The payment of rent by Miss Birks for the east disputed piece is inconsistent with the plan.

The matters into which I am inquiring are the matters which have arisen as a result of Mrs. Meeke's objection, see sections 5(5) and 6(1) of the 1965 Act. On the above consideration I conclude that the case made by and on behalf of Mr. Hall is not within these matters, and I ought therefore not to hear him. As his evidence was not adopted either by the Parish Council or by Mrs. Meeke, I shall give my decision without regard to it.



From the evidence I had and from what I saw on my inspection, I consider the disposal of these disputes in the manner agreed by the Parish Council and Mrs. Meeke to be reasonable and proper; accordingly I confirm both registrations with the modifications that the Appendix Land be removed from the Land Section of the Register. In the result I need not consider the contentions made by Mr. Nuttall and Mr. Bacon, and nothing in my decision will prejudice any claim which Mrs. Meeke or the Parish Council may have against each other as to the ownership of the Appendix Land, because such land having been removed from the Register, the continued registration of the Parish Council as owner in the Ownership Section will no longer apply to it.

In case I am wrong in giving my decision without regard to the evidence of Mr. Hall, I will (following an indication by Mr. Schofield that it would be more satisfactory if I did so) record what would have been my conclusion if Mr. Hall had in some way been entitled to adopt Mrs. Meeke's objection.

As to the registration in the Land Section:- The 1812 Award is a complicated document and the map attached to it differed considerably from the Register map, so much so that I could not on the evidence put before me certainly determine how the nine pieces comprising the Unit Land were then regarded. But notwithstanding the generality of the expressions in the Award indicating an intention to enclose all the waste grounds (said to be ~~over~~ 2185 acres) within the manor of Eyam and to deal with old enclosures (said to be over 2180 acres), it does not I think follow that after the Award there could no longer be any waste land of the manor; miscellaneous pieces of land such as ^{are} comprised in the Unit Land may not then have been thought worth the bother of inclosing. Although the evidence of Mr. Carnall on this point consisted no more ^{than} his general statement that he considered the land to be manorial waste, his experience of local affairs is long and bearing in mind that his evidence was not challenged ^{and} that Mr. Hall said nothing to the contrary, I can I think act on it. I see no reason for treating the west disputed piece and the east disputed piece differently from the rest; it is not unlikely that waste land of the manor convenient for use near the Village Smithy ^{may} remain unenclosed, and I am not concerned to consider whether the Parish Council could have registered more of the west pink piece than they did.

As to the registration in the ownership section:- But for the objection, the registration of the Parish Council would have become final under section 7 of the 1965 Act. The evidence for and against their ownership is slight; balancing (a) their receipt of rent from Miss J. Birks, their scything and their unchallenged ownership of three similar pieces of land nearby, against (b) the inference to be drawn from the plan on the 1929 conveyance, I conclude that Mr. Hall has not shown that the Ownership Section should be modified by excluding the west disputed piece and the east disputed piece.

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.

APPENDIX

The piece of land which is one of the nine pieces of land comprised in this Register Unit, which adjoins No.1 West View, which is triangular in shape, and which has a frontage of about 55 feet to the Causeway (Grindleford-Eyam new road).

Dated this

15th

day of

February

1974.

a. a. Baden Fuller