



In the Matter of Muggleswick Park, Muggleswick
Co. Durham (No.2)

DECISION

This reference relates to the question of the ownership of land known as Muggleswick Park, Muggleswick, being the land comprised in the Land Section of Register Unit No. CL.72 in the Register of Common Land maintained by the Durham 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 one 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 Durham on 3 July 1980.

There was no appearance at the hearing, and in the absence of any evidence I was not satisfied that any person was the owner of the land, so it has remained subject to protection under section 9 of the Act of 1965.

After my decision was issued, I decided to re-open the hearing because it appeared that claims to ownership had not been made on account of a misunderstanding.

I held the re-opened hearing at Durham on 15 March 1982. On this occasion Mr B G. Thompson, Solicitor, appeared on behalf of the Trustees of the Lambton Settled Estates, and Mr A C Storey, Solicitor, appeared on behalf of Mrs M.M. Smith and Mr T.P. Nicholson.

The whole of the land comprised in the Register Unit, with the exception of three small areas near the eastern boundary, was conveyed to two of the present trustees of the Lambton Settled Estates and another by a conveyance made 4 March 1966 between (1) The Church Commissioners for England (2) Arthur James Robert Collins, David Alexander Gray, and the Honourable Richard Oliver Stanley. Mr Gray retired on 7 April 1975, and Mr D.M. Dixon was appointed a trustee on 11 December 1978.

One of the small areas not included in the conveyance of 4 March 1966, known as Ashtree Folds, was conveyed to the late Mr J.B. Nicholson by a conveyance made 23 November 1951 between (1) George Blair and Lilian Blair (2) James Bertram Nicholson. Mr Nicholson died 19 June 1971, and the land in question was conveyed by the beneficiaries under his will to Mrs Smith and Mr T. P. Nicholson by a conveyance made 6 March 1973 between (1) Eileen Mary Carr and Margaret Mary Smith (2) M.M. Smith and Terence Peter Nicholson.



Another of the small areas not included in the conveyance of 4 March 1966 consists of a building formerly used as a school, with its curtilage. The remaining small area not included in that conveyance consists of a house formerly used as the school-master's house, with its curtilage. Both these areas were conveyed by the Dean and Chapter of Durham by a deed dated 22 June 1861 to the Minister and Churchwardens of the Parish of Muggleswick on trust to permit the premises and all buildings thereon erected or to be erected to be for ever thereafter appropriated and used as and for a School for the education of children and adults or children only of the labouring, manufacturing, and other poorer classes in the Parish of Muggleswick. By a scheme made by the Board of Education on 18 February 1938 the Durham Diocesan Board of Finance was appointed trustee of the foundation founded by the 1861 deed.

By a conveyance made 27 November 1961 between (1) The Durham Diocesan Board of Finance (2) Alan Cartmell the former schoolmaster's house was conveyed to Mr Cartmell. By a conveyance made 5 November 1971 between (1) A. Cartmell (2) Thomas Macdonald and Jane Tiffin Birkbeck Macdonald his wife this house was conveyed to Mr and Mrs Macdonald.

By a conveyance made 30 November 1961 between (1) The Durham Diocesan Board of Finance (2) The Parish Council of the Parish of Muggleswick the former school premises were conveyed to the Parish Council.

On this evidence I am satisfied that the present Trustees of the Lambton Settled Estates, Mrs Smith and Mr Nicholson, the Muggleswick Parish Council, and Mr and Mrs Macdonald are the owners of the respective parts of the land described above, and I shall accordingly direct the Durham County Council as registration authority to register them as the owners of those parts 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

11~~th~~

day of

May

1982

Chief Commons Commissioner