



COMMONS REGISTRATION ACT 1965

Reference No.20/U/42

In the Matter of Pleasant View,
Tockholes, Blackburn R.D., Lancashire

DECISION

This reference relates to the question of the ownership of land known as Pleasant View, Tockholes, Blackburn Rural District being the land comprised in the Land Section of Register Unit No.CL.106 in the Register of Common Land maintained by the Lancashire 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 person 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 Preston on 20 February 1974. At the hearing Tockholes Parish Council were represented by Mr. G. Barling of counsel (instructed by Rushton Graham Ibbotson and Clay, Solicitors of Darwen).

Mr. J. Grimshaw who was born in Darwen (about $3\frac{1}{2}$ miles away) in 1915, has lived ever since (apart from the 6 war years) either in Darwen or (the last 14 years) in Tockholes and has been clerk of the Parish Council for the last 6 years, gave evidence.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) 0.218 of a hectare (about $\frac{1}{2}$ an acre). It is triangular in shape, bounded on its north west (longest) side by the much used Tockholes Road (running from Blackburn in the north through the Village to Belmont in the south) and on its east and south (shorter) sides by two little used roads, providing access to a cottage. The north west part of the Unit Land is open to the road; the east and south part are separated from the road by a stone wall through which there is a gate providing easy access for the occupier of the cottage. The Unit Land is divided into two approximately equal parts by a post and wire fence running from north to south; the east part is cultivated by the occupier of the cottage; the west part is for the most part rough ground: there is a seat there, and parts appear to have been used for storing materials to mend the road.

Mr. Grimshaw said:- When he was a boy the Unit Land and what is now the road on the north west, were both part of a field belonging to Higher Hill Farm, and the Tockholes Road passed along the east and south side of what is now the Unit Land; the road was then inconvenient for traffic by reason of the double bend near the Unit Land. Sometime during the 1939-45 war or shortly afterwards, the Tockholes road was straightened by constructing the road which is now on the north west side of the Unit Land; the stone wall on the north west side of this road was built about this time; the stone wall which now bounds the Unit Land on the east side, before the new road was built connected up with the stone wall on the other side of the new road.



Mr. Grimshaw produced a Minute Book of the Tockholes Parish Council from 1952 to 1969 inclusive; the minute of the meeting held on 6 September 1960 included the following; "5. The chairman reported he had been approached by Mr. W. Rossall of Pleasant View Tockholes asking if he might be allowed to cultivate the piece of public land opposite his house and make a garden. Since it was resolved that this would render that half of the village more attractive, the Clerk was directed to write to Mr. Johnson, Blackburn R.D.C. in the first instance to obtain his view on the matter and also to obtain a site plan for future correspondence on the subject".

Mr. Grimshaw said that Mr. Johnson was at the time the Public Health Officer and Surveyor of the Rural District Council (they were then the planning authority) and that although there was no correspondence or other document in the Parish Council's records indicating what had happened as a result of the matters recorded in the minute, he understood from Mr. Whittle who was chairman in 1960 and who is now a member of the Rural District Council, that permission was given to Mr. Rossall to do what he asked with the result that the Unit Land now appears to be as above described.

The present rather untidy state of the west part of the Unit Land due to it having been churned up by contractors putting in a sewage scheme for the purpose of extending that which previously existed to the part of the village known as Rial Fold (further south); this sewage scheme was effected on the orders of and paid for by the Rural District Council. The Rural District Council paid for the seat above mentioned (its present state is due to damage by vandals).

Nobody had taken any interest in the Unit Land; the Parish Council think it an eyesore in the Village, and would like to tidy it up; if they are owners they could obtain a grant more easily to enable them to do this.

By section 3 of the 1965 Act, I am required in effect to determine whether I am "satisfied that any person is the owner of the land"; I have no jurisdiction to award the land to the Parish Council merely because it has been registered as common land by them and because it may be in the public interest that they should be the owners. Mr. Grimshaw did not mention in his evidence anything which had been done by or on behalf of the Parish Council on or to the Unit Land. The permission granted to Mr. Rossall pursuant to his request as recorded in the 1960 Minute was not followed by any payment of rent by him to the Parish Council or other acknowledgement of their title to the Unit Land; such permission considered by itself (and there is no other evidence of ownership) is I think not enough to enable me to conclude that the Parish Council are now the owners.

For these reasons I am not satisfied that any person is the owner of the land and it will therefore be subject to protection under section 9 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 11th day of March 1974

a. a. Baden Fuller