



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/24

In the Matter of Scout Moor and
Turf Moor, Rossendale Borough
Lancashire

DECISION

This reference relates to the question of the ownership of part ("the Referred Part") of the land ("the Unit Land") known as Scout Moor and Turf Moor, Rossendale Borough being the land comprised in the Land Section of Register Unit No. CL175 in the Register of Common Land maintained by the Lancashire County Council. Two parts of the Unit Land, being together about half of it, north-west, west, south-west and south of Whittle Pike are at HM Land Registry registered freehold under Title Nos. LA 440107 and LA 469364 (both with other land). The Referred Part is the remaining part of the Unit Land which is not at HM Land Registry so registered and 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 Burnley on 8 April and 9 December 1986. At the hearing (1) Mr Richard Ommrod who applied for the Rights Section registration at Entry No. 8 being of a right attached to Gincroft Farm to graze 8 cattle over the part of the Unit Land north of the line AB on the Register Map (ie over about 9/10ths of the whole), attended in person; and (2) North West Water Authority were (the December part of the hearing) represented by Mr J D Prytherch, assistant solicitor in their legal department.

Mrs S M Cunliffe, a chief executive in the legal department of Lancashire County Council who was present as representing them at the April part of the hearing, said they were registration authority in respect of the whole of the Unit Land, because it was subject to a straddling agreement made between the Lancashire County Council and Greater Manchester County Council; as to this, see section 2(1) of the 1965 Act. In a letter dated 29 October 1986 the Director of Administration of Bury Metropolitan Borough Council explained that they had now succeeded Greater Manchester County Council as regards so much of the Unit Land as was within their area, and that the Unit Land does form an entry in the Bury Register.

At the December hearing, Mr Prytherch claimed that North West Water Authority are the owners of the Referred Part under the documents specified in the First Schedule hereto which he produced in the course of his oral evidence, and said the copy April 1923 conveyance (JDP/4) accorded with the original which he had seen in his office.



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As showing the dividing line between the Referred Part and the rest of the Unit Land, I have the plan attached to the copy official certificate of search made by HM Land Registry in July 1985 showing coloured yellow and red the LA 440107 and LA 469364 and coloured blue the rest. The plans drawn on the 1907, 1909 and 1923 conveyances (JPD/2, 3 & 4) easily identify the land by them expressed to be conveyed with all the Referred Part with the possible exception of a narrow strip by its north-west boundary near a stream flowing northwards down to Scout Moor Brook. Mr Prytherch submitted (rightly I think) that this strip so far as it is not included in the 1907 conveyance was included in the 1922 conveyance (JDP/5) and is therefore still in the ownership of North West Water Authority so far as it was not by them conveyed in 1922 to Largs Limited. He identified the part so conveyed with the LA 469364 coloured red on the said Land Registry search certificate map, and said the Authority are the successors of the Bury and District Joint Water Board and Heywood and Middleton Water Board, the grantees under the said 4 conveyances under the Orders specified in the Second Schedule hereto.

On the evidence above summarised I am satisfied that North West Water Authority are the owners of the Referred Part and I shall accordingly pursuant to section 8(2) of the Act of 1965, direct the Lancashire County Council as registration authority, to register North West Water Authority of Dawson House, Great Sankey, Warrington, WA5 3LW as the owners of it.

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.

FIRST SCHEDULE
(Documents produced)

JDP/1	--	Copy Register map coloured so as to show the blue land within NWWA conveyances 57/00109/7, 52/00126 pt/22 and 52/00156/21.
JDP/2	26 September 1907	Conveyance by (1) Rt Hon Frederick Arthur Earl of Derby as grantor and (2) Edward Hugh Leycester Perrhyn and others as trustees to the Bury and District Joint Water Board a purchaser under Bury Corporation Water Act 1899 and the Bury and District Joint Water Board Act 1900 of "Secondly ... parcel of land situate at Scout Moor ... one hundred acres or thereabouts ... more particularly described ... in the map ... on the back of these presents and thereon edged green.
JDP/3	28 July 1909	Conveyance by (1) Rt Hon Edward George Villiers Earl of Derby as



tenant for life under Settled Land Acts 1882 to 1890, and (2) Edward Hugh Leycester Penrhyn and others as trustees to (3) the Heywood and Middleton Water Board (for the purposes of their water undertaking) of the lands on the northerly and southerly sides of the Rochdale and Edenfield Road and the farms ... described in the First Schedule...."delineated on ... plan endorsed ... edged round with the colour red ... containing ... (349a.3r.2p)".
First Schedule:- Higher Hill and Reservoir (Moorland). Scout Moor (part of). Top of Grain Rake. Grain Barn. Four acres with Old Mill and Reservoir..."

JDP/4

23 April 1923

Conveyance (copy enclosed with NWWA letter of 10 September 1981, file 220/D/248) by (1) Rt Hon Edward George Villiers Earl of Derby as tenant for life, (2) Rt Hon Horace Brand Earl Farquhar and others as trustees to (3) the Heywood and Middleton Water Board (for the purposes of their water undertaking) of land in Shuttleworth on easterly side of Rochdale Road from Edenfield containing 98a.3r.8p. as "delineated on plan drawn hereupon and thereon edged red".

JDP/5

15 March 1922

Conveyance by (1) Rt Hon Edward George Villiers Earl of Derby as tenant for life, (2) Rt Hon Horace Brand Viscount Farquhar and others as trustees to (3) the Bury and District Joint Water Board (for the purposes authorised by the Bury and District Joint Water Board Act 1903) of "parcel of land situate at Scout Moor ... containing 287a.3r. described ... map ... endorsed on ... and thereon edged red".

Endorsed

JDP/5

22 February 1982

Memorandum of conveyance by North West Water Authority to Largs Limited of 255.36 acres at Scout Moor part of land comprised in the within written deed.



SECOND SCHEDULE
(Devolution of Water Authority land)

- (1) Bury and District Joint Water Board:- Name changed to Irwell Valley Water Board under the Irwell Valley Water Board Act 1935. Transferred to Bolton Corporation under the Bolton Water Order 1962.
- (2) Heywood and Middleton Water Board:- Absorbed in the Pennine Water Board under the West Pennine Water Order 1968 (SI 1968 No 512).
- (3) Both the above transferred to the North West Water Authority under Local Authorities (England) Property etc Order 1973 (SI 1973 No 1861).

Dated this 6th — day of January 1987.

A. A. Baden Fuller

Commons Commissioner