



In the matter of piece of land containing 11.8 acres or thereabouts
known as part of Ilkley Moor

DECISION

This Decision is supplemental to my Decision in this matter dated 6 April 1994 ("the main Decision") and should be read and construed as such.

Pursuant to the liberty to apply given in the penultimate paragraph of the main Decision, the Council, by letter dated 1 July 1994 (which was received by the Clerk to the Commons Commissioners on 4 July 1994) asked that a further hearing be held for the purpose of considering its claim to ownership of the two areas of land referred to in the main Decision as "the larger areas".

I held the further hearing at Ilkley Town Hall on 18 October 1994. Mr Robin Jepson, Solicitor, represented the Council at the hearing.

The case for the Council as presented at the further hearing may be summarised as follows:-

- (a) The Local Board of Health for the District of Ilkley ("the Local Board") was established in 1869
- (b) Upon the coming into force of the Public Health Act 1872 Ilkley was a "Local Government district..... having no part of its area situated within a borough and not coincident in area with a borough or Improvement Act district"
- (c) Ilkley was therefore a district falling within the last of the three categories mentioned in Section 4 of the 1872 Act, from which the above quotation is taken
- (d) The Local Board was therefore the urban sanitary authority within the 1872 Act - see Section 4
- (e) The provisions of sections 7 and 9 of that Act had no effect in relation to sanitary authorities already in existence when the Act came into force
- (f) Those sections therefore have no effect in relation to the Ilkley Local Board
- (g) That Local Board therefore continued in existence after 1872 and was indeed still in existence at the time of the Conveyance to it dated 29 June 1893.

As to paragraph (a) above, the legislation providing for the establishment of local boards of health throughout England and Wales was contained in the Public Health Act 1848 and the Local Government Act 1858. (Mr Jepson produced copies of the relevant parts of those Acts at the hearing). In the case of a district not forming part of a borough such establishment was dependant (inter alia) on a resolution of the owners and ratepayers in the district. It is stated in Kelly's Directory (1893) page 592 that the Ilkley local board was established in 1869. In Collyer and Horsfall Turner's Ilkley Ancient and Modern (1885) at page 285 it is stated as follows:-



"We have now to record a remarkable event - the birth and death of the first Local Board, being dissolved because it was illegally constituted..... The first meeting was held Dec. 8th 1864 in the Church vestry; the last meeting March 18th 1865. In January 1869 the first election of the legal Local Board, still living to good purpose, took place....."

There being no contrary evidence of which I am aware, I accept the foregoing as sufficient evidence that the Ilkley Local Board was legally established in 1869.

As to paragraph (b) above, Mr Jepson assured me that in 1872 Ilkley was neither a Borough nor within an Improvement Act district. Mr Jepson is a Solicitor employed in the Legal Services Department of the City of Bradford Metropolitan Council and (there being no contrary evidence) I fully accept his assurance on those points.

Paragraphs (c) (d) (e) and (f) above are all conclusions of law which I accept. In particular (as regards paragraph (d) above) the expression "local board" is defined in section 60 of ~~that~~ the 1872 Act as meaning any board constituted under the Local Government Act 1858.

As to paragraph (g) above, Mr Jepson referred me to the 1894 Annual Report of the Medical Officer for the Ilkley Urban District Council in which it is stated that "with the expiring of 1894 terminated the authority of the Ilkley Board of Health and with the beginning of 1895 sprang into existence the Ilkley Urban District Council". So far as this purports to summarise the legal effect of the Local Government Act 1894 this statement is in my view incorrect - see paragraph (c) on page 2 of the main Decision. For present purposes however the importance of this statement lies in the evidence it provides that the Local Board was still in existence at the date of the 1893 Conveyance.

I am therefore now satisfied that the larger areas were vested in the Local Board by the 1893 Conveyance. I am also satisfied that for the reasons given in the fourth paragraph on page 2 of the main Decision the Council can prove that it derives title under the Local Board.

For the above reasons I shall accordingly direct the City of Bradford Metropolitan Council, as registration authority, to register itself as the owner 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

26th

day of

October

1994

Commons Commissioner