



In the Matter of land at Barber Booth and
at Upper Booth, Edale

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 33 in the Register of Common Land maintained by the Derbyshire 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 Lt. Col. G. G. Haythornthwaite and Mr W E Noblett claimed to be the freehold owner of parts of the land in question ("the Unit land") and no other 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 Matlock on 8 May 1980.

At the hearing Mr W V Wright of the firm of Bennett, Brooke Taylor and Wright, Solicitors, appeared on behalf of Mr Noblett and Edale Parish Council, on whose application the registration was made, was represented by its clerk Mr R R Townsend.

The Unit land comprises three pieces of land, two at Barber Booth and one ("the Upper Booth piece") some distance away at Upper Booth. The two pieces at Barber Booth are separated by a road; Mr Noblett claims ownership of part of the larger of the two pieces, that lying to the west of the road, which I will refer to as "the West Piece". There was no claimant at the hearing to ownership of the other piece which is on the east of the road ("the East Piece") or of the Upper Booth piece.

The part of the West Piece claimed by Mr Noblett is coloured green on the plan produced by Mr Wright: this part ("the Green area") is about one half of the west piece and surrounds a rectangular area which is excluded from the registration and which with the house standing on it called Littlewood Cottage was purchased by Mr Noblett in September 1968. Mr Wright stated that the title deeds to Mr Noblett's property do not include the Green area. The boundaries of the Green area are on the south the River Noe, on the northwest land in private ownership, adjoining the west piece, on the north a track running to Mr Noblett's property and on the east a brook.

Mr Noblett gave oral evidence. He is aged 77 and was born about half a mile from Littlewood Cottage. When he was a boy it was owned by a Mr Alsop - he was a mobile greengrocer who kept poultry, ponies and carts on the rough ground around the Cottage: and there was a summerhouse on the south side near the river.



From 1933 onwards a Mr Murphy lived there and he had hen coops near the river. The Cottage was not occupied after 1952 as it was unfit for habitation. After Mr Noblett purchased in 1968, he built a bungalow on his land, and had lived there since 1973. He had cut the grass on the Green area on the east of his property and kept the parts of the Green area on the south and north west sides tidy; and he had put up a fence on the north side on the boundary of his garden. He said that no one except an occasional hiker comes over the Green area.

I accept Mr Noblett's evidence but do not think it sufficient to establish a possessory title. The activities of his predecessors - Mr Alsop and Mr Murphy - as described in his evidence do not in my view constitute adverse possession of the Green area; and such encroachments and activities on the green area as have been carried out by Mr Noblett himself have been during a period of less than the requisite period of twelve years.

Mr Townsend had no evidence of ownership by the Parish Council and in the result I am not satisfied that any person is the owner of the Unit land, and it will therefore remain 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

25 June

1980

L. J. Morris Smith

Commons Commissioner