



COMMONS REGISTRATION ACT 1965

Reference No 21/U/61

In the Matter of Peckleton Common,
Peckleton, Hinckley and Bosworth
District, Leicestershire

DECISION

This reference relates to the question of the ownership of land known as Peckleton Common, Peckleton, Hinckley and Bosworth District being the land comprised in the Land Section of Register Unit No CL. 10 in the Register of Common Land maintained by the Leicestershire 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 Peckleton Parish Council claimed ownership of the land in question. No other person claimed to be the freehold owner of the land or 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 Leicester on 20 April 1977. At the hearing Peckleton Parish Council were represented by Mrs G M Priestnall and Mr F H Bevin, two of their members. Also present was Mrs B A Penny of Myrtle Cottage.

The land ("the Unit Land") comprised in this Register Unit is a strip about 750 yards long and for the most part about 50 yards wide; at its east end it is wider being there in some places about 100 yards wide. It is about $\frac{1}{4}$ of a mile west of Peckleton, and the road running east out of the Village runs the length of the Unit Land: for about 50 yards near the south boundary, and then after crossing diagonally over the Unit Land runs near the north boundary. Most of the north boundary is a substantial fence, being also the boundary of the land having on it the factory and other buildings of Caterpillar Tractor Company Limited. The south boundary is in part the same as that of Tooley Park Farm, in part of land (also substantially fenced in) having on it the factory and other buildings of Ratby Engineering Company Limited, and in part land held with cottages or dwelling houses. Most of the Unit Land is covered with scrub, apparently of growth after the 1939-1945 war; there are substantial areas providing access to the factory and other premises above mentioned, and substantial areas of rough grass, particularly the wider east part of the Unit Land, such part being rather uneven with scattered trees.

After the hearing I inspected the Unit Land being accompanied for most of the time by Mr Bevin; and for part of the time by Mrs Priestnall was present. During this inspection, Mr Bevin (in amplification of what he said at the hearing) produced the printed Particulars of Sale on 16 March 1921 by public auction of the Kirkby Mallory Estate, including Peckleton House, 7 farms and 18 cottages, and containing 1,607 acres, together with the accompanying map of the lots; he also produced the three Parish Council Minute Books from 1894 to 1951, from 1952 to 1974 and from 1974 onwards. Mr Bevin who has lived in the Parish for just over 40 years, and was a member of the Parish Council for 25 years, said



(in effect):- Lady Wentworth (the mother-in-law of Lord Byron, the Poet) or Lady Lovelace (meaning I suppose the Poet's daughter), being the owner of the Kirkby Mallory Estate together with certain portions of Peckleton gave the Unit Land as an open space for all time. During the 1939-45 war there were encroachments on the Common; the Parish Council tried to sort these matters out, and were told that the Solicitors for the Estate had had their offices in London destroyed by enemy action, so all record of the gift of Lady Lovelace has been lost. When he first knew the Unit Land, it was bounded on both sides, where there are now factory premises, by farms. During the war, the farms disappeared for the making of an aerodrome; the now visible wide access tracks leading off the road were originally meant for aircraft coming to and from the airfield on the north, from and to the hangars on the south of the Unit Land. During the war part of the Unit Land was fenced to provide a private car park but the fence was removed following a protest by the Parish Council. Peckleton Stocks (removed before his time to the Leicester Museum where they now are) used to be at the west end of the Unit Land.

Mr Bevin's understanding of Lady Lovelace's gift was so he told me based on what certain inhabitants, who in 1920 were interested in purchasing the gravel pit at the east end of the Unit Land were told by the estate agents conducting the sale; the gravel pit was, he said, opened by Lady Lovelace but there is now no pit there, so it must have been filled in some years ago. Although the root of title mentioned in the 1920 Particulars show that the then Vendors were probably in some way connected with those named by Mr Bevin, I am not persuaded by his evidence that there was ever an actual deed of grant by Lady Lovelace such as he described. However this does not preclude me from considering whether quite apart from any such deed, the Parish Council have for many years been the reputed owners, and should therefore be treated as owners within the meaning of the 1965 Act.

The first relevant entry in the Minute Books, records that at a meeting on 17 June 1935 the clerk was instructed "to write a letter to the Desford policeman calling his attention to the rubbish deposited on Packleton Common". The next is that at the annual Parish Meeting on 14 March 1944 (Mr Bevin was present) "Mr Ward made a report on the encroachment which was taking place on the Common and as no one as the meeting was familiar with the History of the Common, it was agreed that Mr Rippon, Sunrise, Desford be approached with a view to obtaining his knowledge of the Common Rights. Mr Rippon to be invited to a Parish Meeting". The book records that at two subsequent meetings Mr Rippon gave an interesting talk on matters relating to the Common and informed the meeting that he was looking after the Common Rights. A portion of the Common had been requisitioned by the Air Ministry portion of the aerodrome and he was very hopeful of this being derequisitioned shortly". It is recorded that at a meeting on 30 December 1946 Trowbridge Rural District Council approached the Parish Council in regard to whether any objection would be raised concerning the access to the factory built on the land requisitioned by the Air Ministry (part of the Drome), if the factory was sold bearing in mind that a small portion of the Common had also been requisitioned in order to give the necessary access; the Parish Council agreed that no objection would be raised provided no further encroachment is made by the purchaser. At a meeting on 27 September 1950 reference is made to the making of a roadway up to the new garage in the garden of Mr Stockhall, and there are some other references to the Common (as regards ownership inconclusive) as meetings on 18 January 1951, 21 March 1951, 30 May 1961 and 16 October 1961.



The information provided by Mr Bevin as to the reputed ownership of the Parish Council as summarised above does not amount to much. However he made the point that the nature of the land as he had known it has always been such that it was practically impossible for the Parish Council with advantage to do anything about it (recently they have had suggestions, the outcome of which may depend on this decision). He emphasised that the Unit Land had always been regarded as public land usable by the local inhabitants. During my inspection it seemed to me that the evidence of Mr Bevin was much strengthened by the present appearance of the Unit Land; the fences are extraordinarily substantial; the circumstance that during the war and subsequently the boundaries of the Unit Land have been maintained so distinctly can I think only be explained by some well established local repute that the Unit Land belonged (using the word in its popular sense) in some way to this small Village (Mr Bevin estimated the present population at 250).

Any land which can properly be regarded as belonging (within the popular meaning of these words) to a parish, before 1894 vested in the churchwardens and overseers and after 1894 in the Parish Council, see *Doe v Hiley* 1830 10P & C 885 and *Doe v Terry* 1835 4 A & E 274 and *Haigh v West* 1893 2 QB 19 at page 31. I am therefore satisfied that the Parish Council are the owners of the Unit Land and I shall accordingly direct the Leicestershire County Council as registration authority to register Pickleton Parish Council as the owners 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 29th day of April —

1977

a. a. Barin Fuller

Commons Commissioner