



COMMONS REGISTRATION ACT 1965

Reference No. 45/U/209

In the Matter of Shop Hill and Old
Pond Hill, Hambleton, Selby District,
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Shop Hill and Old Pond Hill, Hambleton, Selby District, North Yorkshire being the land comprised in the Land Section of Register Unit No. CL.447 in the Register of Common Land maintained by the North Yorkshire 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 Wakefield on 6 February 1974. At the hearing Hambleton Parish Council were represented by Mr. A. Lister, their vicechairman.

Mr. Lister who was born in the Village 45 years ago, has lived there all his life, been a member of the Parish Council for about 8 years and been vicechairman for 5 years, gave evidence. On 1 April 1974, I inspected the land, Mr. Lister having agreed that I might do so unattended.

The land ("the Unit Land") comprised in this Register Unit which according to the Register contains .25 of an acre is in three pieces. The most northerly is a narrow strip of land bounded on the north by the main Leeds-Selby Road (A.63), and on the south by what appears on the Register map (based on the Ordnance Survey) to be the site of an old track which at one time ran parallel with and near to the Main Road. Another piece is a much wider strip bounded on the north by the said old track site and on the south by the walls of some buildings and inclosures held therewith. There is now no visible sign of the old track site; this site and the said two pieces now appear to be one piece of level and well kept grass land; for convenience of exposition, in this decision (except where the context otherwise requires) I use the expression "the North Piece" as meaning all the last mentioned grass land as it now appears. The North Piece comprises about $\frac{2}{3}$ of the Unit Land, is approximately rectangular, being bounded on the east and west (the two shorter sides) by roads both of which are called Chapel Street (these roads join a little to the south as below mentioned) and includes a very small piece of grass land which projects from the southwest corner between the west branch of Chapel Street and the west wall of one of the buildings. On the North Piece there are two seats and two rose beds (all in good order), and (when I was there) three clumps of daffodils growing in the grass. The whole appearance of the North Piece (with the possible exception of the poles near the Main Road carrying electricity wires) is attractive, obviously an amenity of great value to those who live or do business in the surrounding



houses and buildings and (because it is in a central position in the Village) to many others. The third and remaining piece ("the South Piece", about $\frac{1}{4}$ of the whole) of the Unit Land is situated about 50 yards south of the North Piece, is triangular in shape, is bounded on two sides by the two branches of Chapel Street (they join at the south end of the South piece to form one street called Chapel Street which runs out of the Village by the United Methodist Church), and bounded on the remaining side by a road which separates the South Piece from the south side of some buildings (nor or formerly part of Hill Farm) which separates the South Piece from the North Piece. The South Piece is level grass land with a bare patch in the middle (sometimes a pond I suppose) and a Post Office pole at one side.

Mr. Lister said (in effect):- The Parish Council have no deeds relating to the Unit Land; no one has ever claimed to be the owner. When he was a boy, a Fun Fair was held annually on the North Piece; the festivities were known as "the Hambleton Feast"; old residents recall it as the high light of the year; there were roundabouts (horse driven) and other amusements on the North Piece; he understood from his father (who was a Parish Councillor) that the amusement proprietors paid the Parish Council for their use of the North Piece. When he (Mr. Lister) was a boy there was a smithy near the centre of the North Piece (across the said old track site); this was pulled down and cleared because the building was unsafe, but he did not know who did it. After the 1939-45 war, the Hambleton Feast and the accompanying Fun Fair never got established again. Along the line of the old track site, a sewage pipe was laid underground. The North Piece became an eyesore, and about 5 years ago the Parish Council decided to tidy it up; inquiries as to its ownership were made of the Wakefield Registry of Deeds and of the County Council and of the Rural District Council, but no information as to ownership was obtained. So the Parish Council arranged for the North Piece to be laid out as a garden with rosebeds (as they now appear) and for the grass to be mown regularly; the seats were provided by the Womens Institute and the Parish Council.

On my inspection, I was impressed by the North Piece appearing to be parish property. On the evidence of Mr. Lister, I incline to the view that it or a large part of it always has been parish property; but whether or not this view is correct, his evidence shows I think, that the Parish Council are now in possession and that it is practically certain that such possession will not be disturbed. Possession in such circumstances is equivalent to ownership, and for this reason I am satisfied that the Parish Council is the owner of the North Piece.

None of the things said by Mr. Lister to have been done as above described were said by him to have been done on or in relation to the South Piece. To my question could the South Piece and the North Piece properly be regarded as one piece of land, he could say no more than it would appear they were at sometime part of one piece of land on which the Hill Farm buildings between the North Piece and the South Piece had been built. From what I saw on my inspection, I conclude that although some of the buildings or at least some parts of the buildings surrounding the South Piece are of considerable age, some are new and some have been much altered. The South Piece could from its appearance as well belong to one or more of the lands surrounding it as to the North Piece. I cannot with any certainty conclude from the appearance and from the evidence of Mr. Lister that the North Piece and the South Piece are in any sense relevant to their present ownership, one piece of land. From this conclusion it follows (there \rightarrow)

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having been no evidence as to the ownership of the South Piece considered as a piece of land by itself), that I am not satisfied that any person is the owner of it.

Accordingly, I shall direct the North Yorkshire County Council to register Hambleton Parish Council as the owner of the two pieces nearest to the Leeds-Selby Road (A.63) of the three pieces of land (as delineated on the Register map) comprising the Unit Land. The remaining piece will, because I am not satisfied that any person is the owner of it 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 22nd day of April

1974.

a. a. Baden Fuller

Commons Commissioner