



COMMONS REGISTRATION ACT 1965

Reference No 45/U/252

In the Matter of Upper Pond and Lower Pond
School Green Lane, Upper Cumberworth

DECISION

This reference relates to the question of the ownership of land known as Upper Pond and Lower Pond School Green Lane, Upper Cumberworth being the land comprised in the Land Section of Register Unit No 656 in the Register of Common Land maintained by the former West Riding 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 Kirklees BC claimed to be the freehold owner of the land in question 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 Bradford on 24 January 1978. Mr M Vause appeared for the Kirklees BC. The land in question comprises two plots, a triangular plot on the West and a rectangular plot on the East.

Mr Vause called Mr David Givens the Chief Assistant, Outdoor Division of the Kirklees Leisure Services since 1 April 1974 having previously been the parks superintendent of Batley. He told me that the triangular plot had been and was still used as a childrens playground and that the Denby Dale UDC had placed on the land a climbing frame, a see saw and a set of swings which had been on the land for at least 15 years. Mr Vause also called Miss Walton an articled clerk in the office of the Kirklees BC who produced a form of consent by the Denby Dale UDC whereby in consideration of 2/6 pa the UDC gave facilities to the Yorkshire Electric Power Company and an extension thereof made in September 1977. She further said that Denby Dale UDC and later Kirklees BC as its successor had received the rent payable. This consent related to the triangular plot.

As regards the rectangular plot Miss Walton produced a tenancy agreement relating thereto dated 1 October 1954 whereby it was leased by the Denby Dale UDC to Benjamin Roberts who erected a garage thereon and an acknowledgement by Mr and Mrs Hanwell the successors to Mr B Roberts of this adjoining land acknowledging that they had no claim to the ownership of the rectangular plot. In 1974 the Council took action to prevent car parking in this plot.

On this evidence I am satisfied that Kirklees BC is the owner of the land, and I shall accordingly direct the West Yorkshire County Council, as registration authority, to register Kirklees BC 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

23rd

day of

July

C.A.L.H. 1978³
Commons Commissioner