



COMMONS REGISTRATION ACT 1965

Reference No 228/U/3

In the Matter of The Foreshore and Front  
and Littleborough Ferry, Littleborough,  
Sturton-le-Steeple, Bassetlaw District,  
Nottinghamshire

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DECISION

This reference relates to the question of the ownership of land known as The Foreshore and Front and Littleborough Ferry, Littleborough, Sturton-le-Steeple, Bassetlaw District being the land comprised in the Land Section of Register Unit No CL 67 in the Register of Common Land maintained by the Nottinghamshire 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 Dickinson Miller & Turnbull, Solicitors of Newcastle upon Tyne asked that a note might be made of the interest of their client Mr G M T Foljambe, but no person 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 Nottingham on 25 January 1977. At the hearing, Mr George Michael Thornagh Foljambe was represented by Mr P Horne chartered surveyor of Merryweather & Corbett, Chartered Surveyors of Doncaster, and Sturton-le-Steeple with Littleborough Parish Council were represented by Mr G Brown their chairman and Mr J Bee one of their members. North Leverton with Habbleshthorpe Parish Council, on whose application the registration was made, were not represented.

The land ("the Unit Land") comprised in this Register Unit is a piece approximately triangular being and containing (according to the Register map) OS no 26, 1.338 acres. It is bounded on the east and southeast by the River Trent and is at the north end of an ancient Roman Ford. The Ferry House is situated about the middle and just outside the west boundary of the Unit Land.

At the hearing oral evidence was given by Mr Horne whose firm manages the Osberton Hall Estate Office and who has known the Unit Land for the past 6 years, by Mr J Bee who has for the last 22 years lived in Littleborough and for the last 4 years been a member of the Parish Council and by Mr G Brown who was born in Sturton-le-Steeple, has lived there all his life, has been a member of the Parish Council since he was 23 years old and been chairman since 1958 or 1959. In the course of his evidence Mr Horne produced: (1) →



a copy of the Littleborough Inclosure Award dated 10 March 1828 and held by the Foljambe Estate Office, (2) and (3) copies of the relevant part of the Award and of the map held by Dickinson & Dees Solicitors of Newcastle upon Tyne for Mr Foljambe, (4) a resettlement dated 6 January 1896 made by Mr F J S Foljambe and his eldest son Mr G S Foljambe of manors and land in Nottinghamshire and Yorkshire, (5) a large map made up of several OS maps of about 1886 (showing the Unit Land as No 66), (6) a mortgage dated 13 August 1898 and (7) a vesting assent dated 31 August 1965 made by the personal representatives of Mr E W S Foljambe (he died 22 August 1960) in favour of Mr G M T Foljambe.

The 1828 Award contains an allotment:- "...award unto the Surveyors of the Highways of the said Parish or Chapelry of Littleborough and their Successors ONE piece or parcel of Land in front Ferry Boat Inn No 21 containing one acre and three perches bounded by the River Trent on or towards the east and southeast; by an allotment No 22 made to George Saville Foljambe, Ancient Lane, Ancient Inclosure and Paling Path on or towards the west; by allotments nos 22 and 28 made to the said George Saville Foljambe and Marsh Road on or towards the north; and by the said Paling Path on or towards the northwest; and we do hereby order and direct that the same allotment shall be forever kept open and used as and for a public watering place for cattle and a public landing place".

Since the hearing I have looked at the Sturton in the Steeple and Littleborough Inclosure Act 1824 (3 Geo 4.c.8). Section 30 is as follows:- "...Commissioners shall...allot unto the Surveyors...of the Highways for the time being of the said Parish of Sturton and Parish or Chapelry of Littleborough respectively such Parcel or Parcels of land as they may judge to be proper and necessary but not exceeding in the whole Two acres in each of the said Parishes or Chapelry...with convenient roads to and from the same respectively; and the same shall be vested in such Surveyors or Surveyor in Trust as and for Public Watering Places for Cattle, and also for the purpose of getting material for the repair of the Highways and other Roads now being or to be within the said Parishes or Chapelry respectively and for such other public uses as the Commissioners shall direct; and the same shall be inclosed and fenced, and such fences thereafter maintained by such persons and in such manner as the said Commissioners shall by their joint Awards and either of them order and appoint; and the Herbage of such Parcel or Parcels of Land and also the Herbage of the Public Roads and Lanes within the said Parish of Sturton and the Parish or Chapelry of Littleborough shall thereafter be taken and enjoyed by the Surveyor or Surveyors or such of the Proprietors of Estates within the said Parish or Chapelry respectively and applied for such purposes and in such manner as the said Commissioners shall by their Awards or either of them order and direct". In the extract from the 1828 Award produced to me, there is nothing about fencing or herbage.

The Schedules to the 1896 Resettlement and the 1898 Mortgage contain an item "108 (serial number of property) Goruley J and J H (present or recent occupier) farmhouse buildings and land (description) 4, 8, 13, 19, 20, 22, 32, 36, 39, 40, 41, 42, 43, 44 part, 49, 52, 57, 58, 60, 62, 66, 67 (numbers on Ordnance Map) 200.163 (quantity acres). The Schedule to the 1965 Assent includes an item 26 (OS No 1921 edition) 1.338 (acreage), and the annexed map which shows edged red the part (by far the greater part) of the Unit Land north of the line being the continuation of the access road towards the River.



There is (as Mr Horne said) a conflict between the terms of the 1828 Award under which the Surveyors of the Highways became entitled to the Unit Land and the 1896 Resettlement, the 1898 Mortgage and the 1965 Assent in all of which the Unit Land was dealt with as part of the Foljambe Estate. To resolve the conflict between these documents, I must consider the appearance of the Unit Land (as it may have been proved or can be inferred) when they were made. Mr Horne said (in effect):- The Unit Land is an area of rough grass lying between Ferry House and the edge of the River Trent; it is used mainly for car parking, by members of a water ski club who pay the Estate a rent for the right to water ski and by anglers; the money accepted by the Estate from the water ski club is only for the right of access. The car park is also used by general sightseers. Mr J<sup>B</sup>ee said (in effect):- The Unit Land has been used mainly for car parking; it doesn't get too rough because the River Board would certainly know. There is no gate across the access road but at the end of the road there is a three-rail fence to stop cars driving into the River; apart from this there is no fence at the river edge. The north boundary of the Unit Land is a post and rail fence erected in 1968 when the river bank was reconstructed by the River Authority; before then for as long as he could remember there had been just a post and wire fence; he went there as a boy (he is 53 years of age and had a relative in Littleborough) and remembered not being allowed near the water's edge because it was tidal. It was a public landing place; the River Authority regularly landed there; he had seen various people bring boats and launches there. The Army had built a pontoon bridge to carry vehicles across in about 1967. The ABC Club (water ski club) in about 1968 put in a slipway, near where the Roman Ford used to be. The Unit Land would be an excellent place for watering cattle but he had not seen it used as such except once in 1964. Mr Brown said (in effect):- As he first remembered it, the Unit Land was used as access to the River by people wishing to cross it by ferry boat. There used to be a regular ferry boat; this was discontinued in the early 1950's; he remembered being ferried across in 1952; in his time it was for foot passengers only, just a rowing boat. In appearance the Unit Land in the 1920's was very similar to what it is now except that the bank has been raised and a new fence been erected on the north boundary; when he first knew the Unit Land such fence was wire, posts and timber of all descriptions including in it two clap gates, self-closing after the horse had gone along the river bank.

In my opinion making due allowance for the changes resulting from sightseers coming with cars, from the discontinuance of the ferry, the improvement of the River bank and the activities of the water ski club, the Unit Land from some time before 1898 has always appeared to be much as it is now, that is open and public land distinct from the nearby farmlands.

The 1896 Resettlement, the 1898 Mortgage and the 1965 Assent, are some evidence of the ownership of Mr Foljambe, and considered by themselves might be decisive. But against them, I have the 1824 Act and the 1828 Award by which the Unit Land was vested in the Surveyors of Highways, and must therefore be still vested in their statutory successors unless I can presume that they have at some time been divested in favour of Mr Foljambe's predecessors in title. There is I think no legal reason why they should not be so divested by a conveyance made under some statutory authority, or by having their title extinguished by adverse possession under the Limitation Act 1939 or some earlier Limitation Act, or possibly in some other way. The alternatives



are that the Resettlement, Mortgage and Assent were as regards the Unit Land either all regularly made because there had been some such divesting, or were irregularly made, the reference to the Unit Land being some clerical or other mistake.

I cannot imagine why any of Mr Foljambe's predecessors should ever take trouble by some legal process to divest the Surveyors unless they had wished to use the Unit Land for some purpose different from that allowed under the 1828 Award; my finding as to the appearance of the Unit Land indicates that there never was any such use. In relation to the rest of the land within the 1896 Resettlement, the 1898 Mortgage and the 1965 Assent, the Unit Land must have been of very little importance; I cannot suppose that when they were made any careful consideration would have been given to the propriety of including the Unit Land. Having regard to these considerations, of the two possible alternatives, I think it more likely that the Resettlement, Mortgage and Assent are all as regards the Unit Land mistaken. My conclusion is that there was never any divesting of the Surveyors or of their successors in title.

Their successors under the Local Government Act 1894 were the Rural District Council. Under the Local Government Act 1929 land actually used as highway and certain other land used for highway purposes passed to the County Councils. From the appearance of the Unit Land as I have found it, it is unlikely that the Unit Land so passed; in the absence of any evidence as to how the 1929 Act applied to the Unit Land, I conclude that it remained in the Rural District Council, and is now vested in Bassetlaw District Council.

For the above reasons I am satisfied that the District Council are the owners of the Unit Land and I shall accordingly direct Nottinghamshire County Council as registration authority to register Bassetlaw District Council as the owner of the land under section 8(2) of the Act of 1965. However because the District Council may when they decided not to be represented at the hearing, have known nothing of the 1828 Award, I give them liberty within 6 weeks from the date on which notice of this decision is sent to them to apply to me to set aside my decision and reopen the hearing in order to enable them to give evidence showing that the Unit Land is now in the ownership of someone other than themselves. Any such application should in the first instance be made by letter to the Clerk of the Commons Commissioners.

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 6<sup>th</sup> day of April

1977

a. a. Baden Fuller

Commons Commissioner