

In the Matter of a Sand Quarry at Barrow Beck,
Mungrisdale, Cumbria.

DECISION

This reference relates to the question of the ownership of a Sand Quarry at Barrow Beck, Mungrisdale, being the land comprised in the Land Section of Register Unit No. CL 275 in the Register of Common Land maintained by the Cumbria 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 the Mungrisdale Parish Council 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 Penrith on 15 October 1981.

At the hearing the Parish Council was represented by Mr A R Nobbs, solicitor.

Mr Nobbs said that the claim of the Parish Council was no longer being pursued, but he drew my attention to the award, dated 2 October 1893, made under the Inclosure (Mungrisdale) Provisional Order Confirmation Act 1891 (54 & 55 Vict., c. liv) by which the land in question was set out, allotted, and awarded to the Surveyors of the Highways of the township of Mungrisdale and their successors for ever to be appropriated and used as a public quarry for supplying stone, clay, and gravel for the repair of the roads and ways within the township and for the use of the allottees under the award upon their respective allotments.

By ss.25 and 67 of the Local Government Act 1894 the land was transferred to the new Rural District Council set up under that Act. The highway functions of the Rural District Council were transferred to the former Cumberland County Council by s.30 of the Local Government Act 1929, but the County Council would only have taken over the quarry under s.118 (1)(b) of that Act if so desired by the Rural District Council. There was no evidence that the Rural District Council did so require, so the quarry was transferred to the Eden District Council by the Local Authorities (England) (Property etc.) Order 1973 (S.I. 1973 No. 1861).

On this evidence I am satisfied that the Eden District Council is the owner of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register the District Council 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

2nd

day of

November

1981

G. J. G. G.
Chief Commons Commissioner