



In the Matter of Greyfell Common, Bewcastle,
Cumbria

DECISION

This reference relates to the question of the ownership of land known as Greyfell Common, Bewcastle, being the land comprised in the Land Section of Register Unit No. CL 265 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 Bewcastle 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 Carlisle on 20 July 1982.

At the hearing the Bewcastle Parish Council was represented by Mr C N Owston, its Clerk.

By the Bewcastle Inclosure Award made 20 December 1849 under the statute 8~~2~~⁹ Vict., c.118 the land the subject of the reference was set out, allotted and awarded to the Surveyors of the Highways of the township of Bewcastle to be appropriated and used as public quarries for supplying stone and gravel for the repairs of the roads and ways within the township and to all and every the owners of allotments on the Common for use thereon but not for sale.

The functions of surveyors of highways were transferred to the new rural district councils by section 25(1) of the Local Government Act 1894, and with the functions the property held for the purposes of those functions was transferred by section 67(1) of that Act.

By section 30(1) of the Local Government Act 1929 rural district councils ceased to be highway authorities and their functions were transferred to county councils. However, quarries belonging to district councils in their capacity as highway authorities were excluded from the general transfer of highway property to county councils under section 117(1) of that Act, and by virtue of section 118(1)(b) of the Act such a quarry was only taken over by a county council if so desired by the rural district council to which it belonged. There is no evidence in this case that the then Northumberland County Council was desired to take over these quarries. It would have been possible for the County Council to have taken over the quarries under section 234(1)(ii) of the Highways Act 1959, but there is no evidence that this was ever done before that section was repealed by the Local Government Act 1972. In these circumstances it follows that the quarries were transferred to the Carlisle City Council by Part II of Schedule 4 to the Local Authorities (England) (Property etc.) Order 1973 (S.I. 1973 No. 1861).

On this evidence I am satisfied that the Carlisle City Council is the owner of the land, and I shall accordingly direct the Cumbria County Council, as



registration authority, to register the City 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

25th

day of

July

1982

Chief Commons Commissioner