



COMMONS REGISTRATION ACT 1965

Reference No. 211/U/100

In the matter of High Toft Hill Quarry,  
Etherley, Teesdale District, Durham

DECISION

This reference relates to the question of the ownership of land known as High Toft Hill Quarry, Etherley, Teesdale District being the land comprised in the Land Section of Register Unit No. CL27 in the Register of Common Land maintained by the Durham 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 Teesdale District Council claimed (letter of 9 December 1985) ownership 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 Durham on 5 February 1986. At the hearing (1) Teesdale District Council were represented by (1) Mr Clifford Eric Fell their Chief Executive and Clerk, and (2) Mr Alan Thompson who applied for the Rights Section registration of a right attached to High Farm, Toft Hill to graze 30 cows, attended in person.

The land in this Register Unit fronts on its south side the A68 road from Darlington to the north (Tow Law, Hexham and beyond) and as in 1968 originally registered (Land Section Entry No. 1) contained 5.15 acres. In 1976 part of such original land containing about 1335 square yards and adjoining the A68 road was removed from the Register (for road widening) and a tract of about 1335 square yards of pasture land was (at Entry No. 3) added to the Register in substitution becoming by virtue of paragraph 11 of the First Schedule to the Acquisition of Land (Authorisation Procedure) Act 1946 and the Durham County Council (Carterthorne No. 1) Compulsory Purchase Order 1972 subject to the rights of common (if any) applicable to the removed land.

Mr Fell who has for 9 years been with the District Council first as Treasurer and now as Chief Executive and Clerk, in the course of his oral evidence produced: (1) a conveyance dated 29 June 1966 by which the Church Commissioners for England after reciting that under and by virtue of the Railey Fell Common (Evenwood) Inclosure Award 1765 it was apprehended that they were seized of the land thereafter specified for an estate in fee simple conveyed to the Rural District Council of Barnard Castle secondly land known as High Quarry Toft Hill containing 5.026 acres as coloured round with red on the plan No. 2 annexed; and (2) a deed of exchange dated 29 April 1975 and made between the Teesdale District Council and the County Council of Durham the said part and tract both containing 1335 square yards were exchanged by mutual conveyances in fee simple.

Mr Fell said (in effect):- The land as originally registered appears to be a worked out quarry; it is now grazing land.\* He identified the land as now registered with that conveyed to the District Council by the 1966 conveyance and the 1975 deed of exchange.

\* Note: as to this grazing, see the decision dated 15 September 1980 of Mr Commons Commissioner Trevor Smith, under reference no 211/2/145.



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The very small difference between the acreages given on the Register and on the 1966 and 1973 deeds is not I think relevantly significant. On the evidence above summarised I am satisfied that the District Council are the owners of the land, and I shall accordingly direct the Durham County Council, as registration authority, to register Teesdale 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 13<sup>th</sup> — day of February 1986

*a. a. Baden Fuller*

Commons Commissioner