



In the Matter of Thornhope Moor or Wolsingham Park Moor,
Stanhope, Wolsingham, and Tow Law, Co Durham (No. 2) X

DECISION

This dispute relates to the registration at Entry No. 2 in the Rights section of Register Unit No. CL 65 in the Register of Common Land maintained by the Durham County Council and is occasioned by Objection No. 69 made by Mr E A F Fenwick and noted in the Register on 15 September 1972.

I held a hearing for the purpose of inquiring into the dispute at Durham on 9 October 1980. The hearing was attended by Mr R Mitchell, of counsel, on behalf of Mr T H Pickering, the applicant for the registration, and by Mr J S Stephenson, solicitor, on behalf of the Objector.

The registration is of the right to graze 500 ewes and 160 hogs over the whole of the land comprised in the Register Unit. The grounds of the Objection are that the right claimed does not exist at all. However, I was informed by Mr Mitchell and Mr Stephenson that the only outstanding issue was the question of quantum.

Mr Pickering farms the land as the tenant of a family trust under a tenancy agreement which provides that he shall keep at least 300 ewes on the Moor. Mr Stephenson said that the Objector would be prepared to agree to the registration of a right to graze 300 ewes, and Mr Fenwick said in evidence that he considered that this would be fair, since Mr Pickering's farm is a little over twice as large as the farm the subject of the registration at Entry No. 1, which had been agreed with the applicants at 140 ewes with or without lambs.

I do not attach much importance to the reference to 300 ewes in the tenancy agreement, since this was a family arrangement not negotiated at arm's length, nor can I accept an arithmetical calculation based on the areas of Mr Pickering's farm and the farm the subject of the registration at Entry No. 1.

Mr Pickering has been concerned with the running of sheep on the Moor since he left school in 1940. Since 1952 he has kept records of the numbers of his sheep for the purposes of the hill farming subsidy. During that period Mr Pickering has turned out about 60% of his flock onto the Moor. Taking Mr Pickering's records for the last five years and at five-yearly intervals, before then, I find that his flock has averaged about 615 ewes and 145 shearlings. This gives an average of about 370 ewes and 85 shearlings grazed on the Moor.

For these reasons I confirm the registration with the following modification:- namely, the substitution of "370 ewes and 85 shearlings" for "500 ewes and 160 hogs."

I am required by regulation 30(1) of the Commons 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

22nd

day of

October

1980


Chief Commons Commissioner