



In the Matter of Brandwood Higher  
End Moor, Rossendale B.

DECISION  
No. 2

As appears from Decision No. 1 dated 17 June 1985, these disputes related to the registrations at Entry No 1 in the Land section and Entry nos. 1 to 9 in the Rights section of Register Unit No. CL.213 in the Register of Common Land maintained by the Lancashire County Council. They were occasioned by two Objections, No. 282 made by Castleton Sand and Gravel Quarries Ltd ("Castleton") and No. 337 made by Patrick Dunne.

Decision No. 1 did not deal with the disputes occasioned by Objection No. 282 since those disputes were the subject of negotiations, and in the result a settlement has since been agreed between the parties concerned. The effects of this settlement are stated subsequently in this Decision, in which the letters "RE" followed by a number indicate the Entry in the Rights section bearing that number.

In Decision No. 1, (a) I confirmed RE.8, a grazing right over the eastern end of the Unit Land, and consequently the registration of that area in the Land section

(b) I refused to confirm the registration of RE 5 nos 1-6 and no. 9 in respect of the Dunne Strip, a section of the Unit Land owned by Mr Dunne.

(c) I confirmed the registration of RE No. 7 in respect of the Dunne strip and consequently the registration of that strip in the Land section. RE No. 7 is a grazing right registered on the application of Mr W F Lloyd and others, and attached to Cowm Farm.

The decisions (a) and (b) above remain unaffected by anything that has since transpired. The decision at (c), however, was the subject of an appeal to the High Court by way of case stated. The appeal was disposed of by a Tomlin order embodying agreed terms, to the effect that Mr Lloyd and his successors in title be granted a right of way for cattle and stock over the Dunne strip and that application be made to the Commons Commissioner for amendment of Entry No. 1 in the Land section and RE No. 7 so that but only to the extent [that] the said entries exclude registration of rights of common attached to Cowm Farm over the Dunne strip. To give effect to these terms, as I see it, so far as they affect the registrations, I should now, in place of the decision at (c) above, modify the Entry in the Land section by excluding the Dunne strip from the land comprised in CL.213. It will accordingly cease to be common land and to be subject to any rights of common; with the disappearance, under my decision at (b) and the terms of the Tomlin order, of all rights of common and in the absence of any suggestion that it is waste land of the manor (see P.6 of Decision No. 1), it is appropriate



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that the Dunne Strip should cease to be common land.

I turn now to Castleton's Objection No. 282. Castleton or its associated company High Moor Quarries Ltd ("High Moor") own the greater part of the Unit Land, not including the Dunne Strip or the E area. The Objection relates to the registrations affecting their lands; the registration of the Unit Land as common land was made in consequence of an application to register rights, and the disputes occasioned by the Objection were between Castleton on the one hand and, on the other, the applicants (or their successors in title) for registration at R Es Nos 1,2,3,4,5,6,7 and 9. The settlement arrived at between the parties involves modifications to some of the Entries and confirmation of the registrations, with modifications, if any. Each of the rights holders has entered into a Deed with Castleton and High Moor, The Deeds being in identical terms save for the details of the grazing rights; the Deeds contain provisions excepting and reserving to the Companies rights as to quarrying and otherwise, and in relation to the REs concerned the Rights section of the Register should contain a Note to the effect that the grazing rights is subject to the provisions of the Deed. In the result I shall confirm the registrations of the Companies' land in the Land section and of the REs concerned with the agreed modifications where applicable, as specified in the Appendix to this decision, *and with the Note (see Appendix (B)).*

There will be liberty to apply (by letter to the Commons Commissioners office) by any party concerned, in the event of any query arising on any matter dealt with in this Decision, any such application to be made within 4 weeks from the date on which notice of the decision is sent to him .

#### APPENDIX

(A) Particulars of modifications in regard to REs.

RE NO. 1	For " 20 head of cattle" substitute "12 cattle"
RE NO. 2	For " 20 sheep" " " "100 sheep"
RE NO. 3	In Column 5 substitute " Stacksteads" for "Newline"
RE NO. 4	For " 30 head of cattle, 60 sheep and 4 horses" substitute " 15 cattle 2 horses 30 sheep"
RE NO. 5	None
RE NO. 6	None
RE NO. 7	None
RE NO. 9	None



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(B) Note: Each of these Entries is subject to the provisions as to quarrying and otherwise contained in a Deed dated 1986 made between (1) High Moor Quarries Ltd and Castleton Sand and Gravel Quarries Ltd (2) the RE applicant ( or his successor in title).

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 22<sup>nd</sup> day of July 1986

*L. J. Morris Smith*  
Commons Commissioner