



COMMONS REGISTRATION ACT 1965

Reference No. 220/D/205

In the Matter of Gravel Beds, Lower Hodder
 Bridge, Great Mitton

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 369 in the Register of Common Land maintained by the former West Riding County Council and is occasioned by Objection No. 861 made by the Trustees of the Standen Estates and noted in the Register on 28 May 1971.

I held a hearing for the purpose of inquiring into the dispute at Preston on 11 November 1980. The hearing was attended by Mr H Hilton, the Clerk to Aighton Bailey and Chaigley Parish Council and by Mr D B Forest, Solicitor, appearing on behalf of the Objectors.

The registration was made on the application of the Parish Council and the Objection is on the ground that the land is not common land and that there are no common rights and none have been registered.

It is the case that there are no common rights registered, and Mr Hilton told me it was due to a misapprehension that the right to take gravel was not registered. However, this may be, there is no right of common registered and accordingly the registration cannot be supported as land "subject to rights of common" (Section 22(1)(a) Commons Registration Act 1965). Mr Melling did not contend that the land was common land on the alternative ground that it was "waste land of a manor", and in my opinion therefore the Objection succeeds. Accordingly I refuse to confirm the registration.

Mr Forest asked for his client's costs and showed me a letter of 8 June 1973, a copy of which was furnished to Mr Hilton in October 1980, and in which the Objectors invited the Council to withdraw its application. This was not done. In my view, whilst the Council might have been well advised to accept the Objection, it was clearly acting in good faith and in the genuine belief that there was in fact a right to take gravel and, though I appreciate the basis for Mr Forest's application for costs, I do not think it appropriate to make any order.

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

17 November

1980

L. J. Morris Smith

Commons Commissioner