



COMMONS REGISTRATION ACT 1965

Reference No 268/U/101

In the Matter of Countersett Quarry,
Bainbridge, Richmondshire District,
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Countersett Quarry, Bainbridge, Richmondshire District being the land comprised in the Land Section of Register Unit No CL. 160 in the Register of Common Land maintained by the North Yorkshire 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 no person claimed to be the freehold owner of the land in question and no 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 Richmond on 9 February 1977. At the hearing Mrs V Thornborrow was represented by Mr J S Huntington solicitor of Malcolm E Scott & Son, Solicitors of Leyburn.

Mr Huntington in the course of his evidence produced: (1) a conveyance dated 23 April 1960 by which Mrs S M I Flugel conveyed to Mr P Webster the farm known as Countersett Inn Farm or The Boar Inn Farm containing 22.665 acres and delineated on the plan annexed, and also Close Ing Allotment; (2) a conveyance dated 31 May 1974 by which Mr Webster conveyed to Mrs Thornborrow (with other land) nearly all the lands in the 1960 conveyance called Countersett Inn Farm; and (3) an abstract dated 1960 of the title of Mrs Flugel commencing with a conveyance dated 29 June 1917. The land ("the Unit Land") comprised in this Register Unit is the same as that shown on the plan to the 1917, 1960 and 1974 conveyances and thereon marked 639a, containing 3.044 acres, and having three physical features called "Quarry", "Old Quarry" and "Old Limekilns". In the schedule to each of the conveyances it is described as (No on 25" OS map)"639A", (area)"3.044 (including public quarry)", and (Tithe no)"1336"; and from the total area is deducted "Deduct Public Quarry not conveyed .980".

Mr Huntington could not say to what part of the Unit Land the words last quoted from the conveyances could apply. Mrs P M Clay who resides at Carr End (a little over $\frac{1}{2}$ a mile away to the south), who happened to be present (being concerned with a later case), and who knew the Unit Land, said (in effect):- It all looks like one field with a disused quarry; she understood that people had, within living memory but not recently carted stone away in small quantities from time to time.

The Rights Section of this Register Unit contains 8 Entries of "The right to take limestone gravel and other stones over the whole of land comprised in this register unit"; one of these Entries was made on the application of Mr P B Clay of Carr End.



I ought not I think to treat the conveyances as regards plot no 639A containing 3.044 acres as altogether void merely because no one can identify the Quarry containing .980 acres "deducted". The registration appears to be on the basis that all the Unit Land is quarry. In these circumstances I can I think read the words in the conveyances about a Public Quarry as describing, not the land excepted from the conveyances, but the rights to which the land conveyed is subject, and accordingly conclude that by all the conveyances the estate in fee simple in all the Unit Land was expressed to be conveyed.

On this basis, I am satisfied from the conveyances that Mrs Thornborrow is the owner of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register Mrs Vera Thornborrow of Wood End, Raydale, Bainbridge 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 18th day of February —

1977

a. a. Baden Fuller

Commons Commissioner