



In the Matter of Fylingdale Moor, Hawsker-
Cum- Stainsacre and Fylingdales, Scarborough B

DECISION

(A) These disputes relate to the registrations in all three sections of Register Unit No CL.76 in the Register of Common Land maintained by the North Yorkshire County Council. They are occasioned (1) by Objection No. 066 made by W Cussons and noted in the Register on 2 May 1970 and (2) a number of conflicting registrations ~~more~~ particularly referred to in paragraph (C) below.

I held a hearing for the purpose of inquiring into the disputes at Scarborough on 2 October 1985. At the hearing Mr H Greaves, Solicitor, appeared on behalf of Miss M L A Strickland, the applicant for registration in the Land Section and also for registration in the Ownership Section as owner of the whole of the unit land: Mr K G R Bagshawe, Solicitor, appeared on behalf of Mr J S Jackson, the applicant for registration at Rights Entry No. 41: and Mrs J B Fletcher, successor to the applicant for registration at Rights Entry No. 33, in person. There were no appearances by or on behalf of any of the other applicants for registration in the Rights Section, but Mr Greaves told me that he also represented the Court Leet of the Manor of Fyling, which regulates the exercise of the rights of common.

Fylingdales Moor, the unit land, is an extensive area of moorland, over which there are 42 rights of common provisionally registered. References in this decision to "RE" followed by a number are references to the Rights Entry bearing that number.

(B) Mr Cusson's Objection No. 066. There was no appearance by or on behalf of Mr Cussons. His objection is to the registrations in the land section (and consequentially to the Entries in the Rights Section) and to the registration in the Ownership Section; it states as the ground that "the land belongs to me- see the attached plan." The attached plan is a plan of Howdale Farm, which lies to the north of Howdale Moor, outside the unit land, but it appears that there is a small strip of Mr Cussons' land which is inside the boundary of the unit land. It is reasonably plain that the nub of the objection is to the conclusion of this strip as part of the common land. The parties present or represented all accepted the objection in this sense, and I shall modify the registration in the Land Section by excluding this strip. The area of the strip can be ascertained by reference to the supplemental plan of Howdale Farm accompanying Mr Cussons' application to register RE. No. 4: I understand that the Registration Authority has identified the strip, and also other small areas referred to in (c) below, and I do not propose to attempt the probably superfluous and certainly inexpert task of attempting an exact identification of the areas in question.



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(C) The conflicts arise in these circumstances. In each case a rights application was made accompanied by a supplemental map showing the dominant tenement (the property to which the right was claimed to be attached), which was found to contain a small area which was included in the unitland. This gave rise to conflicts with the land registration and the ownership registration, both of which included the areas.

There are six REs where this conflict arises. In regard to four of them - REs 16(2) (Pond Farm) 22 (1) (Raw Green Farm) 28 (High Sledgates) and 33 (Skerry Hall Farm) - Miss Strickland accepted that the small areas should not have been included in the area of unit land which she registered and of which she claims ownership. No one present objected to correction of this by the exclusion of these four small areas, and I shall modify the registration accordingly.

As regards the other two REs, Nos 7 (Fern Farm) and 24 (Browside Farm), it was maintained on behalf of Miss Strickland that the small areas, these in question are part of the common and in her ownership. In the absence of any evidence or contention to the contrary I accept this and shall not exclude them from the unit land.

(D) The overall result is that I confirm the registrations in all three sections, with the modification in the land section that there be excluded from the unit land the strip referred to in (B) above and the four small areas referred to in (C).

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 29th day of November 1985

L. J. Harris Smith

COMMONS COMMISSIONER