



COMMONS REGISTRATION ACT 1965

Reference No 27/D/41

In the Matter of Newbiggin Moor,
Newbiggin-by-the-Sea, Wansbeck
District Council, Northumberland

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No VG. 39 in the Register of Town or Village Greens maintained by the Northumberland County Council and is occasioned by Objection No 79 made by Mr G R Storey, Mr J Knott, Mrs P R Mackintosh and Mr J E J Brown and noted in the Register on 2 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Newcastle upon Tyne on 5 March 1974. Before this hearing the Clerk of the Newbiggin-by-the-Sea Urban District Council on whose application the registration was made, wrote: "The owners of Newbiggin Moor and the Council are now in discussion regarding the purchase of the land and in these circumstances I apply for an adjournment sine die of the hearing fixed for Tuesday 25 March...", and Lynn & Rutherford Solicitors of Blyth wrote agreeing such an adjournment. At the hearing, the Objectors were represented by Mr C B Gallon, solicitor of Lynn & Rutherford. He said that the adjournment requested was agreed, that Mrs L M Mills (she, Mr J Knott and Mr G R Storey were in 1969 registered as owners in the Ownership Section) had died, that Mr Brown and Mrs Mackintosh had been appointed trustees of the land in her place, and that there was some prospect of an agreed order. In these circumstances I adjourned the proceedings, not sine die as requested, but to a date and place to be fixed by a Commons Commissioner.

I held the adjourned hearing at Newcastle upon Tyne on 10 May 1977. At this hearing Mr G R Storey, Mr J Knott, Mrs P R Mackintosh and Mr J E J Brown were represented by Mr D Pugh of counsel instructed by Lynn & Rutherford, and Wansbeck District Council (the successors of Newbiggin-by-the-Sea Urban District Council) were represented by Mr C D Occomore their solicitor.

The grounds of the Objection are: "That the land was not a Town or Village Green at the date of registration". Mr Occomore said that he was instructed by his counsel to offer no evidence.

Mr J Knott in the course of his evidence produced a conveyance dated 14 May 1896 by which certain persons known as Freeholders of Newbiggin by the Sea and being therein stated to be "the beneficial and absolute owners in fee simple in gross of certain undivided parts or shares commonly called stints freeholders and freeledges..." conveyed (among other lands) the land comprised in this Register Unit to six of their number in fee simple as joint tenants upon the trusts there set out; and produced also appointments of new trustees of the said 1896 conveyance which are dated 20 September 1907, 11 February 1908, 9 August 1919, 25 May 1927,



22 February 1944, 28 November 1958 and 10 September 1971 under which ultimately the Objectors became the owners of the land as trustees of the 1896 conveyance. Mr Knott said (in effect):- He knew the Moor well. It was formerly about 200 acres but now there having been a sale for a housing estate, it is about 170 acres. The major part (all except the north part) is an 18 hole golf course. The north part is let off to Alcan, and contractors are beginning to build a smelter (aluminium).

The evidence of Mr Knott was not challenged. I have not overlooked that there are many lands over which persons have grazing rights commonly known as stints, and which are properly considered to be within the definition of "common land" in the 1965 Act and therefore properly registered under it. However in my view land is not properly so registered merely because it is beneficially vested in numerous persons as tenants in common, or because in the 1896 conveyance parts or shares therein referred to are called "stints". The 1896 proceeds on the basis that the grantors could collectively deal with the freehold as they pleased, and provide some evidence that the land thereby conveyed is not within the said definition of "common land", and certainly not within the definition in the Act of a "Town or Village Green".

Upon the above considerations, I conclude that the registration was not properly made, and I accordingly refuse to confirm it.

Mr Pugh asked for costs, and produced letters dated 9 and 14 February 1977 from Lynn & Rutherford to Wansbeck District Council, and their replies dated 11 and 22 February 1977. In my opinion the Council should in reply to the letters sent to them have stated definitely that they would not offer any evidence or argument in support of the registration, and if they had done this, the Objectors would have been saved the expense of briefing London counsel (as they said they might do) and doing such other things as might be usual or proper in anticipation of a contest at the hearing. Accordingly I shall order Wansbeck District Council to pay to Mr Knott, Mr Storey, Mrs Mackintosh and Mr Brown the costs incurred by them in respect of these proceedings with the modification that such costs be limited to things done by them or on their behalf after 11 February 1977, and I shall direct that such costs shall be taxed according to scale 4 prescribed by the County Court Rules 1936 as amended.

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 16th day of March —

1977

a. a. Baden Fuller

Commons Commissioner