



COMMONS REGISTRATION ACT 1965

Reference No. 45/U/319

In the Matter of Swinden Knowle Quarry,
Holmfirth, Kirklees D.,

DECISION

This reference relates to the question of the ownership of land known as Swinden Knowle Quarry, Holmfirth, Kirklees District being the land comprised in the Land Section of Register Unit No. CL.340 in the Register of Common Land maintained by the former West Riding of 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 the West Riding of Yorkshire County Council claimed to be the freehold owner of the land in question and no other 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 Huddersfield on 15 October 1974.

Mrs Lloyd appeared on behalf of the West Yorkshire County Council and Mr Nicholson appeared on behalf of the Holmfirth Parish Council.

The Parish Council did not claim ownership of the land in question.

The County Council claimed ownership by virtue of the provisions of Section 187 of the Local Government Act 1972 and Paragraph 6 of the Local Authorities (England) (Property etc) Order 1973 (1973 No. 1861).

The land in question is registered in the Land Section of the Register as Common Land and there are registered in the Rights Section of the Register rights to take stone gravel and materials for making the public and private roads walls and drains, but also for all other purposes of or for repairing or improving the several tenements or estates within the Manor of Honley. Both these registrations became final on 1 August 1972.

Evidence was led at the hearing that since 1941 the land in question had been used for the purpose of refuse disposal by the local authority responsible for that function and that since September 1964 it had been used for the purpose of the tipping and storage of highway material.

Paragraph 6 of the Order 1973 No.1861 is in the following terms:

There shall be transferred to and vest in or attach to a County Council as the highway authority for any highway—



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- (b) any land held by the former highway authority, as such, for the purposes of their functions in relation to the highway or which has been acquired by them as highway authority for the highway and not appropriated for any other purpose."

It is in my view clear beyond doubt that no highway authority has held the land as such or acquired the land for the highway and the claim to ownership based on Section 187 of the 1972 Act and paragraph 6 of the said Order must fail.

Apart from the evidence of user referred to above no evidence was given as to the title to the land or the grant of the common rights.

On this evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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

8th

day of November 1974

C A Jettle

Commons Commissioner