



COMMONS REGISTRATION ACT 1965

Reference No 220/D/77

In the Matter of Mare Appletree Fell,
Guernmore and OverWyresdale, Lancaster City,
Lancashire

DECISION

This dispute relates to the registration at Entry Nos 1, 2, 3 and 4 in the Rights Section of Register Unit No CL. 90 in the Register of Common Land maintained by the Lancashire County Council and is occasioned by Objection No 230 made by Mr Walter Drinkwater and noted in the Register on 21 January 1972.

I held a hearing for the purpose of inquiring into the dispute at Lancaster on 23 November 1976. At the hearing (1) Mr Henry Huddleston Townley (Entry No 1 in the Rights Section was made on his application) was represented by Mr P Bayton solicitor of Hayton & Hallam, Solicitors of Lancaster, (2) Mr Ivan Metcalfe (Entry No 2 in the Rights Section was made on his application) was represented by Mr R G Swainson solicitor of Swainson Son & Reynolds, Solicitors of Lancaster; (3) Mr Robert France (Entry No 3 in the Rights Section was made on his application jointly with Mr David France) attended in person on his own behalf and as representing Mr David France; (4) Mr Eric Davies (Entry No 4 in the Rights Section was made on his application) was represented by Mr R M N Gillibrand solicitor of Oglethorpe, Sturton & Gillibrand, Solicitors of Lancaster; and (5) Mr Joseph Edwin Drinkwater and Mrs Elizabeth Drinkwater were represented by Mr D W Baines solicitor of Holden & Wilson, Solicitors of Lancaster.

The land ("the Unit Land") comprised in this Register Unit is approximately triangular, its sides being (as I scale the Register map) about 1 mile (in a straight line a little less), $1\frac{1}{2}$ miles and $1\frac{1}{2}$ miles long. According to the Register it contains about 184.850 hectares (456.764 acres). The registration in the Land Section being undisputed has become final.

The grounds stated in the Objection are: "That the right does not extend over all the land over which it is stated to be exercisable and in particular it does not extend over the land coloured red on the plan annexed hereto". The land so coloured is a strip about $1\frac{1}{2}$ miles long within and next to the north boundary of the Unit Land and has an average width (as I estimate from the Register map) of about 90 yards.

Mr Baines said that the Objector Mr William Drinkwater had sold the land mentioned in the grounds of objection to Mr J E Drinkwater (his son) and Mrs E Drinkwater (his daughter in law) who he Mr Baines now represented. Mr Baines handed me a request signed by them, by Mr Townley, by Mr Metcalfe, by Messrs France and by Mr Davies that the Commons Commissioner do refuse to confirm the registration of the rights of common over the land coloured red on the plan attached (being as regards the red colouring the same as that annexed to the Objection) and who confirmed the registration of rights of common over the remainder of the land edged green on the plan attached (being the remainder of the Unit Land).



I consider I ought to give effect to this request, it being agreed at the hearing by Mr Hayton, Mr Swainson, Mr France and Mr Gillibrand, and accordingly I confirm the registrations at Entry Nos 1, 2, 3 and 4 in the Rights Section with the modification that for the words "the whole of" where ever they occur in column 4 of these Entries, there be substituted the words "the specified part (as hereinafter defined) of" and that there be inserted in such column where appropriate words to the effect that the specified part means all the land comprised in this register unit except the land coloured red on the plan annexed to Objection No 250 made by Mr Walter Drinkwater.

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 —

1976

a. a. Baw-Feller

Commons Commissioner