



In the Matter of Bickley Moor, Jerry Noddle and Bickley Gatehouse,
Ebberston, North Yorkshire (No. 1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 390 in the Register of Common Land maintained by the former North Riding County Council and is occasioned by Objection No. 0412 made by the Ministry of Agriculture, Fisheries, and Food and noted in the Register on 11 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Malton on 11 October 1977. The hearing was attended by Mr J W Atkinson, the Chairman of the Ebberston Parish Council, the applicant for the registration, and by Mr F. Mallows, of counsel, on behalf of the Objector.

Mr Atkinson sought to support the registration by a right of common of turbary in gross registered at Entry No. 1 in the Rights section of the Register Unit on the application of the Parish Council.

The land comprised in the Register Unit was allotted, awarded and assigned by the Inclosure Award made 12 May 1775 and registered in the North Riding of Yorkshire Registry of Deeds on 30 October 1775 to the several and respective owners and proprietors of certain ancient messuages and cottages to the intent that they and every of them should have the power and right of graving up, digging up, drying, taking, and carrying away turves, peats, or ling to and for their respective houses' use and consumption only, but not to sell the same.

No owner or proprietor of any ancient messuage or cottage registered any right over the land so allotted, awarded and assigned. It therefore follows that no rights over such land are now exercisable: see Commons Registration Act 1965, S.1 (2) (b).

Mr Atkinson argued that it was the duty of the Parish Council to safeguard the rights of the inhabitants of the parish. While this is a very praiseworthy attitude, the fact is that the inhabitants of the parish had no rights over this land. The rights were those of the several and respective owners and proprietors of certain ancient messuages and cottages, and those rights are now no longer exercisable because those owners and proprietors did not apply to have them registered under the Act of 1965.

For these reasons I refuse to confirm the registration.

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 22nd day of November 1977

Chief Commons Commissioner