



In the Matter of Ebberston High Moor, 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 240 in the Register of Common Land maintained by the former North Riding County Council and is occasioned by Objection No. 0410 made by the Ministry of Agriculture, Fisheries, and Food and noted in the Register on 11 July 1972. Mr A H Steel, the applicant for the registration at Entry No. 1 in the Rights Section of the Register Unit was not present and was not represented.

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 Mallows informed me that he was instructed not to pursue the Objection in so far as it related to a small area of land indicated on a plan agreed with Mr Steel, which he submitted.

Mr Atkinson sought to support the registration of part of the remainder of the land comprised in the Register Unit by a right of common of turbary in gross registered at Entry No. 2 in the Rights section of the Register Unit on the application of the Parish Council.

The area of land the subject of the Parish Council's application 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 confirm the registration with the following modification:- namely the exclusion of all the land other than the small area shown on the plan agreed between Mr Steel and the Objectors.



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 10th day of Nov 1977

Chief Commons Commissioner