



COMMONS REGISTRATION ACT 1965

Reference No. 268/D/311-312

In the Matter of Nesfield Dean and the Village
Green, Nesfield with Langbar, Harrogate B

DECISION

This dispute relates to the registrations at Entry No. 1 in the Land Section and Entry No. 1 in the Rights Section of Register Unit No. CL 502 in the Register of Common Land maintained by the North Yorkshire County Council and is occasioned by Objection No. 99 made by Stephen C Rawson and noted in the Register on 15 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Harrogate on 11 March 1981. The hearing was attended by Mr W Hannam, Clerk to Mid Wharfedale Parish Council and by Mr N S Digby, of Counsel, appearing on behalf of Mrs S C Rawson.

The registration in the Land Section was made on the application of Nesfield with Langbar Parish Council, which I understand is grouped under the constituent Mid Wharfedale Parish Council. Entry No. 1 in the Rights Section was made on the application of William Crabtree and is a right of turbary and of grazing over part of the land comprised in this Register Unit ("the Unit land").

The Unit land consists of a number of separated pieces of land and the objection relates to two of these pieces which, it is said, were not common land at the date of registration. The two pieces are shown on the plan attached to the Objection and I will refer to them as the disputed pieces. The Objection is on the ground that the disputed pieces were not common land.

I was told that Mr Crabtree has died: his estate or successor was not present or represented at the hearing and it appeared that the right he registered was not claimed over the disputed pieces. In the absence of evidence to support the right, I find that it did not exist so far as the disputed pieces are concerned. In the absence of a valid registered right the disputed pieces can only qualify as common land if they are waste land of a manor.

Mr Hannam gave evidence and produced letters from two residents of long standing in the Parish. The evidence showed that during a period of some 40 years one of the pieces has been used by local residents as a drying ground, that children have played on them, that there has been some maintenance by residents, and that there has been no objection by the owner. This evidence was not disputed by Mr Digby.

Mr Digby produced title deeds which, as he submitted, showed ownership of the two pieces by Mr and Mrs Rawson. For the purposes of this Decision, I do not have to make a finding of ownership, but it appears from a Deed Poll dated 2 July 1891 that land which appeared to include the disputed pieces and was a portion of the waste of the Manor of Nesfield with Langbar was conveyed by the then Lord of the Manor to the Vicar and Churchwardens of the Parish of Ilkely and was subsequently sold to Mr and Mrs Rawson in 1969.



The only evidence before me that the disputed pieces were waste land of a manor is the Deed Poll, which itself shows that they were then severed from the lordship of the manor and consequently ceased to be waste land "of a manor" (See Re Box Hill Common 1980 1Ch. 109). Accordingly they do not qualify for registration as common land on this basis.

Mr Digby said that, so far as the disputed pieces include the roadway verge along the south western boundary to a width of 2 metres, that extent of verge was not objected to.

In the result I confirm the registration in the Land Section modified by excluding from the land the disputed pieces other than such part of those pieces as forms the verge (up to a width of 2 metres) of the highway on the S.W Boundary of the disputed pieces. I confirm the registration in the Rights Section, (which will, as the result of the exclusion, not apply to the disputed pieces).

Mr Digby asked for costs. I have found in his client's favour, but the registration was made by the Parish Council as long ago as 1969, since when it does not appear that there had been any approach by the parties concerned in the dispute (among whom was Mr Crabtree) to negotiate on the dispute, and I shall make no order as to costs.

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

14 April

1981

L. J. Morris Esq

Commons Commissioner