



In the Matter of Rod Side, County Road,  
Bradfield, Yorks

---

DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 670 in the Register of Common Land maintained by the former County Council of the West Riding of Yorkshire 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 there were claims to different sections of the land in question ("the Register Unit") by Sheffield City Council, Mr R L Colver and the Duke of Norfolk's Estate. 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 Barnsley on 8 March 1979.

At the hearing South Yorkshire County Council, the Registration Authority, was represented by its Solicitor, Mr R Peters, Sheffield City Council by its Solicitor, Mr P Newell and Mr R L Colver appeared in person. There were no other appearances.

1. The Register Unit consists of two strips of land adjoining the south side of a track along the southern edge of Rod Moor. The County Council is not claiming ownership, but in an Inclosure Award made in 1805 the Commissioners appointed a Public Road of the breadth of 40 feet along a line indicated on the Award Map, and this appears to have included the Register Unit. There is no actual use as a highway, but having regard to the definition, in Section 22 of the Act of 1965, of common land as not including any land which forms part of a highway, Mr Peters suggested that the registration as Common Land was made in error. However, this may be, the registration has become final, and the question of ownership of the Register Unit has been referred.

2. The claim to ownership by Sheffield City Council relates to part of the eastern strip. By a conveyance dated 4 November 1966 between (1) Thomas Hollins and William Hollins (2) Sheffield Corporation land was conveyed on sale to the Corporation. I inspected the conveyance and the plan showing the land purchased which comprised an area lying to the south of part of the Register Unit and the area appeared to extend up to the dotted line marking the southern edge of the track and so to include the part of the Register Unit forming the northern boundary of the land purchased. Mr Newell said that there is an old stone wall between the main area of the land purchased and the part of the Register Unit which then forms the verge of the track, this verge being rough land not used for any purpose: nevertheless the plan appears to include this part of the Register Unit and in my opinion the claim by the City Council is sufficiently established. The part of the Register Unit so claimed with, for the purposes of my direction to the Registration Authority, requires to be satisfactorily identified but I understood that there should be no difficulty in agreeing with the Registration Authority the western and eastern points of the part of the Register Unit of which I am satisfied as to the City Council's ownership, in which case my direction can refer to a plan on which those points have been marked.



I should add that, as I understand, there is no overlapping between the part claimed by the City Council and that claimed by Mr Colver.

3. Mr Colver's claim relates to a section of the eastern strip lying to the east of Old Quarry. This section was part of an area of land conveyed by a conveyance on sale dated 5 April 1974 between (1) T Wragg & Sons (Sheffield) Ltd, (2) R L Colver: the area comprised land lying both north and south of the track and included the section claimed. Mr Colver informed me that his title to the area of land he purchased is now registered under the Land Registration Acts, but he did not have particulars of the registration or the land certificate with him. It would be inappropriate to give a direction as to ownership of land which now has a registered title and if the Registration Authority can ascertain particulars of any part of the Register Unit with a registered title it will no doubt note the Register accordingly. If this comprises the land (including a section of the Register Unit) purchased by Mr Colver and I can be notified of the position, I shall give no decision as to that section of the Register Unit.

4. As to the remaining parts of the Register Unit I shall direct the South Yorkshire County Council as registration authority, to register under Section 8(2) of the Act of 1965 Sheffield City Council as the owner of the part referred to in paragraph (2) above, to be identified as there mentioned and the other parts will remain subject to protection under Section 9 of the Act.

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

21 August

1979

*L. J. Morris Smith*

Commons Commissioner