



COMMONS REGISTRATION ACT 1965

Reference No. 9/U/2

In the Matter of The Green, Rose Ash,DevonDECISION

This reference relates to the question of the ownership of land known as The Green, Rose Ash, being the land comprised in the Land Section of Register Unit No. V.G.26 in the Register of Town or Village Greens maintained by the Devon County Council, 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 the Rose Ash Parish Council claimed to be the freehold owner of the land in question and 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 Barnstaple on 28th March 1972.

There was produced by the Parish Council an indenture made 6th November 1897 between John Frederick Wilkin, the lord of Smith's manor in the parish of Rose Ash, and the Parish Council. This recited that from time immemorial various disputes and differences had at various times arisen with reference to the village green of the parish and the ownership and control thereof. The indenture then went on to provide that Mr. Wilkin should be at liberty to enclose a portion of the green and that he should waive in favour of the Parish Council as the representatives of the parishioners and all other persons concerned all his rights existing or claimed by him to exist with regard to the ownership or control of the green. The portion of the green which Mr. Wilkin was to be at liberty to enclose was stated to be coloured pink on the annexed plan, but there is not now any plan annexed to the indenture and there is nothing in the indenture itself to indicate the extent of the green referred to in it. There was produced to me a loose plan which has been kept with the indenture. This seems to show the green in more or less its present form and could be a draft or a rough copy of the plan referred to in the indenture, though it does not appear likely to be the actual plan which should be annexed to the indenture. It seems likely that the green referred to in the indenture is the land the subject of this reference, because Mr. Frederick James Brayley, the Chairman of the Parish Council, who has lived in the parish for the last 53 years, gave evidence that the Green has always been the same during that period. However, since there seems to be room for some doubt whether the land the subject of this reference is coterminous with the land in regard to which Mr. Wilkin waived his rights of ownership, I have come to the conclusion that it would be better that the land the subject of the reference should be vested in the Parish Council under s.8(3) of the Act than that I should give a direction under s.8(2).

For these reasons I shall accordingly direct the Devon County Council as registration authority, to register the Rose Ash Parish Council as the owner of the land.



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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 24th day of April

A handwritten signature in black ink, appearing to read 'A. L. Smith', written over a horizontal line.

Chief Commons Commissioner