



In the Matter of Flass Vale, City of  
Durham, Co. Durham

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DECISION

These disputes relate to the registration at Entry No 1 in the Land Section of Register Unit No. CL.86 in the Register of Common Land maintained by the Durham County Council and are occasioned by Objection No. 30 made by The Executors of Holliday, deceased, and noted in the Register on 7 December 1970, Objection No. 37 made by the former City of Durham Council and noted in the Register on 1 November 1971, and Objection No. 42 made by N Williamson Arcot and noted in the Register on 28 January 1972.

I held a hearing for the purpose of inquiring into the dispute at Durham on 2 July 1980. The hearing was attended by Mr P Clayden, Solicitor, on behalf of the City ~~Council~~ of Durham Trust, the applicant for the registration, and by Mr P A Broome, Solicitor, on behalf of the Durham City Council, the successor authority of the former City of Durham Council.

Mr Clayden asked that certain land indicated on a plan which he put in should be excluded from the Register Unit.

The Objections relate to parts of the land comprised in the Register Unit, there being a substantial area which is not the subject of any Objection.

Mr Clayden said that evidence that any part of the land comprised in the Register Unit fell within the definition of "Common Land" in Section 22 (1) of the Commons Registration Act 1965 was slender or non-existent, but that the land (other than that shown on the plan which he put in) should properly be registered as a town or village green. In the alternative, he asked that the registration should be confirmed in so far as it comprised land not the subject of any Objection.

Mr Clayden called evidence directed to showing that the inhabitants of the City of Durham have a customary right to indulge in lawful sports and pastimes on the non-excluded land. I heard such evidence de bene esse, but I have come to the conclusion that it was inadmissible because it was not directed to the matter which I have to determine, namely, whether I should confirm the registration of the land in the Register of Common Land. This is not merely a procedural difficulty. The scheme of the Commons Registration Act 1965 is that registrations should be made in pursuance of applications and that there should be an opportunity of objecting to them. In this case there was no application for the registration of the land as a town or village green. The Objectors did not know before the hearing that they would have to meet a case that the land was a town or village green, and if there had been an application for such a registration, it might have been that there would have been further objections. I therefore do not think that it would be right for me to give effect to Mr Clayden's contention, even if I have power to do so, which I very much doubt.

In these circumstances I have decided to confirm the registration with the following modifications, namely, the exclusion of the land which Mr Clayden asked to be excluded and the land the subject of the Objections.



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

25<sup>th</sup>

day of

July

1980

A handwritten signature in cursive script, appearing to read 'G. S. Quibb', written over a horizontal line.

Chief Commons Commissioner