



In the Matter of The Cliff,
Newnham, Gloucestershire.

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG 20 in the Register of Town or Village Greens maintained by the former Gloucestershire County Council and is occasioned by Objection No. 24 made by the Severn River Authority and noted in the Register on 14 May 1970.

I held a hearing for the purpose of inquiring into the dispute at Gloucester on 9 February 1977. The hearing was attended by Mr A H Harrison, the Chairman of the Newnham Parish Council, the applicant for the registration, and Mr P J M Smith, solicitor, on behalf of the Objector.

The land comprised in the Register Unit is a long strip along the western bank of the River Severn known as The Cliff. The Objection relates to only a small portion of this strip. Part of this portion is occupied by a fish hut and boat yard. The Objector has over the remainder of this portion certain rights which have been necessarily exercised from time to time for the proper and efficient working of the Unlawater Fishery as a commercial salmon draft net fishery.

By an agreement made 16 January 1974 between (1) the Parish Council (2) the Objector (3) William Hardy it was agreed (inter alia):-

A. "Immediately after the execution of this Deed the Council will apply to the Commons Commissioners for the amendment of the registration of The Cliff so that all reference to the fish hut and boat yard shall be deleted from the registration and excluded from the plan attached to such registration."

B. "(a) The rights of the fishery set out in the Schedule hereto affect The Cliff and are exercisable over such land in connection with the Unlawater Fishery and the Council will not interfere with the exercise of the rights of the fishery.

"(b) Immediately after the execution of this Deed the Council will apply to the Commons Commissioners for notification of the provisions of sub-clause a of this Clause".

The Council duly made application in accordance with the provisions of both these clauses. It would, however, not be within the powers of a Commons Commissioner to modify the registration so as to include reference to the rights of the fishery set out in the Schedule to the agreement: the only possible modification of a registration in the Land section of a Register Unit is the exclusion of part of the land comprised in it.

On being informed of this, the Clerk of the Severn River Authority informed the Clerk of the Commons Commissioners by letter dated 22 March 1974 that the Authority was only prepared to withdraw its Objection on the grounds not only that the fish hut and boat yard were excluded but also that the fishing rights were adequately protected.



As already indicated, it is not legally possible for me to give the fishing rights any protection beyond that afforded to them by the terms of the agreement, the effect of which will be in no way impaired by my inability to embody its terms in the registration. I am, however, willing to modify the registration in accordance with the agreement in so far as it is in my power to do so.

For these reasons I confirm the registration with the following modifications:- namely the exclusion of the fish hut and boat yard as defined in the agreement.

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 26th day of March 1977.

Chief Commons Commissioner