



In the Matter of The Cliff,
Kersal Dale, Salford

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 2 in the Register of Town or Village Greens maintained by the Greater Manchester County Council and is occasioned by (i) Objection No. 1 made by the City of Salford and noted in the Register on 29 June 1972, (ii) Objection No. 2 made by Mr S Shubsachs and noted in the Register on 31 July 1972.

I held a hearing for the purpose of inquiring into the dispute at Salford on 5 April 1979. The hearing was attended by Mr G M Brogden, Solicitor, of Greater Manchester County Council and Mr N J A Glassey, Solicitor of the firm of Fox, Brooks and Marshall on behalf of Mr Shubsachs ("the Objector"). There were no other attendances.

Objection No. 1 was withdrawn. In regard to Objection No. 2, Mr Glassey stated that the Objector owned the larger part of the land in question ("the Register Unit") and this was also stated in the grounds of his objection from which it appeared that ownership had been in his family since 1919. The Register Unit is a hillside which slopes steeply down to the river and is in an area shown on the town map as a private open space. On part of it was a building known as Kersal Lodge, and giving evidence the Objector stated that he went into the Army in 1946: the property was left empty and on his return he found it had been demolished. There had at one time been a road leading down to the river but he thought this had been closed before the last war and in the 1940s access to the lodge was by a wooden footpath. There had apparently been some user of the land by adjoining owners, but after the war this had ceased because of difficulty of access and from about 1962 there was a gap where there had been wooden steps. There is no flat area for anything like playing fields and the Objector had never seen any organised games or pastimes: children might have played about and climbed trees on the land. In a letter dated 18 July 1972 from the City of Salford Chief Executive to the Objector's Solicitors it is stated that "the nature and slope of the hillside is such that it is impossible to provide a satisfactory access to Dr. Shubsachs land, any attempt to do so is likely to make the hillside unstable".

There was no evidence before me to support the view that the Register Unit falls within the statutory definition of a village green and the Objector's evidence was against this view. I conclude that the Objection succeeds and accordingly I refuse to confirm the registration.

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 31 May 1979.

1979

L. J. Morris Smith

Commons Commissioner