



## COMMONS REGISTRATION ACT 1965

Reference No. 15/D/8

In the Matter of land south of St. Tesiliog's Church  
(about 0.03 of an acre), Sellack, Ross-on-Wye,  
Herefordshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG.10 in the Register of Town or Village Greens maintained by the Herefordshire County Council and is occasioned by Objection No. 395 made by Mr R.H.H. Barneby and noted in the Register on 12 January 1971.

I held hearings for the purpose of inquiring into the dispute at Hereford on 20 February 1973 and 11 June 1974. At the 1973 hearing, the Rev. E.H. Moseley, on whose application the registration was made, was represented by Mr R. Okell, solicitor of Okell & Okell Solicitors of Ross-on-Wye and Mr Barneby was represented by Mr K. R. Shawcross, solicitor of Burt Evans & Shawcross Solicitors of Ross-on-Wye; Mr W.T. Ackland (who claimed to be interested in the dispute as successor in title of Mr Barneby) attended in person, after some discussion I adjourned the proceedings without hearing any evidence. At the 1974 hearing, Mr Barneby and Mr Ackland were represented by Mr Shawcross.

The grounds stated in the Objection are:- "The piece of land comprised in this registration is not nor ever has been used as a village green and the registration is therefore out of order".

Mr Shawcross who has resided in Ross-on-Wye since 1963, and knows Sellack, gave evidence. The land, ("the Unit Land") comprised in this Register Unit is a small triangular piece south of St. Tesiliog Church; it is bounded on the north by a road which runs between the Churchyard and the Unit Land, and on the south-west by land held with Church House. The Unit Land is open to the road, and as an open space is a valuable amenity for those coming to the Church and for those living at Church House. The registration was made by Mr Moseley as Vicar of Sellack on behalf of himself and the Churchwardens, on the grounds that the Unit Land had for some years been used as a carpark by parishioners attending the Church. Mr Barneby who was the owner (or one of the owners) of Church House, had during his ownership disputed the claim of the Vicar and Churchwardens. In 1971, Church House was conveyed to Mr Ackland. The dispute has been compromised on the terms (stating their affect shortly) that Mr Ackland and his mortgagee would in consideration of £1 convey the Unit Land to Mr Ackland and the Vicar and Churchwardens as trustees on trust for the benefit of the inhabitants at large living within the Parish of Sellack; to preserve the land as an amenity of the Parish by preserving it as an open space, and to observe certain covenants; by these covenants the Trustees for the benefit of Mr Ackland and his successors



- 2 -

as owners of Church House will covenant not to erect any building or fence on the Unit Land, to maintain the Unit Land in a tidy condition, not to allow any parking of vehicles, not to suffer any nuisance and forthwith to withdraw the application under the Commons Registration Act 1965.

Mr Shawcross produced (i) a letter dated 4 June 1974 by which Messrs Okell & Okell on behalf of Mr Moseley agreed to an order refusing his application and declaring that the land is not a village green, and (ii) a conveyance (then incomplete it having been executed only by Mr Ackland) giving effect to the said agreed terms.

After the hearing, Burt Evans & Shawcross sent to the Clerk of the Commons Commissioners the said conveyance completed by all parties and dated 29 July 1974, giving effect to the said terms.

Apart from the statutory declaration made in 1967 by Mr Moseley in support of his application, I have no evidence that the Unit Land is a Town or Village Green within the definition in the 1965 Act. Having regard to his subsequent withdrawal of his application and to his participation in the 1974 conveyance, I conclude that the Unit Land is not within the definition, and I accordingly 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 23<sup>rd</sup> day of September 1974

*a. a. Baden Fuller*

Commons Commissioner