



In the Matter of St. George's Field York

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG.3 in the Register of Town or Village Greens maintained by the North Yorkshire County Council and is occasioned by Objection No. 1 made by H.L. Stratton and noted in the Register on 1 October 1968.

I held a hearing for the purpose of inquiring into the dispute at York on 10 July 1986.

The unit land consists of two parts, a smaller part lying to the north of the Skeldergate Bridge and a much larger part lying to the south of it which forms an acute-angled triangle. It is bounded by the Rivers Foss and Ouse the former flowing into the latter at the apex of the triangle. It is about 400 yards long and 100 yards wide at its widest point.

This land was provisionally registered as a village green by the former York County Borough Council, then the Registration Authority, on 3 April 1968. On 12 September 1968 Mr H L Stratton objected to the registration putting his objection as follows:-

I object to the Registration of St: George's Field as a Town Green. If St: George's Field can be termed a Town Green then I do not think it correct for the local council to make a charge for ratepayers parking their cars on this ground. In addition to this fact, by far the largest area of St: George's is covered with tarmacadam or asphelt and there is very little green to be seen.

At the hearing the York City Council, the successor authority to the York County Borough Council were represented by Miss K L Tripp, solicitor and by Mrs Freedman the city archivist. Notice of the hearing served on Mr Stratton at the address given in his objection was returned marked "unknown" and it had not been possible to trace him. No one else appeared to support either the application or the objection.

Miss Tripp frankly told me that she did not know why the land had been registered as a town green and called no evidence to support the registration. She and Mrs Freedman, however, produced a number of documents which threw some light on the history of this piece of land. These revealed that it was somewhat surprising that the York County Borough Council should have registered this land as a town green in 1968



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since they had themselves in 1963 made an order under Section 81(1) of the Road Traffic Act 1960 and Sections 11 (2) and 15(1) of the Road Traffic and Roads Improvement Act 1960 regulating the use of by far the greater part of it as a municipal car park at all hours and for all classes of vehicles. Indeed when I inspected the land it was clear that that is the purpose for which the whole of the unit land lying south of Skeldergate Bridge is used today, making it impossible for anyone to indulge in any lawful sports or pastimes. This does not, of course, conclusively prove that the inhabitants have no right to indulge in such sports and pastimes on this land but it does make it strange that the City Council should emerge as the champions of their right to do so particularly as there is no evidence that any single inhabitant has claimed any such right.

There is however some evidence that such rights may have been exercised in the past. Mrs Freedman's researches have revealed that St George's Chapel which seems to have stood on part of the unit land and St Georges Close which included the rest of the land were granted by Henry III to the Knights Templars in 1232 and later, after the disbandment of that body to have been granted by the Crown to the Guild of St. George which was shortly afterwards united with the Guild of St Christopher. After the dissolution of the monasteries all the property of the United Guild in Yorkshire was conveyed by the Crown to the City of York.

The conveyance dated 4 August 1549, the original of which was produced to me, did not refer specifically to this land but it appears that the City were already in possession by 1540 since it is recorded in the York City House Book (B14 fo. 7v) that on 5 April 1540 a lease was granted to three joint lessees for 21 years of "a certain closse called St George Closse with the sandbed in the ground lately won of Ousebank". They were "to suffer the commons of this city to tayke sand of the sayd bed"

There is no mention in that lease of any rights of the citizens to indulge in pastimes but on 6 August 1596 (York City House Book B31 fo. 203v) there is recorded a further lease for 21 years of St Georges Close which is stated to be-

"upon condition that he shall permit people to walke and shoters to shote therein as heretofore hath been accustomed and cittizens to bleach therein such clothes as heretofor they have been accustomed to do..."



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Shooting, which almost certainly refers to archery practice, was a lawful pastime. This lease therefore is evidence that this land was considered in 1596 to be subject to customary rights of the citizens at least one of which was to indulge in a lawful pastime. By 1596, however, with the improvement of firearms, the day of the long bow was drawing to an end and there is no further reference to "shoters" in any of the documents produced to me.

The Finance Committee Minute Book for May 1867 records a resolution that "the Eatage of Saint Georges Field (subject to all public rights thereon) be let to Mr Thomas at the sum of £3 per annum" but does not say what those "public rights" were.

The only other documentary evidence of the use to which the unit land had been put is to be found in the Ordnance Survey maps. That of 1852 simply calls it "St George's Field" as does that of 1892 which, however, marks on it public baths and band stand. The edition of 1909 again calls it "St Georges Field" and marks the public baths but not the band stand. The edition of 1931 and 1937, however, both refer to it as "St Georges Field (Recreation Ground)" that of 1937 showing a number of other buildings to the south of the public baths. On the 1967 edition all the buildings are gone and the whole of the unit land south of the bridge is described as "St George's Field (car and coach park)"

The description of land as "Recreation Ground" may, of course, mean that it is a place where the inhabitants exercise a customary right to indulge in lawful sports and pastimes, but, since it is equally compatible with the land being used for recreation with the leave of the owners and occupiers, it is no evidence that any such rights exist.

Thus there is no evidence before me that, since the decline of archery, the inhabitants have had any right to indulge in lawful sports or pastimes over any part of the unit land. I shall not 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

18th

day of

July

1986

Peter Langdon-Davis

Chief Commons Commissioner