



COMMONS REGISTRATION ACT 1965

Reference No. 260/D/6

In the Matter of The Green, Stoke
Gifford, Northavon D., Avon

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG.80 in the Register of Town or Village Greens maintained by the Avon County Council and is occasioned by Objection No. OB.110 made by the Bristol Diocesan Trust and noted in the Register on 18 October 1971.

I held a hearing for the purpose of inquiring into the dispute at Bristol on 19 March 1975. At the hearing the Bristol Diocesan Board of Finance were represented by Mr. A.D.M. Gregg solicitor of Osborne Clarke & Co Solicitors of Bristol.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) about 0.77 of an acre, and consists of seven pieces of land which together with the roads and paths which separate them, make up the open space a few yards northeast of St. Michael's Church. The registration was made on the application of Stoke Gifford Parish Council. The grounds stated in the Objection are :- "Part of the property belongs to the objectors having been conveyed to them in fee simple by a Deed dated the 11th day of November 1918 and made between the Duke of Beaufort (1) the Duchess of Beaufort (2) the Bristol Diocesan Trust (3) and Harold Nelson Burden and others (4) free from incumbrances other than a tenancy agreement long since terminated and certain family charges in respect of which indemnities were given. A copy of the plan on the Conveyance is attached. The property is held on certain trusts for use as a village school. The land so owned by the objectors is coloured pink and green on the attached plan". The plan shows coloured green two ("the Disputed Pieces") of the said seven pieces, being the two largest situate, either southeast, east or northeast, of all the others.

Mr. Gregg said that his clients were only concerned with the Disputed Pieces. The Clerk of the Parish Council in letters dated 3, 8 and 12 March 1975 and sent to the Clerk of the Common Commissioners said in effect that the Council wished to withdraw from the issue.

The Rev. D.A.P. Shiels, who is now and has been since 1962 incumbent of St. Michael's Stoke Gifford, and who is chairman of the Administrative Trustees of the Stoke Gifford Church School in the course of his evidence produced :- (i) the original of the said conveyance of 11 November 1918, (ii) some extracts from the minutes of the meeting of the Managers of St. Michael's School between 16.1.24 and 22.1.45, of the Parochial Church Council between 26 February 1948 and 28 February 1959 and of the meeting of the Administrative Trustees of St. Michael's School between 29 June 1925 and 22 October 1945, (iii) a photograph of school children playing on the Disputed Pieces (iv) a photograph of the below mentioned "Private Land" notice, and (v) a copy of the below mentioned notice sent by him to those who sought to use the Disputed Pieces without his permission.

Mr. Shiels said (in effect) :- The Disputed Pieces are open grass land in front of the Church School buildings which are on the land comprised in the 1918 conveyance and coloured pink on the plan drawn thereon; the Disputed Pieces are thereon coloured green



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He thought that the Disputed Pieces, although now open, had at one time been fenced, because there are remains of a fence; the extracts he produced mentioned a fence or fences, the use of the Disputed Pieces as a playground for the School and the concern of the meeting to keep them as School property. On the Disputed Piece, there is currently displayed a notice: "This is PRIVATE LAND and persons using it do so by permission of the Trustees of St. Michael's School". Local clubs and institutions who wish to use the Disputed Pieces had while he has been incumbent always sought his permission, which he had always granted if the activities would not interfere with School activities; on one occasion some years ago a party from a local works had used the Disputed Pieces, and he had served them with a notice and they stopped.

On the day after the hearing I inspected the Unit Land.

By the 1918 conveyance the Disputed Pieces are clearly included in the land thereby conveyed for (stating the effect of the conveyance shortly) School purposes. I conclude from this and from the evidence of Mr. Shiels outlined above that the Disputed Pieces are not within the definition of a "town or village green" as set out in section 22 of the 1965 Act, and that they are therefore not properly registered under the Act.

I now consider the five remaining pieces which make up the Unit Land. On one of them is the Village War Memorial. The others are grass land of attractive appearance, which as long as they remain such will be a valuable amenity for those living nearby and other of the Parish. But for the inclusion of the Disputed Pieces in the land registered, the registration of these five pieces would (because there would have been no objection) have become final under the Act. After some discussion about these pieces, Mr. Shiels at my invitation, kindly gave me his opinion about them (although of course he had not attended the hearing for this purpose); he recommended that they continue on the Register. I agree with him; in my opinion it is in the public interest that the registration made on the application of the Parish Council of these pieces should stand.

For these reasons I confirm the registration with the following modification:- "of the seven pieces which together make up the land comprised in this Register Unit, the two largest situate either southeast, east or northeast of all the others shall be removed from the Register."

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 7th _____

day of April _____

1975

A. A. Baden Fuller

Commons Commissioner