



In the Matter of The Green, Blennerhasset,
Cumbria

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG 53 in the Register of Town or Village Greens maintained by the Cumbria County Council and is occasioned by Objection No. 191 made by Mr S Blacklock and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Cockermouth on 22 May 1979. The hearing was attended by Mr T Greer of the registration authority, Mr J Scott, Chairman, and Mr T Reed a member, of Blennerhasset and Torpenhow Parish Council (the applicant for registration), and by Mr F G Lamble of the firm of Brockbank Tyson & Co, Solicitors, on behalf of Mr S Blacklock, the Objector.

The land comprised in the Register Units consists of several pieces of land in the Village of Blennerhasset: the Objection relates to only one of these pieces - the most northerly one - which lies in front of two houses. One of these houses is the property of the Objector, and the grounds of the Objection (summarised) are that the Objector has maintained and occupied the piece of land as part of the curtilage of his house since 1950, during which time he has been in undisturbed possession without paying rent or acknowledging the title of any other person. His Objection concludes by stating that the land was not common land, but I treat this as an Objection to the registration as village green.

The evidence given in support of the registration on the one hand and of the Objection on the other was to a considerable extent directed to the question of the acquisition by Mr Blacklock of a title to the piece of land by adverse possession. The question of ownership is not before me and I do not think it necessary to refer to all the evidence in detail but will mention the parts of it relevant to the question whether or not the land is property registered as village green.

For the Parish Council evidence was given by Mr Reed, Mr Scott and Mr David Turner who has since December 1977 lived in the other of the two houses: for the Objector by Mr Blacklock himself, by his wife Mrs Rene Blacklock and by Mr F T Mortimer, who lives in the neighbourhood and has known Mr Blacklock and the house for some 20 years.

It is clear from the evidence, and I find, that (1) the piece of land, which emerged when in the past the river changed its course, has been generally regarded as parish or common land and is accessible from the road for anyone to walk across to the river: (2) there has been no regular user of the land by the local inhabitants nor has there been any maintenance by the Parish Council: (3) that after Mr Blacklock moved into his house in 1950 he and his wife over the years cleared the piece of land of docks, nettles, stones and litter and have done a certain amount of mowing of the grass: the children and their friends have played on it and the dogs have been exercised on it: (4) Mr Turner has on occasion mowed the grass and drives his car across the corner of the piece of land in order to park outside his house.

There was no evidence given to support a contention that the piece of land comes within any of the three limbs of the definition of village green in S 22(1) of the Act of 1965, and the facts were not consistent with user by the local inhabitants for recreation, sports or pastimes. In my view it did not qualify for registration under the Act as a village green.



For these reasons I refuse to confirm the registration as regards this piece of land; and in the result confirm the registration with the modification that the piece of land be excluded from the land registered.

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

1st August

1979

L. J. Morris Smith

Commons Commissioner