



COMMONS REGISTRATION ACT 1965

Reference Nos. 10/D/25
10/D/26

In the Matter of The Open Space
West of High Street, Wool, Dorset.

DECISION

These disputes relate to the registration at Entry No.13 in the Land Section of Register Unit No.V.G.13 in the Register of Town or Village Greens maintained by the Dorset County Council and are occasioned by Objection No.92 made by the County Council and by Objection No.401 made by the Trustees of the Weld Estate and both noted in the Register on 7th October 1971.

I held a hearing for the purpose of inquiring into the disputes at Dorchester on 27th February 1973. The hearing was attended by Mr.E.F. Le Quesne, the Chairman of the Wool Parish Council, which applied for the registration, and by Mr. W.N. Taylor, Assistant County Solicitor. Before the hearing the solicitors for the Trustees of the Weld Estate informed the Clerk of the Commons Commissioners that they did not wish to pursue their objection.

The land the subject of this reference consists of several pieces of rough grass with a telephone call box and a seat on parts of it. One part has also had a tree planted on it. The pieces of land lie on the western side of the High Street, which is the public carriage road numbered 8 set out and appointed by the Winfrith Newburgh and Wool Inclosure Award dated 24th April 1839. On the map annexed to the award the whole of the land in question is coloured brown in the same way as the remainder of the road. Although set out and appointed by the Inclosure Award, the wording of the Award and the map annexed to it seem to indicate that High Street was already in existence before the Award. Evidence was given by Mr. C.A.E. Treasure, an Assistant Divisional Surveyor of the County Roads and Bridges Department since 1961, that the land in question has been maintained and the grass on it mown by his divisional labour force as part of the general road maintenance.

Mr. C.E. Hyde, who has lived in Wool all his life, as did his father before him, said that before there was a playing field in Wool children used to play on the land, as they still do to some extent.

I have come to the conclusion that the land in question formed part of the highway set out in 1839 and that there has been nothing since to deprive it of its status as highway land. On the other hand, land is not excluded from the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965 merely by being part of a highway. It does not, however, seem to me that Mr. Hyde's evidence is sufficient to show that the children who played on this land were doing so as of right, which is an essential element in all the limbs of the definition of "town or village green". This land appears to be highway waste on which children have played for no better reason than that it is there.



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For these reasons 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 22nd day of March 1973

A handwritten signature in dark ink, appearing to read 'J. S. [unclear]', written in a cursive style.

Chief Commons Commissioner