



COMMONS REGISTRATION ACT 1965

Reference No.19/D/4

In the Matter of The Green,
Hill Green, Stockbury, Kent.

DECISION

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No.V.G.36 in the Register of Town or Village Greens maintained by the Kent County Council and is occasioned by Objection No.6 made by Ronald Granville Brown and noted in the Register on 22nd July 1969.

I held a hearing for the purpose of inquiring into the dispute at Canterbury on 15th November 1972. The hearing was attended by Mr. Pearson, the Chairman of the Stockbury Parish Council, which applied for the registration, and by Mr. B. Kingsley Smith, solicitor, for Mr. Brown.

The basis of Mr. Pearson's case was that the land in question was described in the Tithe Award made in 1839 as "Common Pasture", and that formerly children played and people enjoyed picking flowers and blackberries on it.

Mr. Brown, who lives at Hill Green Farm immediately opposite the land, registered himself as the owner of it, and there has been no objection to that registration. Whatever may have been the use made of the land previously, when Mr. Brown came to live at Hill Green Farm in 1945 he cleared the land because it was overgrown. He seeded it and took a haycrop off it for some years, and then about ten years ago he turned it into a lawn to add to the amenities of his house. Mr. Brown put up a notice reading "Private Ground" and has kept the lawn mown. He said, and I believe him, that the land has never been used for sports or pastimes since he went to live at Hill Green Farm.

On this evidence I find myself quite unable to hold that this land falls within the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965, and I accordingly refuse to confirm the registration.

Mr. Kingsley Smith asked that in the event of my deciding in Mr. Brown's favour I should order the Parish Council to pay his costs. Mr. Pearson said that the Parish Council had got caught up in a local feud and that it would be unfair to order it to pay any costs because the members thought that they were doing right to register the land. Furthermore, said Mr. Pearson, Stockbury is a poor parish and the Council could not afford legal representation.

While I have much sympathy for those who seek to protect what they conceive to be the rights of the inhabitants of a locality, I cannot accept that public-spirited enthusiasm excuses putting other people to expense by making reckless claims. While the Parish Council may not have been able to afford to be legally represented before me, it could at least have sought legal advice before pushing the matter to a hearing. Furthermore, with a view to saving costs on 30th October 1972 Mr. Brown's solicitors wrote to the Clerk to the Parish Council asking him to state the grounds on which the Council contended that the



-2-

land was a village green. In his reply the Clerk disclosed no such grounds, but stated that the land was registered as common land. On 7th November Mr. Brown's solicitors pointed out in reply that the registration was as a village green and suggested to the Clerk that he should seek further advice before the hearing so as to avoid an unnecessary waste of time.

Had the Council been wise enough to seek advice, that advice could only have been that its case was so weak as almost to merit the epithet of frivolous. In these circumstances it seems to me to be very hard on Mr. Brown, that he should have been put to unnecessary expenses, and I shall accordingly order the Council to pay his costs incurred after 7th November 1972 on County Court Scale 2.

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 6th day of December 1972.

Chief Commons Commissioner