



COMMONS REGISTRATION ACT 1965

Reference No. 263/D/6

In the Matter of Brick Back, Turton,
Lancashire

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No.VG.61 in the Register of Town or Village Greens maintained by the Greater Manchester County Council and is occasioned by Objection No. 13 made by Turton Urban District Council and noted in the Register on 4 December 1970.

I held a hearing for the purpose of inquiring into the dispute at Salford on 3 April 1979. The hearing was attended by Mr J H Openshaw, Solicitor of the firm of Cooper Nelson and Hamer, on behalf of the applicants for registration, Mr A D Dickson and Mr K Dickson; and by Mr M Cresswell, Solicitor, of Bolton Metropolitan District Council, the successor in title to the Objector. Mr M G M Brogden, Solicitor of the Registration Authority, also attended.

Mr Openshaw who was in a position to call evidence as to the user of the land as a playing field for many years, first submitted that the Objection, on the face of it, was not a valid objection since, though the registration is of a village green, the objection states that "the land was not common land at the date of registration".

Mr Cresswell explained that the objection was made by his Council's predecessor, Turton Urban District Council and that a search of the latter's files had produced no evidence relevant to the objection. He was not in a position to maintain the objection and though he suggested that it might be a case for adjournment, he did not in the end seek an adjournment.

In these circumstances, I shall confirm the registration.

Mr Openshaw made an application for costs, it having proved to be a case where his clients had incurred unnecessary expenses in connection with an objection which, on his submission, was on the face of it not valid. Mr Cresswell explained that his Council's first knowledge of the whole matter was towards the end of February 1979 when he was informed by the Registration Authority that Bolton Metropolitan District Council was a party to the proceedings by virtue of its succession to Turton U D C. There had, in my view, been nothing unreasonable since then in the acts and attitude of Bolton M D C and Mr Openshaw did not disagree with this view. I can appreciate the grounds for Mr Openshaw's application, but after consideration I do not think it right to accede to it as whatever may be said in criticism of the objection, the fault cannot fairly be attributed to Bolton Metropolitan District Council. Accordingly I make no order as to costs.

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 21 August 1979

L. J. Morris Smith
COMMONS COMMISSIONER