



COMMONS REGISTRATION ACT 1965

Reference No. 232/D/14.

In the Matter of Boxenhedge Green,
Trull, Taunton Deane District, Somerset.

DECISION.

This dispute relates to the registration at Entry No.1 in the Land Section of Register Unit No. VG73 in the Register of Town or Village Greens maintained by the Somerset County Council and is occasioned by Objection No.0/787 made by the Somerset County Council and noted in the Register on 31 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Taunton on 3 June 1975. At the hearing (1) The Commons Open Spaces and Footpaths Preservation Society, on whose application the registration was made, were represented by Mr. P.T. Jacobsen, solicitor with Bircham & Co, Solicitors of London, and (2) Somerset County Council were represented by Mr. T.J. Driver a Senior Administrative Assistant in the Chief Executive's Department.

According to the Register map the land (the "Unit Land") comprised in this Register Unit is a triangular piece having an area of 0.1 of an acre. The grounds stated in the Objection are: - "The land coloured red on the attached plan was not a village green at the date of registration"; on the attached plan the northern apex of the Unit Land (about 20 sq yds) is coloured red.

Mr. Driver produced a copy of a scheme dated 20 November 1964 and made by the Secretary of State for Education and Science in respect of "the Foundation" meaning the Allotment for Exercise and Recreation founded by an Inclosure Award dated 26 March 1851 comprising the right of the inhabitants of the Parish of Trull and the neighbourhood to use Boxenhedge Greens as a place of exercise and recreation.

Mr. Jacobsen said (in effect):- The Society's application for this registration was based on the said 1851 Award, by which the Unit Land was allotted as stated in the Scheme. Neither the County Council nor the Society until quite recently had any knowledge of this Scheme; indeed they had gone so far as to agree to request the Commons Commissioner to dispose of this dispute without a hearing on the basis that the registration be confirmed with the modification that the land mentioned in the Objection be excluded.

If the Society had known of the Scheme they would not have applied for the registration to be made.

Mr. Jacobsen produced a copy of the 1851 Award which the Society had obtained from the Public Record Office; the Award was made under the Annual (2nd of the year) Inclosure Act 1846 (9 and 10 Vict.c.117); by it (among other recreational allotments) Unit Land (therein numbered 297a stated to contain 21 perches) was allotted as above set out.



Mr. Driver confirmed ^{the} statements of Mr. Jacobsen. By the Scheme in consideration of £200 paid to Trull Parish Council by the owner of Boxenhedge Green the rights of the inhabitants and the neighbourhood to use the land as a place of exercise and recreation were extinguished. He said that there was now a bungalow on the Unit Land that the land mentioned in the Objection was part of the highway (there is a ~~Gate~~ Post on it) and the rest of the Unit Land is fenced, being enclosed with the bungalow.

Mr. Jacobsen and Mr. Driver both requested me to refuse to confirm the registration as regards any of the Unit Land. Notwithstanding the objection as made was limited to a small part only of the Unit Land, I can I think properly give effect to this request under Rule 26 of the Commons Commissioners Regulations 1971. It being clear that the registration was made by mistake I conclude that it could be avoided as soon as possible.

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.....12th.....day of...*June*.....1975

a. a. Baden Fuller

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Commons Commissioner.