



COMMONS REGISTRATION ACT 1965

Reference Nos. 21/D/25
21/D/26

In the Matter of The Green,
Anstey, Leicestershire.

DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.V.G.3 in the Register of Town or Village Greens maintained by the Leicestershire County Council and are occasioned by Objection No.28 made by Chapman Estates (Leicester) Ltd and Objection No.29 made by Jelson (Estates) Ltd. and both noted in the Register on 2nd November 1970.

The land the subject of the registration consists of several pieces of land situate on either side of Bradgate Road, Anstey. The largest of these pieces of land lies on the south-west side of the road. It consists of an equilateral triangle with its base along the road, together with a long narrow strip continuing along the road to the north-west. To the south-west of this strip and divided by it from the road is an area of about 5 acres of land owned by the Objectors. The Objections relate to the whole of the strip between the Objectors' land and the road.

The Objectors wish to develop their land as a building estate and for that purpose they wish to have a means of access across the narrow strip dividing their land from the road. In consideration of a monetary payment, the Anstey Parish Council, the applicants for the registration, agreed to this being done. The work of constructing the means of access has been begun, and before the hearing there was sent to me a request signed by all the parties entitled to be heard to give a decision refusing to confirm the registration of the part of the land on which the means of access is being constructed (coloured red on the plan attached to the consent and hereafter referred to as "the red land").

Since it appeared to me unlikely that the red land did not fall within the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965, while the rest of the strip did fall within that definition, I refused to give a decision without a hearing.

I held a hearing for the purpose of inquiring into the dispute at Leicester on 9th October 1973. The hearing was attended by Mr. J.H. de la Rue, solicitor, on behalf of the Parish Council, by Mr. K.A. Scott, solicitor, on behalf of Chapman Estates (Leicester) Ltd and by Mr. C. Mitchell, solicitor, on behalf of Jelson (Estates) Ltd., and by Mr. L.A. Frampton, a local resident.

On enquiring into the matter, I was unable to find any ground for distinguishing the red land from the rest of the strip. It appeared to me that either the whole strip consisted of town or village green or that none of it did. I was, however, invited to give a decision in accordance with the terms of the consent on the ground that this would be a good thing for the



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community. Were I the proverbial *cadi* sitting under a palm tree, I might agree that this would be a sensible way of disposing of the matter, for it would satisfy all the parties entitled to be heard, though it would not satisfy Mr. Frampton, who objects to the construction of a means of access across the red land or any other land forming part of the strip. This, however, does not seem to me to be the correct way to approach the question. The registration or non-registration of land as a town or village green under the Act of 1965 depends upon whether it falls within or without the definition of "town or village green" in section 22(1) and not upon whether I or anybody else thinks that it would be a good thing or a bad thing for the land to be so registered. It appears to me that the signatories of the consent have approached the matter in the wrong way and have produced a result which is inherently incapable of being correct, since the area of the red land has been selected by reference to the exigencies of estate development and not by reference to whether it does or does not fall within the definition of "town or village green".

The evidence before me failed to satisfy me that any part of this strip of land falls within the definition of "town or village green". There was no evidence of any use of the strip by the inhabitants of the locality for lawful sports or pastimes as of right. The most that could be said is that persons have walked along it. That is insufficient to satisfy the definition.

For these reasons I confirm the registration with the following modification: namely the exclusion of the land referred to in the Objections. I regret having to do this, for it will not satisfy either the Parish Council or the Objectors, and it will leave Mr. Frampton possibly more dissatisfied than he was before, but there seems to be no other course open to me within the framework of the Act of 1965.

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 1st day of November 1973

Chief Commons Commissioner