



In the Matter of The Green, Tudhoe,
Spennymoor

DECISION

This dispute relates to (1) the registrations at Entry No. 1 in the Land Section and Entry No. 1 in the Rights Section of Register Unit No. CL 114 in the Register of Common Land maintained by the Durham County Council, (2) the registration at Entry No. 1 in the Land Section of Register Unit No. VG 58 in the Register of Town or Village Greens maintained by that Council. The dispute is occasioned by conflicting registrations in the two Land Sections.

I held a hearing for the purpose of inquiring into the dispute at Darlington on 24 July 1980. The hearing was attended by Mrs J Crowden, Solicitor, appearing on behalf of Spennymoor Town Council, and by Mr R N Stott, the applicant for registration of Entry No. 1 in the Rights Section of CL 114.

The registration as common land was made in consequence of Mr Stott's application to register a right to graze 60 cows over pieces of land containing 4.6 acres ("the CL land"). The registration as village green was made on the application of Spennymoor Urban District Council, to which the Town Council is successor, the land in this case ("the VG land") consisting of three pieces of land of 2.78 acres, which are included in the CL land. The conflict therefore extends to these three pieces of land only, and the question at issue is whether or not the right to graze registered by Mr Stott is exercisable over the VG land: unless it is, no basis exists for its registration as common land, there being no suggestion that it qualified for such registration as waste land of a manor.

The right is registered as attached to South Farm, Tudhoe: the farm buildings and some fields ("the south part") lie to the south of the VG land and there are other fields belonging to the farm ("the north part") which lie to the north. The farm premises are owned by the National Coal Board and Mr Stott's father was tenant from 1961 onwards: in 1978 a Mr Anderson became tenant of the south part and a Mr Cartwright tenant of the north part, so that Mr Stott has no longer any proprietary interest in South Farm.

Mr W N Fleming who has lived in Tudhoe village for 60 years and is the local land agent of the National Coal Board gave evidence. He said that in the period after the last war there was some grazing on the VG land by cattle crossing on their way from the south part to the north part. For the past 10 to 12 years the VG land has been maintained by Spennymoor Town Council and before that by voluntary workers: the grass has been kept cut and trees planted. Children play cricket and football on it and there are other recreational activities including picnicking. Mr W Cave the Town Clerk of the Council since 1964 confirmed the maintenance by the Town Council which, he said, had incurred considerable expenditure on making and maintaining footpaths across the Green.



Mr Stott gave evidence and said that after milking on the south part, a gate was opened to allow the farm cattle to go on to the VG land where they would stop to graze: if they wandered, they were moved on to the north part. The basis for the claimed grazing right was that it had been exercised for a long time, and people had told him that there was grazing before his father's time.

In my view the evidence does not establish the right. The period was at most one of 17 years, and the grazing took place in the course of passing between the south and north parts. Mr Fleming said that no grazing right was claimed by the National Coal Board in respect of South Farm, and there was no appearance by Mr Anderson or Mr Cartwright to support the claimed right.

I am satisfied that the VG land was properly registered as Village Green and accordingly I confirm the registration in the land section of VG 58 and refuse to confirm the deemed grazing right in the Rights Section. There is no conflict as to the registrations in CL 114 except as regards the VG land and I confirm those registrations with the modification that the VG land be excluded from the CL 114 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 15 September 1980

L. J. Morris Smith

Commons Commissioner