



COMMONS REGISTRATION ACT 1965

Reference Nos. 259/D/21-22

In the Matter of The Grove Field (Stanmore  
Rugby Football Ground), Harrow, Greater London

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DECISION

These disputes relate to the registration at Entry No. 1 in the Land Section of Register Unit No. VG. 64 in the Register of Town or Village Greens maintained by the Greater London Council and are occasioned by Objection No. 91 made by the Greater London Council and noted in the Register on 31st May 1972, and Objection No. 93 made by the Council of the London Borough of Harrow and noted in the Register on 10th July 1972.

I held a hearing for the purpose of inquiring into the dispute at Watergate House, WC2 on 3rd March 1976. The hearing was attended by Mr R M Betham, a member of the Stanmore Society, the applicant for the registration, and by Mr A C Smith, solicitor, on behalf of the Greater London Council. I also heard Mr R J Virgin on behalf of the Council of the London Borough of Harrow.

From 1894, or possibly earlier, the land comprised in the Register Unit was part of an area known as the Stanmore Brewery Estate. It was described in an indenture of conveyance made 1st October 1895 between (1) Thomas Clutterbuck (2) Thomas Meadows Clutterbuck as "stabling coach house dray sheds warehouses and other buildings water tanks timber and other yards sheet of water and lands situate on the east side of the High Road leading from Edgware to Watford". In an indenture of conveyance made 30th June 1919 between (1) Thomas Meadows Clutterbuck (2) Thomas Rupert Clutterbuck it was described simply as "the land and premises known as 'The Grove'", with no mention of any buildings.

From some time before 1924 the land in question was let to the Stanmore Sports Club and used as a football ground, but this ceased after the 1923 season. The land was then used by the owner for grazing cattle and later as a poultry farm, for which purpose it was being used in 1937. It was also used for a time as a paddock for the horses of a riding school.

By section 35 of the Middlesex County Council Act 1934 (24 & 25 Geo. Vc.lxxxix) the Middlesex County Council was authorised to acquire for the purpose of providing an open space or recreation or pleasure ground or public walk any land not being at the date of acquisition an open space within the meaning of the Open Spaces Act 1906. "Open space" was defined in section 20 of the Act of 1906 as meaning (*inter alia*) any land used for the purposes of recreation. The land in question cannot have been used for the purposes of recreation in 1938, for the County Council agreed to purchase it by a deed made 24th June 1938 between (1) Sir John Fitzgerald, Bt, Knight of Kerry (2) the County Council, and took a conveyance of it dated 8th June 1939, the acquisition being stated to be authorised by section 35 of the Act of 1934.



The County Council did not immediately use the land for the purpose for which it was acquired. By a lease made 8th October 1953 the Council let it to the President and Secretary of the Harrow Rugby Football Club for a term expiring on 30th April 1957, the lessees covenanting to construct a gated entrance in the south-west corner to provide ~~access~~<sup>access</sup> from Stanmore Hill (i.e. the "High Road" referred to in the indenture of 1st October 1895); not to use the land for any purpose other than as a private sports ground; and to take all reasonable steps to prevent trespass on the land. The lease was renewed on 9th August 1957 for a further period expiring on 30th April 1964 and was further renewed on 5th October 1964 for a further 21 years from 1st May 1964. The freehold reversion passed to the Greater London Council by virtue of the London Government Act 1963. On 23rd April 1969 the 1964 lease was surrendered and was replaced by a new lease dated 23rd April 1969 of a smaller area, excluding a pond on the western side (i.e. the "sheet of water" referred to in the indenture of 1st October 1895), for a term of 31 years expiring on 30th April 1999. This lease repeats the covenants as to use as a private sports ground and the prevention of trespass. The pond excluded from the 1969 lease was transferred to the Corporation of the London Borough of Harrow by the London Authorities (Parks and Open Spaces) Order 1971 (S.I.1971, No. 228).

Mr Betham contended that the land in question fell within the definition of "town or village green" in section 22(1) of the Commons Registration Act 1965, because the inhabitants of the locality had indulged in lawful sports and pastimes on it as of right for not less than twenty years.

Mr Betham has lived in the vicinity of the land since 1947 and has since that time walked and exercised his dogs on it. He has seen other people doing the same, children kicking footballs on it, and model aeroplanes being flown over it. Air Commodore A D Jackson gave similar evidence, adding that family groups had picnics there in good weather. Although people tended to keep off the pitches, there was no attempt to keep them off the land until some notices were put up quite recently.

I accept without hesitation the evidence given by Mr Betham and Air Commodore Jackson, but it seems to me to fall far short of proving that the inhabitants of the locality have indulged in lawful sports and pastimes on this land as of right since 1947. The Harrow Rugby Football Club seems to have failed to comply with the covenants in its successive leases to prevent trespass, but such failure cannot confer rights on other persons against the lessor. The most that the Club could do would be to grant permission for the duration of its own lease. I am by no means satisfied that the Club could be said to have gone even as far as that, but even if it did, that would not make the use under such permission a use as of right, which is an essential feature of a town or village green as defined in the Act of 1965.

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 17<sup>th</sup> day of March

1976

  
Chief Commons Commissioner