



COMMONS REGISTRATION ACT 1965

Reference No. 216/D/45

In the Matter of Broxbourne Common, Brickendon
Liberty, Hertfordshire (No. 1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 54 in the Register of Town or Village Greens maintained by the Hertfordshire County Council and is occasioned by the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. CL 87 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Hertford on 26 October 1982, when I decided to refuse to confirm the conflicting registration. This, however, did not conclude the matter, since it was still my duty to inquire into the matter of the registration the subject of this reference, and I therefore reopened the hearing at Hertford on 6 May 1983, when the Hertfordshire County Council was represented by Mr L F Dowler, Solicitor, and Mrs H M Tepper was represented by Mr M Arthur, Solicitor.

The whole of the land comprised in the Register Unit is one of the several strips of land and common or waste land described in the Second Schedule to the Broxbourne and Hoddesdon Open Spaces and Recreation Grounds Act 1890 (53 & 54 Vict., c. xlvii) and coloured green on the map referred to in Section 2 of the Act. It is provided by Section 14 of the Act that such land shall at all times be free and open to the public to the same extent as if the same formed portions of a public highway subject to certain rights of Horace James Smith Bosanquet and Cecilia Jane Wentworth Smith Bosanquet or their successors in title and subject also to any existing rights of way and other rights or easements of any other person.

Mr Dowler submitted that this land fell within the first limb of the definition of "town or village green" in Section 22(1) of the Commons Registration Act 1965 or in the alternative within the third limb of that definition.

To fall within the first limb of the definition land must have been allotted by or under an Act for the exercise or recreation of the inhabitants of a locality.

For the reasons given in my decision in In the Matter of Martins Green, Brickendon Liberty (1983), Ref. No. 216/D/46 I do not consider that this land was allotted by or under the Act of 1890 for the exercise or recreation of the inhabitants of any locality.

Unlike Mr Dowler's first argument, his ^{alternative} argument depends upon facts, and in order to support it he relied on the evidence of Mr P A Hickman, one of the trustees appointed under the Act of 1890, who is now aged 66 and has known the green land all his life. He said that the land has been used by members of the public for picnics. Before the last war cricket and other ball games were played there, but ways have changed and now people leave their cars on the green land and go



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for walks. There is also some use of the land by horse riders. There has never been any objection to this by the landowners. While some of the people come from Broxborne and Hoddesdon, a number are day trippers from London.

This evidence is indistinguishable from that given by Mr Hickman in In the Matter of Martins Green, supra, and for the reasons given in my decision in that case I am not satisfied that this land falls within the third limb of the definition of "town or Village green".

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

20th

day of

May

1983

Chief Commons Commissioner