



COMMONS REGISTRATION ACT 1965

Reference No. 37/D/16-17

In the Matter of Albourne Green,  
Albourne, Mid-Sussex D

DECISION

This dispute relates to the registration at Entry No. 1 in the land section of Register Unit No. VG 74 in the Register of Town or Village Greens maintained by the former East Sussex County Council and is occasioned by Objection No. 10 made by Cuckfield R D C and noted in the Register on 18 December 1969 and Objection No. 201 ~~the objection~~ made by East Sussex County Council noted in the Register on 14 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Chichester on 30 January 1979. The hearing was attended by M/S Margaret Holt who registered the land as a village green.

Mr J Palmer, Solicitor for the Mid-Sussex District Council and Mr A Lester, Local Government Officer for West Sussex County Council.

M/S Holt accepted at the outset that she could only hope to bring the land within the definition set out in Section 22 of the Act of 1965, if she could show that the in-habitants of Albourne had engaged in lawful sports and pastimes on the land as of right during the period of 20 years ending when the said act came into force in 1965. She gave evidence that the land has even in the remote past been known as and described as "The Green or Albourne Green", that since she became familiar with the locality, children had played on it, but not in any organised way. There is a cricket ground elsewhere in the village and that it had always been an amenity where people met and walked.

I have always taken the view that mere un-organised play by children cannot be said to be sports or pastimes, still ~~less~~ *less* that the children by playing in the belief that they are doing so in the exercise of their rights as inhabitants. The use of this land as described by M/S Holt is in my view attributable to tolerance on the part of the owner. This view is confirmed by Mr Palmer who produced a conveyance dated 13 September 1948 whereby, Cuckfield R D C (Mid-Sussex District Council is its successor) acquired the land and adjoining land with a view to development. The adjoining land has been developed and a housing estate is now on it. Mr Palmer stated that his council had no immediate plans to develop the green, but it wished to reserve its right so to do and meanwhile it is content that the in-habitants of Albourne shall continue to enjoy it as an amenity as here-to fore.

In my view the evidence established that the use of the land is tolerated by the Council as the owner thereof and the evidence of M/S Holt falls far short of its having been used for sports or pastimes as of right.

For these reasons I refuse to confirm the registration.

I am required by regulations 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

12<sup>th</sup>

day of

17<sup>th</sup> March

1979

  
Commons Commissioner