



COMMONS REGISTRATION ACT 1965

Reference No 238/D/61

In the Matter of Littlehampton Green,  
Littlehampton, Arun District, West  
Sussex

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DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No GL. 268 in the Register of Common Land maintained by the West Sussex County Council and is occasioned by Objection No 122 made by Littlehampton Urban District Council and noted in the Register on 22 June 1970.

I held a hearing for the purpose of inquiring into the dispute at Chichester on 13 April 1978. At the hearing Arun District Council (as successors of the Objectors) were represented by Mr A W Copland their senior assistant solicitor, and Mrs Ione Legroux on whose application the registration was made, attended in person.

The land ("the Unit Land") comprised in this Register Unit is known as "The Green", being an open space about 1000 yards long from west to east, and having a variable width between about 100 and 250 yards. If the surrounding roads, the land held with the Beach Hotel and an area near its southwest corner be disregarded, it is bounded on the south by the sea wall, the beach and foreshore, on the west by the River Arun, and on the north by the built up area of Littlehampton.

Mrs Legroux in the course of her evidence, produced an extract from the Schedule to the Tithe Award for the parish which among the lands then owned by the Duke of Norfolk, included "326: Stone field common Waste: 57.2.2.", and also "330: Beach Hotel: --.24.". She mentioned that there is a survey of the town made in 1633 on behalf of the Earl of Arundel, in which this land is called "communibus annis", and that there was a report of the Sussex Archaeological Society in which it was described as "The Common"; either in this or some other report, it was said that at one time there was horse-racing on the Common. As a child, she remembered there being a tennis court on the Unit Land, and people walking across it to go and fish in the sea.

Mr Copland in the course of his evidence produced: (1) a conveyance dated 1 July 1897 by which Henry Duke of Norfolk conveyed to Littlehampton District Council (who was desirous of erecting a Storm Water Reservoir and Recreation and Ornamental Water with slopes to be planted with shrubs) "the site of the said Reservoir with the slopes adjacent thereto and formerly known as The Old Oyster Pond" and delineated on the plan; (2) a print of the Byelaws made on 6 July 1911 by Littlehampton Urban District Council "with respect to the pleasure ground known as The Green, Littlehampton"; and (3) a conveyance dated 13 June 1934 by which Bernard Marmaduke Duke of Norfolk conveyed to Littlehampton Urban District Council the land "known as The Green, Beach and Foreshore (including the Sea wall)" as delineated on the plan; and (4) the Littlehampton Town Map 1863 (prepared for planning purposes).



The plan on the 1897 conveyance shows the land thereby conveyed to be part (about one tenth of the whole) of the Unit Land at its northwest corner; the plan on the 1934 conveyance shows the land thereby conveyed to include the remainder of the Unit Land. On the 1963 map, the Unit Land is described as "Public Open Space and Parking".

In the absence of any evidence that the land was ever subject to any right of common, I am concerned only to determine whether it comes within paragraph (b) of the 1965 definition of "common land", being "waste land of a manor not subject to rights of common".

"Stone Field Common Waste" as specified in the extract from the Tithe Map produced by Mrs Legroux includes (in addition to the Unit Land) a large area to the north, which area is on the Register map shown as extensively built over; accordingly in my view the Tithe Award as evidence of the status of the Unit Land in 1965 is of little weight.

The 1934 conveyance contains an exception in these words: "Any manorial or other like rights over the property hereby conveyed which the Vendor may have at the date hereof, provided that such right do not prejudice or interfere with the rights as to the pleasure grounds and parking places vested in the Purchasers under the Public Health Acts 1875 to 1925 or any statutory modification or amendment thereof". In my view these words do not support the conclusion that the Unit Land was in 1934 regarded as waste land of any manor then owned by the Duke of Norfolk; they rather support the view (for which Mr Copland contended) that the land thereby conveyed was purchased by the exercise of statutory powers, in the ordinary way for use by the Council (as it is now used) as a pleasure ground. In my opinion any such land is not within the above quoted definition; see *Re Rye* 1977 1 WLR 1316, in which the High Court considered the applicability of another 1965 definition in somewhat similar circumstances.

Balancing the evidence summarised above (which was in some respect conflicting) my conclusion is that the Unit Land is not and has never at any now relevant time been waste land of a manor. Accordingly 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 5<sup>th</sup> day of May — 1978

*a. a. Bates Jullie*

Commons Commissioner