



COMMONS REGISTRATION ACT 1965

Reference No. 238/U/29

In the Matter of Mockbridge Green,
Henfield, Horsham District, West Sussex

DECISION

This reference relates to the question of the ownership of land known as Mockbridge Green Henfield, Horsham District being the land comprised in the Land Section of Register Unit No. VG53 in the Register of Town or Village Greens maintained by the West Sussex County Council of which no person is registered under Section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Chichester on 13 April 1978. At the hearing West Sussex County Council were represented by Mr R Lester, local government officer in the County Secretary's Department.

The land ("the Unit Land") in this Register Unit is in two pieces on opposite sides of the road (A281) from Henfield to Cowfold and a short distance south of the bridge over the River Adur. One of the pieces ("the Southwest Triangle") is a triangle about 50 yds long of grassland open to the road and a short distance of the Bull Inn. The other piece ("the North Piece") is roughly triangular about 130 yds long north of the road and separated from it by a fence.

I had a letter dated 11.4.78 from Mrs M Holt now of Cuckfield Park, Cuckfield (the registration was made on her application) in which she says:- "This Common (Green) belonged to the Bishop of Chichester as confirmed by the Survey of the Manor in 1647 and remained so at least until this century probably 1924 ...".

Mr Lester produced: (1) a map (based on OS 1/2,500) showing the Unit Land and its surroundings; (2) a conveyance dated 12 November 1930 by which Mrs E R Hicks with the concurrence of trustees conveyed to West Sussex County Council a strip of land on the north side of the Henfield-Horsham road having a total length of about 246 ft as delineated on the plan; and (3) a copy of a deed of covenant dated 10 July 1929 and made between Tamplin & Sons Brewery Brighton Limited and West Sussex County Council.

Mr N M Wagstaff who is an engineer in the County Surveyor's Department and has been in the Department in various capacities since September 1963 in the course of his evidence described the Southwest Triangle. He said (in effect):- On it there is an electricity pole and two manhole covers for which the GPO are responsible; apart from these, the County Council have maintained it (meaning as I understood him by mowing the grass and keeping it tidy). The County Council do not carry out maintenance on land unless it is their own land or is within the highway.



On the day after the hearing, I inspected the Unit Land.

The present appearance of the North Piece is against it being within the 1965 Act definition of a "town or village green", or indeed within any meaning of the word "green" as usually understood. Except by climbing over the fence, it is not accessible, or easily accessible from the A281 road; its north boundary except possibly near its east end, is not distinct, and although it might be possible with care to trace it on the ground, it seems that for grazing purposes (there was no sign of it ever having been used for any other purpose) to be part of the much larger meadow on the north.

The 1930 conveyance recites that the property was required by the County Council "for the purpose of the improvement of the Horsham Brighton Main Road" and the plan marks the ~~width of the~~ strip which extends southeastwards from the middle line of the River, as having widths in three places of 34' 6", 31' 0", and 26' 0". I have no difficulty in inferring (as Mr Lester suggested) that since the 1930 conveyance the road has been widened and realigned as contemplated by the conveyance; but except that I think it likely that the level of the carriageway in relation to the nearby meadow on the north was then raised, I cannot say how. It may be that the existing fence was placed along the line which was then believed to be the north boundary of the land conveyed; but contra it may be that the banks supporting the carriageway was placed on County Council land and the fence put along the top of the bank for the safety of road users.

Mrs Holt in her letter says "it should be quite easy to trace from the Bishops Palace, Chichester the details of any sale at that date (1924)". The conveyance indicates that the land was part of that known as "Chestham Park, Shermanbury" which in 1883 passed from S Copestake to H Ross, in 1906 from G C Bird to A Henty, in 1912 from him to G A Stebbing, and in 1921 from him to Edward Hicks. I shall not therefore make the inquiries Mrs Holt suggests.

By Section 10 of the 1965 Act the North Piece is now conclusively presumed to be a town or village green, with the consequence under Section 8 that I am required to vest it in the Parish Council except so far as it is in the ownership of the County Council; so in effect I am required to draw a boundary between these two local authorities. Because the conclusive presumption is inconsistent with much of the information I have, I am in some difficulty; so the best I can do will be somewhat arbitrary. My decision is that under the 1930 conveyance the County Council are the owners of parts ("the 1930 Conveyance Land") of the Unit Land, being the part by me defined in the Schedule hereto.

As to the Southwest Triangle:- By the 1929 deed the Council as highway authority consented to the Brewery Company hardening out the land coloured green on the plan as an approach to the Bull Inn and the Company covenanted that no building should be erected on the land and that they would not in any way prejudice the right of the public. The deed includes a recital to the effect that the Company are the owners of the land in succession to J Vallance under a conveyance of 24 April 1871. The green land includes the North Piece.

From this deed, and also from the present appearance of the North Piece, I infer that it is part of the highway. Its registration under the 1965 Act as a town or village green does not thereby become irregular because land may at the same time be subject to a public highway right and to a customary local recreational right. I conclude that in 1929 the Southwest Triangle was not then owned by the County Council.



In my opinion the evidence of Mr Wagstaff, although showing that the County Council are concerned with the Southwest Triangle as highway authority falls short of showing that they are or have ever been in possession; their acts can be ascribed to their duties as highway authority, and were not I think adverse to the true owner. I therefore reject their claim to be entitled under the Limitation Act 1939.

For the reasons set out above I am satisfied that the County Council are the owners of the 1930 Conveyance Land and I shall accordingly direct the West Sussex County Council as Registration Authority to register themselves as the owners of 1930 Conveyance Land as defined in the Schedule hereto under Section 8(2) of the Act of 1965. On the evidence summarised above I am not satisfied that the County Council are the owners of any other part of the Unit Land and in the absence of any evidence that any other person could be the owner, I am not satisfied that any person is the owner of any such part, and I shall accordingly direct the West Sussex County Council as Registration Authority to register ~~the~~ Enfield Parish Council as the owners of all the remaining parts of the said land under Section 8(3) of the Act of 1965.

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.

SCHEDULE
(The 1930 Conveyance Land)

In this Schedule: (1) "Point A" means a point which is on the north boundary of the part of the land in this register unit south of the A281 road and which divides such boundary in the proportion of 1 to 6, one-seventh being to the west and six-sevenths being to the east; and (2) "Point B" means the point being the west end of the part of the said land which is north of the A281 road.

The 1938 Conveyance Land means the part of the land in this register unit, (a) which is north of the A281 road, and (b) which is west of the straight line which runs northeast-southwest through the point A, and (c) which is south of the straight line which passes through a point northeast of point A and 26 ft northeast of the roadside fence and passes through a point 26 ft northeast of point B.

Dated this 30th day of October — 1978

A. A. B. J. J.

Commons Commissioner