



COMMONS REGISTRATION ACT 1965

Reference No. 271/D/18

In the Matter of Sportsfield South west
of the Bryn Rodyn Housing Estate, Halkyn

DECISION

This dispute relates to the registration at Entry No.1 in the Land section of Register Unit No. 11 in the Register of Town or Village Greens maintained by the Clwyd County Council and is occasioned by the conflicting registration at Entry No.1 in the Land Section of Register Unit No.11 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Mold on 9th April 1975.

The hearing was attended by Mr Armon Ellis, Solicitor, on behalf of Halkyn Community Council, the successor to Halkyn Parish Council, which applied to register the land as a Village Green; and by Miss F. E. Woodruffe, solicitor, on behalf of the Executors of the late Duke of Westminster, who applied to register the land as common land.

Mr Emlyn Lloyd, Clerk to Halkyn Community Council and formerly Clerk for many years to Halkyn Parish Council, told me that the Council housing estate at Bryn Rodyn, which is situated close to the land in question, was built about the year 1930, and that the children living on this estate have since habitually played games on this land and used it generally for recreation. It is mainly used as a football pitch, and goal posts have stood on the land for many years.

Mr Lloyd produced a letter dated 3rd August 1950 from Mr. W. Redfern, the then Agent to the Duke of Westminster's Estate at Halkyn, to Mr. W. W. Nicholls, who, as I was told by Mr Lloyd, was the organiser of the Boys' Club in the locality. It is clear from this letter that Mr Nicholls had applied on behalf of the Boys' Club to the Duke for permission to use the land in question as a football pitch; and such permission was in fact granted by the latter, subject to certain conditions.

The land is open and unfenced, and, save for the fact that it is clear of gorse, appears to be indistinguishable from the rest of the common comprised in Register Unit CL.11.

The inference I draw from the evidence is that the user of this land as a football pitch and for other recreational purposes began in the 1930s, after the construction of the Council Estate at Bryn Rodyn, and that since 1950 such use has been enjoyed with the express permission of the Duke of Westminster as owner of the soil.

In these circumstances I cannot hold that the land in question has been shown to be a 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 14th day of November 1975

A. E. Francis