



In the Matter of Woodlands Green, Wimborne D

DECISION

These disputes relate to the registration at Entry No. 155 in the Land Section and Entry No. 1 in the Rights section of Register Unit No. CL 155 in the Register of Common Land maintained by the Dorset County Council and are occasioned by Objection No. 1225 made by the County Council and objection No. 366 made by the Earl of Shaftesbury both noted in the Register on 8 September 1972.

I held a hearing for the purpose of inquiring into the dispute at Poole on 28 October 1980. The hearing was attended by Mr Holly, of the County Council, Mrs A. Curry the Clerk to and representing Knowlton Parish Council, Mrs R Colyer representing the Ramblers Association, Mr C H Harrington of the firm of Withers, Solicitors, appearing on behalf of the Earl of Shaftesbury, and Mr T H Butler appearing in person.

The registration in the Land Section was made in consequence of Mr T H Butler's application to register rights (Entry No. 1 in the Rights Section), and there is noted an application on behalf of the Ramblers Association to register as common land. The Earl of Shaftesbury is registered as owner.

Objection No. 1225 related to a small area of the land in question (the Unit land) representing highway verge and was accepted by Mr Butler and Mrs Colyer: accordingly that area, which is coloured pink on the plan attached to the Objection, will be excluded from the registration.

Mr Butler gave evidence and said that he bought his farm - Longmere Farm - in 1949. The registered right is to pasture cattle goats and horses, and Mr Butler said that he exercised the grazing rights until 1953 and that his predecessor a Mr Burt had exercised them. He gave up his rights in 1953 when a football pitch was made on the Unit land.

On this evidence the rights claimed are not, in my opinion, established, and I refuse to confirm the registration in the Rights Section. Lord Shaftesbury's Objection was on the ground that the land was not common land at the date of registration. No evidence was tendered to suggest that the land was waste land of a manor and with the disappearance of the only registered right of common, the land does not qualify for registration as common land and I refuse to confirm the registration in the Land Section.

Mrs Curry, appearing for the Parish Council, submitted that the Unit land should be registered as village green. As evidence that it qualified as a village green she put in some 50 questionnaires completed by local residents, five of whom gave oral evidence. One of these, Mr F C Trowbridge said that from about 1953 a rent of 1^s/- a year was paid to the owner: this I understood was in respect of the use of the land for football: and in September 1960 there was an agreement ~~between~~ ^{between} which the Shaftesbury Estates Co. and the Woodlands Football Club, representing the Woodlands Sports Club, for the letting of the field as a sports ground from year to year at a yearly rent of 1^s/-. Mr Harrington submitted that the user by other local residents for recreational activities was by reference to this letting and therefore not "as of right". But the evidence adduced by Mrs Curry sufficiently established the carrying on of lawful sports and pastimes by the local inhabitants



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before and after the letting, and not by reference to the letting: and in my opinion the Unit land qualified as a village green within the definition in Section 22(1) of the Commons Registration Act 1925 on both of the grounds (a) that the inhabitants had a customary right to indulge in lawful sports and pastimes (b) that they had indulged in such sports and pastimes as of right for not less than 20 years.

Nevertheless I am not prepared to direct the registration of the Unit land as village green. The disputes before me relate to the registration as common land, and under Section 6 of the Act I am required either to confirm that registration (with or without modifications) or refuse to confirm it. I have decided to refuse confirmation, and in my view I cannot go further and direct registration as a village green. It may be that in such a case, with the concurrence of all parties, such a registration could be achieved by an application to the registration authority under Part V of the Commons Registration (General) Regulations 1966 (S.I. 1966 No. 1471), and that if such concurrence were forthcoming at a hearing, it could be embodied in a Commissioner's decision. Be that as it may, Mr Harrington resisted the application to register the Unit land as a village green, and in those circumstances I cannot accede to the application.

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

1 December

1980

Commons Commissioner