

COMMONS REGISTRATION ACT 1965



Reference No. 216/D/56

In the Matter of Roadside Verges on either side of
Pembridge Lane, Brickendon Liberty, Hertfordshire.

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL 179 in the Register of Common Land maintained by the Hertfordshire County Council and is occasioned by the conflicting registration at Entry No. 1 in the Land section of Register Unit No. VG 47 in the Register of Town or Village Greens maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Hertford on 25 January 1983. The hearing was attended by Mr P Hickman, one of the Broxbourne Trustees for Open Spaces, the applicants for the conflicting registration. There was no appearance on behalf of the Brickendon Liberty Parish Council, the applicant for the registration. Mr A St Johnston, the applicant for the registration at Entry No. 1 in the Rights section of the Register Unit, appeared in person. There was, however, no objection to the rights registration.

The land comprised in the Register Unit is one of the several strips of land and common or waste land which by virtue of section 14 of the Broxbourne and Hoddesdon Open Spaces and Recreation Grounds Act 1890 (53 and 54 Vict., c. xlii) are to be at all times free and open to the public as if the same formed portions of a public highway, subject to such rights as Horace James Smith Bosanquet and Cecilia Jane Wentworth Smith Bosanquet or their successors in title might have or would have in case the Act had not been passed, such rights including the right to sport in and over the land.

It appears from the Victoria County History of Hertfordshire, iii. 432 that Mr Smith Bosanquet was in 1890 the lord of the manor of Broxbourne in right of his wife. Therefore the land in question was waste land of the manor.

Mr Hickman stated that he believed that the land in question had been conveyed to the former Hertfordshire County Council and that the conveyance had been produced to Mr Commissioner Baden Fuller in In the Matter of Coldhall Green (part) Brickendon Liberty (1981), Ref. No. 216/U/13. It appears from the learned Commissioner's decision in that case that there was produced to him a conveyance made 20 March 1957 between (1) George Andrew James Smith-Bosanquet (2) The County Council of the Administrative County of Hertford. There is in the file of that case a photo-copy of the conveyance, in the parcels of which the land conveyed is described as "strips of manorial waste of the Manor of Broxbourne alongside the highways known as Pembridge Lane which said strips of land are more particularly delineated on the plan annexed hereto and thereon coloured pink". The land coloured pink includes parts of the land the subject of the reference.

Since the parcels of the conveyance do not include the lordship of the manor, the effect of the conveyance was to sever the land conveyed from the lordship of the manor, so that the land ceased thereby to be waste land of the manor. Furthermore, the only entry in the Rights section of the Register Unit relates



Reference No. 216/D/56

to land other than that the subject of the conveyance. It therefore follows that the land conveyed to the former County Council does not fall within either limb of the definition of "common land" in section 22(1) of the Commons Registration Act 1965.

So far as the land not conveyed to the former County Council is concerned, the only evidence is that it was waste land of the manor in 1890, and in the absence of evidence to the contrary it is to be presumed that its status as such has since remained unchanged.

For these reasons I confirm the registration with the following modification:- namely, the exclusion of the parts of the land which were conveyed to the former County Council by the conveyance of 1957.

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

3rd

day of

February

1983

Chief Commons Commissioner