



COMMONS REGISTRATION ACT 1965

Reference Nos 216/D/26 to 29
inclusive

In the Matter of Westland Green and
Pigs Green, Little Hadham, East
Hertfordshire District, Hertfordshire

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and at Entry Nos 2 and 3 in the Rights Section of Register Unit No. CL 139 and No. VG 27 in the Register of Common Land and of Town or Village Greens maintained by the Hertfordshire County Council and are occasioned by these registrations being in conflict.

I held a hearing for the purpose of inquiring into the disputes at Hertford on 28 October 1981. At the hearing Mr Angus George David Baird as successor in title of Commander Eric William Morgan and Mrs Elizabeth Morgan on whose applications the registrations at Rights Section Entry No. 3 of these Register Units were made, attended in person; and Little Hadham Parish Council were represented by Mrs B M Martyn one of their members.

The land ("the Unit Land") in these Register Units (the same in both cases) comprises three areas on the Register map called one Westland Green and both the others Pigs Green, and also two strips (comparatively very small) one connecting Westland Green to Pigs Green north and the other connecting Pigs Green north to Pigs Green south. Of these areas the largest (Westland Green) is irregularly shaped being from north to south about 500 yards long and from east to west mostly between 200 and 400 yards wide; it is crossed by a public highway ("the Road") suitable for motor traffic which from Standon or Wellpond Green on the west enters the area between the entrance of Ebury Lodge on the south and the entrance of Sharpes on the north, and then after crossing it runs eastwards towards Hadham Ford and Little Hadham; nearly all the area is grass land the part (about 2/3rds) north of the Road and separated from it by a ditch and a fence (with gate) and the remaining part (about 1/3rd) south of the Road being unfenced and open to it; a small part of the area extending from its east side has on it some trees, coppice, scrub and brambles. The other two areas are much smaller being mostly trees coppice scrub and brambles with some grass patches. Around the Unit Land are a number of dwelling houses spaced well apart from each other; for the occupiers of these and for many others too the Unit Land is a valuable amenity. The registrations in the Rights Section of these Register Units are identical. Those at Entry No. 1 made on the application of Mr G G Starling are of a right attached to Reeveonia to graze 2 horses and are on my copy of the Register marked "withdrawn"; I have a copy of a letter dated 14 July 1973 from Mr Starling to the County Council saying that he wishes to give up all claim to any rights in connection with the common land situated in the Parish of Little Hadham; accordingly I assume that these registrations either have been or will be cancelled by the County Council as registration authority and that I am therefore not concerned with them. Those at Entry No. 2 made on the application of Mr A R Ellis are of a right attached to Ebury Lodge to graze



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6 ponies on the part of the Unit Land known as Westland Green and there is a note on the Register dated 1/2/72 that this right is held by Mr and Mrs Key as owners and occupiers of Ebury Lodge. Those at Entry No. 3 made on the application of Commander and Mrs Morgan are of a right attached to Hart's Field to graze 2 horses and 2 ponies over the part of the Unit Land known as Westland Green; there is a note on the Register dated 31/3/80 that this right is held by Mr A G D Baird of Hart's Field. The Village Green Land Section registration was made on the application of Mr A G Hay. In the Ownership Section of both Register Units, the Most Hon. Marquess of Salisbury is registered as owner of all the Unit Land.

Mrs Martyn who has lived in the Parish since 1958 and been a member of the Parish Council since 1977 in the course of her evidence produced: (1) a lease dated 21 September 1925 by which the Most Hon. J E H G Marquess of Salisbury and the Rt. Hon. R A J G Cecil (Viscount Cranborne) demised to Little Hadham Parish Council two pieces of pasture land part of the Common or Wastelands of the Manor of Hadham Parva containing about 30 acres as were then open and unenclosed and known as Westland Green and Pigs Green for 99 years from 25 March 1925 at a yearly rent of 2s/6d; (2) a letter dated 6 June 1977 from Hertfordshire County Council as to the attempt made to resolve with Mr Baird the dispute about this land; and (3) a letter dated 2 December 1971 from Norris & Duvall, Chartered Surveyors of Hertford to Mr Hay saying in relation to Ebury Lodge that they had asked the County Council for the registration to be amended to two ponies.

Mrs Martyn said (in effect):- Mr Hay was the Clerk of the Parish Council and made the VG application on their behalf. The 1925 lease was granted because it was thought at the time that the land would be used for recreational purposes, but this proved not to be the case in fact, and as a result it has become very overgrown with brambles and scrub and nettles and has been generally neglected. Part was taken over by the War Agricultural Committee and cultivated, they abandoned this at the end of the war so that the Unit Land deteriorated to the condition it had been before the War. The Parish Council decided they would let (a 364 day let) the part of Westland Green north of the Road in return for the cutting of the rest of the grass, trimming the hedges and clearing the ditches and looking after the management of the Green; and to this the Salisbury Estate agreed. This letting has continued since about 1959, various farmers using the grazing under it and for the last several years it has been let to Mr Harold Stigwood. To prevent his cattle from wandering he installed an electric fence for the purposes of keeping them to the part of Westland Green north of the Road and has recently put in a more permanent fence with a gate. She understood there had been disputes over the grazing between the persons who had registered rights of common and Mr Stigwood and the Parish Council had tried to resolve these disputes. They did not object to the grazing rights registered so far as they could be established.

Mr Baird in the course of his evidence produced a statutory declaration made on 19 October 1981 by Commander Morgan as being evidenced by him; he said that from May 1951 to July 1968 his occupation of Hart's Field constituted his main residence and that he exercised rights of common by grazing "up to two horses and two ponies on Westland Green". Mr Baird said that after he became owner of



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Hart's Field in July 1968 he grazed one pony up to 1973 and thereafter two ponies up to 1978 and thereafter had additionally one horse.

After some discussion Mrs Martyn indicated that she would have no objection if the registration at Entry No. 3 (Hart's Field) was confirmed with the modification hereinafter set out; so I am only concerned to determine whether on the evidence of Commander Morgan and Mr Baird I can conclude that there is attached to Hart's Field any greater right of grazing. I am not persuaded by what was said by Commander Morgan and Mr Baird that the grazing right was for the larger number of animals now registered; or that the right was ever exercised by animals which were neither tethered nor tended. Nor am I persuaded that the grazing right exercised was as of right exercised north of the Road to the prejudice of Mr Stigwood and his predecessors.

It not being disputed at the hearing that rights of grazing were exercised from Ebury Lodge, notwithstanding there was no evidence in support of them was given on behalf of Mr and Mrs Key, I conclude that I ought to confirm the registration at Entry No. 2 was properly made to some extent. Upon what I was told at the hearing and from what I saw when I on the following day inspected the Unit Land, I am not persuaded that the grazing right exercised from Ebury Lodge was for a number of animals larger than the number stated in the December 1971 letter or as regards tethering and tending and the part of Westland Green over which it was exercised that it was any greater than the right attached to Hert's Field.

In the absence of any evidence of any part of the Unit Land was within the definition of a "town or village green" in section 22 of the 1965 Act, I conclude that the VG registrations were not properly made. As to the Unit Land being within the section 22 definition of "common land", the part over which there are grazing rights attached to Ebury Lodge and Hart's Field qualifies under paragraph (a) of the definition. As to whether the remainder qualifies under paragraph (b), "waste land of a manor", the 1925 lease and the general appearance of the Unit Land in my view sufficiently establishes that this land is within the paragraph. Notwithstanding that the part of Westland Green north of the road has been recently enclosed, I see no reason for excluding it, because the evidence showed that the fence separating it from the Road was not intended to alter it in relation to the Parish Council and the public generally.

For the above reasons I refuse to confirm the VG 27 Land Section and Rights Section registrations. I confirm that CL 139 Land Section registration without any modification. I confirm the CL 139 Rights Section registration at Entry No. 2 (Ebury Lodge) with the modification that for all the words in column 4 there be substituted: "The right entitles the owner to graze two tethered or tended ponies over the part of the land in this Register Unit which is (1) south of and adjoining the public road (suitable for motor traffic) running between the entrance to Ebury Lodge on the south and the entrance to Sharpes on the north and continuing eastwards towards Hadham Ford, and (b) east or southeast of the line joining such entrances". I confirm the CL 139 Rights Section registration at Entry No. 3 (Hart's Field) with the modification that for all the words in column 4 there be substituted "The right entitles the owner to graze either (a) one tethered or tended horse and two tethered or tended ponies or (b) three tethered or tended ponies



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over the part of the land in this Register Unit which is (1) south of and adjoining the public road (suitable for motor traffic) running between the entrance to Ebury Lodge on the south and the entrance to Sharpes on the north and continuing eastwards towards Hadham Ford and (b) east or southeast of the line joining such entrances."

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 5th day of *January* 1982

a a. Baden Fuller

Commons Commissioner