COMMONS REGISTRATION ACT 1965

Reference No. 236/D/496-497

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In the Matter of Master Park, Oxted, Tandridge D

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 110 in the Register of Town or Village Greens maintained by the Surrey County Council and is occasioned by two Objections No. 668 by Surrey County Council and No. 135 by Mr D H John, noted in the Register respectively on 1 August 1972 and 24 July 1970.

I held a hearing for the purpose of inquiring into the dispute at Oxted on 24 June 1981. The hearing was attended by Miss E P Quigly, the applicant for registration: by Mr B E H Cotter, Solicitor, of Surrey County Council: and by Mr D H John.

Master Park ("the Unit land") is a large sized area of land on the western outskirts of Oxted. Objection No. 668 relates only to strips on its eastern and western boundaries which the County Council claims are highway: Mr John's Objection relates to the whole area and states that the Unit land is not and never has been a village green.

In 1923 the Unit land was conveyed by Mr C H Master to trustees as a public recreation ground for the inhabitants of Oxted for the purposes of the Recreation Grounds Act 1859. The Conveyance dated 16 March 1923 conferred powers on the Trustees as to laying out and building on the Unit land and otherwise, and for its use as a pleasure ground and place of recreation, and provided for its management and control by a Committee.

Mr John, the former Chairman of the Management Committee, said in evidence that the Unit land had been used for sports and pastimes since 1923 - it is let out at a rent for football and tennis and also used for circuses. The trust is registered as a charity with the Charity Commission.

Miss Quigly contended that the Unit land was properly registered as a village green under the 1965 Act as "land allotted by or under any Act for the exercise or recreation of the inhabitants of any locality" (Section 22(1)). I do not accept this. This part of the definition in Section 22 of town or village green is concerned chiefly with allotment under the Inclosure Acts (see New Windsor Corporation v Mellor 1975 Ch. 380 at p. 387), and the word 'allotted' is quite inappropriate to describe a conveyance by private owner; the fact that the land was conveyed for the purposes of the Recreation Grounds Act does not constitute an allotment under the Act. It was not suggested that the Unit land qualified as a village green under either of the other two limbs of the definition in Section 22 nor, in my opinion, could it so qualify: its user for sports and pastimes derived from the trusts and powers created by the former owner, not from a customary right or enjoyment by the inhabitants as of right.

For these reasons I think that Mr John's Objection succeeds. As regards the County Council's Objection, Mr Cotter said that he did not have evidence available as to the strips referred to in the Objection being highway; and that objection would not succeed. However, there is no need to consider the Objection separately as 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 13 July 1981

L J Morris Smith

Commons Commissioner