

In the Matter
of an Application to Register
Land Known as Belle Vue Playing Fields, Consett, County Durham
as a New Town or Village Green

FURTHER REPRESENTATIONS OF DURHAM COUNTY COUNCIL
AS OBJECTOR

Durham County Council
Corporate and Legal services,
County Hall,
Durham,
DH1 5UL

Ref Patricia Holding

71132/VRC/13/7/wp/S4/Belle Vue Further Representations

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Introduction

[1] These are the further representations of Durham County Council (DCC) as landowner addressed to Mr. Edwin Simpson, the non-statutory inspector, in response to the undated document entitled “Additional Response of the Applicant to the Inspector’s Third Report”.

[2] It is the submission of DCC that the further documents produced by the applicant provide additional support for the inference that the land acquired by the 1936 Conveyance was acquired pursuant to and for the purposes of PHA 1875 s. 164.

[3] It is important to examine the further documents against the background of LGA 1933 s. 158 (now LGA 1972 s 120(2)) which authorises a local authority to acquire land for statutory purposes for which the land is not immediately required.

Letter dated 22nd November 1935

[4] It appears from this letter that Consett UDC was, at that stage, contemplating a number of future uses of the land, including use as a recreation ground (para. 4) and for housing (para. 5). Although, as appears from the letter, the council was already tenant of 9.7 acres of the land as allotment land, the letter states that “the Council do not require this land immediately”. It is therefore clear that it was not envisaged that the land was being purchased for use as permanent allotments but rather for some other future uses or uses, including recreation and housing.

Ministry of Health Notes

[5] The note of 2nd December 1935 shows that the ministry was doubtful about the suitability of the land for housing.

[6] The note of 5th December 1935 suggests that the purchase might be structured in two alternative ways, one of which was the land should be purchased for one (unspecified) purpose and then part of the land subsequently appropriated to housing purposes. Since the

only other purpose mentioned in the letter of 22nd November 1935 was recreational purposes, it appears that the ministry were considering a scheme whereby the whole of the land would be purchased for recreational purposes and that subsequently part of the land would be appropriated to housing purposes. This scheme seems designed to deal with a situation where the land was acquired before it was finally decided whether, and if so which part of, the land was suitable for housing purposes.

[7] The note of 2nd January 1936 proposes a site visit “to see if the land is suitable for recreation purposes...also to ascertain for what other purposes apart from recreation and housing the land is required”. This supports the view that the unspecified purpose in the note of 5th December 1935 was the purpose of recreation. At this stage, the ministry did not appear to have in mind that the land, or any part of it, was being purchased for the purpose of being used as permanent allotments (although the ministry was aware from the letter of 22nd November 1935, that part of the land was in fact being used as allotments).

Letter dated 2nd January 1936

[8] The ministry letter dated 2nd January 1936 proposes an inspection on 8th January and asks the council to prepare a plan showing the proposed allocation of the land for various purposes. There is no mention of what those purposes might be.

Letter dated 12th February 1936

[9] It seems that the council had not replied to the letter of 2nd January 1936 when the ministry wrote a further letter to the council dated 12th February 1936. The proposed inspection had taken place and the inspector had reported. No doubt, he referred to the fact that part of the land was in use for allotments. He also seems to have reported that the land could not be used for housing until final settlement (presumably of restored land) had taken place. The minister proposed that the land should be purchased for the purpose of public walks and pleasure grounds (PWPG) and for allotments and asked for a plan identifying the land to be purchased for PWPG and the land to be purchased for allotments. The letter said that it would be necessary to consult the Ministry of Agriculture in relation to the latter land.

Letter dated 21st April 1936

[10] It seems that the council then provided a map which proposed that the land to be allocated to allotment purposes should be less than the land actually in use as allotments. The ministry letter dated 21st April 1936 reported that the Ministry of Agriculture was not satisfied with the amount of land proposed to be allocated as permanent allotments and asked the council to reconsider the amount of land to be allocated to recreation and the amount to be allocated to allotments.

Sanction dated 8th May 1936

[11] It appears from the Minute Sheet dated 16th December 1937 that the ministry gave the council sanction to purchase the land for recreation purposes on 8th May 1936 (i.e. the day before the 1936 Conveyance). This minute related to the 6 acre Dale Avenue housing site

which, as is clear from the 1921 and 1938 OS maps, constituted a substantial part of the land used for allotments together with a small part of the rest of the land which was not used for allotments. The only explanation which happily sits with this evidence is that, in view of the disagreement with the Ministry of Agriculture concerning the amount of land to be allocated to permanent allotments, the whole of the land was purchased for the purposes of PWPG on the basis that, if any part of the land was subsequently to be used for housing, allotments or any other purpose, it would be appropriated to that purpose. This builds on the suggestion in the note of 5th December 1935.

Conveyance dated 9th May 1936

[12] It therefore follows that the inference from all the surrounding circumstances is that the 1936 Conveyance was wholly effected for the purposes of PWPG.

Note of 21st December 1937

[13] This inference is strongly supported by the ministry note of 21st December 1937 which says that “this land was nominally acquired for PWPG. It was mainly chosen as such for convenience of purchase”.

Other evidence

[14] This explanation fits all the other evidence discussed in DCC’s Representations dated 9th October 2012. It also explains why there was an appropriation of the Dale Avenue housing land in 1936 but there is no evidence of any appropriation after the 1936 Conveyance of any of the 1936 land to the purposes of PWPG although land used as allotments at the time of the 1936 Conveyance (as appears from the 1921 OS map) has in fact been used as public open space for very many years.

Conclusion

[15] The further evidence strengthens the conclusion reached by the Inspector in his Third Report and he is invited to re-affirm those conclusions and his recommendation that the TVG application should be rejected.

Vivian Chapman QC
19th February 2013
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