

CO2/91/0164

TL 0012

MUD AND SHINGLE low water mark.

THE AREA SHOWN THIS TO BE INFILLED WITH SELECTED HARDCORE LAID ON TO EXISTING INFILL, MUD/SHINGLE AND SURFACED WITH HOGGIN/SHINGLE TO MATCH EXISTING HARD AREAS.

:G

NEW! Special NT SERVICES

13 FEB 1991

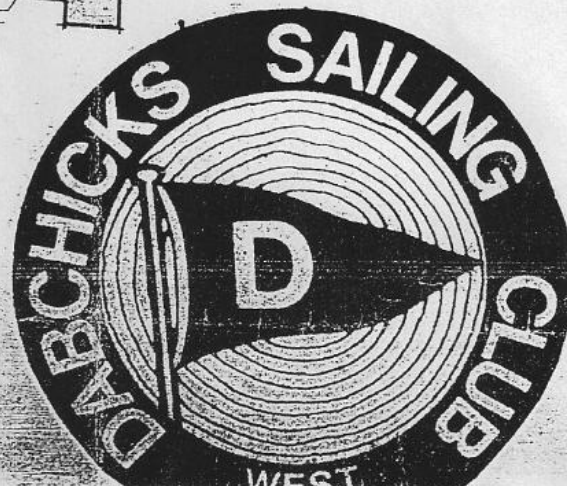
RECEIVED

COLCHESTER BOROUGH COUNCIL
REFUSED

Under the town & Country Planning
Acts.

Date of Refusal 08 APR 1991

DABCHICKS SAILING AWAY



ENSION TO EXISTING BOAT
RD AREA.
WEST MERSEA.
DATE: 02.91.



In the Matter of Stonehill Hard and Town Hard,
West Mersea, Essex

DECISION

This reference relates to the question of the ownership of land known as Stonehill Hard and Town Hard, West Mersea, being the land comprised in the Land Section of Register Unit No. VG 241 in the Register of Town or Village Greens maintained by the Essex County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Wm Wyatt Ltd and Dabchicks Sailing Club claimed to be the freehold owners of parts of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Colchester on 8 December 1983.

At the hearing the Colchester Borough Council was represented by Mr M J Ennals, Solicitor, Wm Wyatt Ltd by Mr S J Cutts, one of its directors, and Dabchicks Sailing Club by Mr T W Wood, its Vice-Commodore, and Mr B R Keene appeared in person. Mr Keene did not claim to be the owner of the land in question, but, living in a house opposite the land, he was concerned as to its future. I am however, grateful to him for producing a map containing more detail than the copy of the Register Map which accompanied the reference.

Most of the land originally comprised in the Register Unit has been excluded from it, leaving within it only a strip of land on the landward side of Stonehill Hard and a small area to the south of the Dabchicks Sailing Club's clubhouse.

The easternmost part of the strip of land on the landward side of Stonehill Hard, together with other land to the east, was conveyed to the Borough Council by a Conveyance made 23 December 1978 between (1) West Mersea Town Council (2) Colchester Borough Council. The Town Council had a good title to the major part of this land in a Conveyance made 7 May 1959 between (1) Cyril Stanley Page and Beryl Margaret Dimmock (2) The Urban District Council of West Mersea and to a very small part at its northern extremity in Conveyance made 10 May 1958 between (1) Munson George Cooke (2) Urban District Council of West Mersea.

On this evidence I am satisfied that the Colchester Borough Council is the owner of the easternmost part of the land adjoining Stonehill Hard, and I shall accordingly direct the Essex County Council, as registration authority, to register the Borough Council as the owner of that land under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the westernmost part of the land adjoining Stonehill Hard, and I shall accordingly direct the County Council to register the West Mersea Town Council as the owner of that part of the land adjoining Stonehill Hard under section 8(2) of the Act of 1965.



-2-

Turning to the remaining land still comprised in the Register Unit, namely, that to the south of the Dabchicks Sailing Club's clubhouse. I have had some difficulty with this part of the case in reconciling the various plans which have been produced - a difficulty which was shared by those who appeared before me. However, after a careful consideration of the evidence, I am satisfied that a small triangle of land in the north-east corner of this land was conveyed to the Trustees of the Sailing Club by a Conveyance made 9 July 1956 between (1) Thomas Peter Bromley Smith (2) Barclays Bank Ltd (3) Walter Bruce Rainbird, Leo Ferdinand Michael-Smith, Frederick George Unwin, and Edwin William Winfield.

Land to the south of that conveyed to the Trustees of the Sailing Club (I use this vague description advisedly) was conveyed to Wm Wyatt Ltd by a Conveyance made 1 July 1952 between (1) John William Wyatt (2) Wm Wyatt Ltd. This land is described in an indenture made 1 August 1914 between (1) Henry Geoffrey Elwes (2) Joseph Alloysius Kumer as bounded on the north by a sewer of the former West Mersea Rural District Council. This boundary is not now identifiable. However, Mr Cutts, who has been a director of Wm Wyatt Ltd for the last fourteen years, gave evidence that during the whole of that time his company had used the land up to the boundary of the Dabchicks Club property for the storage of articles connected with its trade of yacht and boat builders. About 1972 the Dabchicks Club put up a notice warning people off the northern part of the land, but Wm Wyatt Ltd contested this and no further action was taken. Nobody else has ever questioned the right of Wm Wyatt Ltd to occupy this part of the land.

On this evidence I am satisfied that the Trustees of the Dabchicks Sailing Club and Wm Wyatt Ltd are the owners of parts of the small area of land the subject of the reference to the South of the Sailing Club's clubhouse, and I shall accordingly direct the Essex County Council, as registration authority, to register the Trustees and Wm Wyatt Ltd as the owners of their respective parts of that land under Section 8(2) of the Act of 1965.

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

16th

day of

December

1983

Chief Commons Commissioner

Register of

TOWN OR VILLAGE GREENS

See Overleaf
for Notes

LAND SECTION—Sheet No. 1

No. and date of entry	<i>Description of the land, reference to the register map, registration particulars etc.</i>
1 20 th July 1970	The pieces of land called Stonehill Hard and Town Hard in the Urban District of West Mersea, Essex as marked with green verge lines inside the boundaries on sheet O1 SW/B of the register map and distinguished by the number of this register unit. Registered by the registration authority without application. (Registration provisional)
2 23 August 1979	The registration at entry No. 1, above, which was disputed, became final on 28 June 1979 with the following modification, namely, the exclusion of the land between high and low water marks of medium tides and shown edged in green colour on the plan attached to Objection No. 377

Register of TOWN OR VILLAGE GREENS

OWNERSHIP SECTION Sheet No. 1

Register unit No. **✓G241**
Edition No. 1

See Overleaf
for Notes

respect of land of which the freehold is registered under the Land Registration Acts 1925 and 1936, but the absence from this section of a registration in respect of any land described in the land section does not necessarily indicate that the freehold of that land is registered under those Acts.

1 No. and date of entry	2 No. and date of application	3 Name and Address of person registered as owner	4 Particulars of the land to which the registration applies
1 14 February 1984		Colchester Borough Council Registered pursuant to direction of the Commons Commissioner (reference 212/U/315 Section 8(2)).	That part of the register unit lying east of the line marked E - F shown on register sheet no. 01SW/B
2 12 February 1985		West Mersea Town Council Registered pursuant to direction of the Commons Commissioner (reference 212/U/315 Section 8(3)).	That part of the register unit lying west of the line marked E - F shown on register sheet no. 01SW/B
3 12 February 1985		Dennis Percy Howard of 22 Yorick Road, West Mersea; Walter Bruce Rainbird of 12 Kingsland Beach, West Mersea and Roy Robertson of 21 Ackhurst Court, Melrose Road, West Mersea. Registered pursuant to direction of the Commons Commissioner (reference 212/U/315 Section 8(2)).	That part of the register unit lying north-east of the line marked G - H shown on register sheet no. 01SW/B
4 12 February 1985		Wm. Wyatt Ltd whose registered office is Coast Road, West Mersea Registered pursuant to direction of the Commons	That part of the register unit lying south-west of the line marked G - H shown on register sheet no. 01SW/B