

13 January, 2023

Judgment summary:

Darwall and another -v- Dartmoor National Park Authority (Sir Julian Flaux C)

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: <https://www.judiciary.uk> and <https://www.nationalarchives.gov.uk>

The Claimants are owners of an estate in the Dartmoor Commons ("the Commons"), part of the Dartmoor National Park in Devon. They brought a claim for a declaration that section 10(1) of the Dartmoor Commons Act 1985 ("the 1985 Act"), which entitles the public to walk or ride a horse on the Commons, does not extend to a right to camp there overnight without the permission of the landowner. The Defendant, the Dartmoor National Park Authority, resisted the claim on three grounds: (i) properly construed, section 10(1) did grant such a right of camping; (ii) alternatively, there was a local custom of camping on the Commons that had the force of law despite section 10(1); and (iii) even if the first two grounds of defence failed, the court should nonetheless decline to exercise its discretion to grant the declaration sought.

Having considered the 1985 Act's language, context and legislative background, the Court preferred the Claimants' interpretation of section 10(1), on the ground that the provision had not changed the situation that obtained before the 1985 Act, which was that camping overnight on the Commons required the landowner's permission. In relation to the other issues, the court held that there was insufficient evidence to establish a local custom of camping which has the force of law despite section 10(1), and that there was no good reason not to exercise the discretion to grant declaratory relief on the interpretation of the provision.