

**Case Name:** *Blackbushe Airport Ltd v Hampshire County Council, R (On the Application of) & Ors* [2021] EWCA Civ 398 (18 March 2021)

**Full case:** [Click Here](#)

**Commentary:** An unsuccessful challenge to the High Court's decision that an airport's operational land did not fall within the curtilage of a building for the purposes of the Commons Act 2006.

The case concerned 115 acres of land which was registered with Hampshire County Council ("HCC") as common land. The Appellant, Blackbushe Airport limited, are owners of the airport and made an application to HCC for the land to be deregistered as common land. The matter was referred to the Secretary of State for determination in which a public inquiry was held and the Inspector subsequently allowed deregistration of the land.

The Inspector's decision was quashed by the Court at first instance and the question before the Court of Appeal was whether the operational part of an airport was "within the curtilage" of a two-storey terminal building, which serves as the airport's operational hub. The Court held that "curtilage" is to be given its ordinary and natural meaning and that "the curtilage of a building" requires the land in question to be part and parcel of the building to which it relates. The inspector had applied the wrong test in asking whether the land and building formed an integral part of the same unit when he should have instead considered whether the land was "part and parcel of the building". The Court considered there to be a common sense conclusion in that an extensive area of operational airfield cannot be described as falling within the curtilage of a relatively small terminal building and therefore the land should not have been deregistered.

For further discussion see [Simoncity](#).

*Case summary prepared by Lida Nguyen*