



COMMONS REGISTRATION ACT 1965

Reference No. 268/D/376-380

In the Matter of The Green,
Threshfield

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. 95 in the Register of Common Land maintained by the North Yorkshire County Council and is occasioned by Objections No. 1 and 367 made by Scottish and Newcastle Breweries and Leonard Bradley and noted in the Register on 10 June 1969 and 15 December 1970, the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. 87 in the Register of Town or Village Greens maintained by the Council, the registration at Entry No. 1 in the Land Section of the Register Unit No. 87 in the Register of Town or Village Greens occasioned by Objection No. 16 made by Scottish and Newcastle Breweries and noted on the Register on 10 June 1969 and the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. 95 in the Register of Common Land.

I held a hearing for the purpose of inquiring into the dispute at Skipton on 13 May 1981. The hearing was attended by Mrs J Clarke of Messrs J P Mewies and Co, Solicitors of Skipton appearing for Threshfield Parish Council and Mr J S Spencer of Messrs Sugden and Spencer appearing for Mr K S Slaymaker, who had acquired the interest of Scottish and Newcastle Breweries. Mr L Bradley had died in 1978 and his son Thomas who was his successor in title did not oppose the registration as a Village Green.

The register unit which when the matter came before me consisted of two small pieces of land together containing 0.18 of an acre. The Objections related to the larger of the two pieces.

Mrs Catherine Jane Harrison of Shallows, Threshfield a member of the Parish Council gave evidence for the applicant, the Parish Council, which had applied for both pieces to be registered as Common Land and as a Village Green.

She stated that the Tithe Plan showed one of the areas as unenclosed. The larger part was waste land. Sir Matthew Wilson was Lord of the Manor. The Sale Particulars and Map prepared for the Auction Sale on 31 May 1923 did not show either piece of land as part of any numbered lot. There was a further sale of the Old Hall in 1947. The larger piece was not included in the parcels of Lot 1.

She remembered children playing on the Green (the larger piece) and galas being held on it during the period 1965-75. She had never seen the Maypole, but she produced a photograph showing a Maypole on the Village Green.

claims

In cross-examination she said she did not remember any ~~claims~~ being attached to the posts which surrounded the Village Green. The play of the children on the Village Green was not organised. It was not big enough for organised



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games. Annual galas were held in the village on the triangle of land on which the word 'Stocks' appears on the Ordnance Survey Map. There was an overflow from there on to the village green. If Mr Metcalfe the publican of the Old Hall saw children playing on the village green, he would shout at them to go away. The waste land was so named on the Tithe Map.

Mr Anthony Latimer Dean of Doft House Farm, Threshfield said that he was born in 1915 and had lived in Threshfield all his life. In the period 1920-25 he had played on the green with other children and had often been told to leave by Walter Metcalfe. Metcalfe left in 1926 and no one else ever asked him to leave when he was playing on the village green. Metcalfe used to send for the village constable who would make ~~us~~ leave. *the children*

At one time Metcalfe put a post and chain link fence all the way round the green. Previously there had been posts but they were not linked. The overseers made Metcalfe remove the links.

In cross-examination the witness said that the triangular piece of land across the road from the green was called the Park and most functions took place on the Park. (This triangle of land has the word Stocks on it in the O.S. Map). Horses sometimes grazed on the green.

Miss Marjorie Harker of Malham Way, Threshfield the Clerk to the Parish Council said that in March 1924, there was an entry in the Council Minutes that Metcalfe claimed ownership of the green by Conveyance but the view of the Meeting was that it belonged to the Parish.

On 9 February 1977 the meeting noted that the green was diminishing in size and the parking of vehicles was eroding the surface. It was agreed that a letter be sent to Mr Slaymaker, drawing his attention to what was happening. Subsequently the letter had been put on display in the Old Hall. She had come to live in Threshfield in 1940 and ~~her~~ children had played on the green.

In cross-examination she said that at Village galas the stalls (ice-cream etc) were on the Park. There was no documentary evidence of any transfer of the green to the Parish Council Waste-Land was for the benefit of the parish. There were references in the Parish Council Minutes to verbal complaints about parking on the green. Her attention was drawn to the Particulars of Sale in 1947 in which the green is referred to as 'an attractive pull-in for cars'. Mr K S Slaymaker said that he lived at the Old Hall Inn which he had purchased on 10 January 1977. The Objections had been registered by the previous owners. His conveyance includes the green by reference to the 1947 Conveyance. He thought his purchase included the green.

Since 1977 no village function had taken place on the green. His own children played on the Park but not on the green. He had maintained the green.

In cross-examination he said that the letter from the Parish Council in February 1977 came as a surprise. He put stones round the edges of the green to stop drivers cutting corners. He sent no written reply but he consulted



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his Solicitor who told him the land was his. In displaying the letter he was trying to co-operate with the Council.

Mr Tom Procter of South View, Threshfield which is 50 yards from the Old Hall. He had lived at South View for 44 years and in the village for nearly 70 years. The only animals which grazed on the green were those drawing carts with goods for the Inn. Parents, including his own, used to send their children to play on the green. If he saw the children playing Metcalfe would order them off. After an incident there was no further playing on the green. There were no organised games. He could not remember seeing a Maypole on the green. Recently galas had been held in the Park. The landlord of the Old Hall had always maintained the green. He remembered the green having posts and chains round it and he recognised the posts on the photograph of the Particulars of Sale prepared in 1947. Car parking on the green had begun in about 1950.

In cross-examination he said that he had lived in Threshfield from 1911-1929 and from 1936 to the present time. From 1929-1936 he lived at Sky Thorn but during that period he continued to patronise the Old Hall. He saw the post and chains in 1926/7.

Mr Spencer submitted that the evidence did not establish that the land satisfied the requirements of S. 22 of the Commons Registration Act relating to Village Greens. The area was too small nor was it established that it was waste land of the manor. Mrs Clarke submitted that the land was a Village Green or that it was Common Land by being waste land of the Manor.

Of the two pieces of land comprised in the Register Unit the larger or crescent shaped piece is 170 ft long at its widest point and has a maximum depth of about 40 ft. The smaller and rectangular piece measures 70 ft by 20 ft. All the evidence related to the larger piece.

Although no witness had ever seen it, it was established to my satisfaction by a photograph and by the evidence of the O.S. Map that there had been a Maypole on this piece. There is authority/~~or~~ custom to erect a maypole and dance round it is a good custom. See *New Windsor Corporation v Mellor* (1975) Ch 380 per Lord Denning at pp. 386-7 and the cases of *Abbott v Weekley* (1666) 1 lev. 176, 177 and *Hall v Nottingham* (1875) 1 Ex D. 1, 2.

I am not satisfied on the evidence that either piece was common land and it was not suggested that the smaller piece was a village green.

In my view Mr Slaymaker has failed to establish either a proper title or a possessory title to the larger piece of land.

For these reasons I confirm the registration in the Land Section of Register Unit No. 87 in the Register of Town or Village Greens but only in relation to the larger piece of land and I do not confirm the Registration in the Ownership Section nor do I confirm the registration in the Land Section of the Register of Common Land.



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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

23rd

1981

June

A handwritten signature in cursive script that reads "Tony Herbert".

Commons Commissioner