



COMMONS REGISTRATION ACT 1965

Reference No. 268/D/322

In the Matter of Village Green,
Thornton-in-Craven

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 55 in the Register of Town or Village Greens maintained by the North Yorkshire County Council and is occasioned by Objection No. 74 made by Mr J R Bearpark and noted in the Register on 25 August 1970.

I held a hearing for the purpose of inquiring into the dispute at Skipton on 9 October 1980. The hearing was attended by Mr R P Watkins, Solicitor, appearing on behalf of Mr Bearpark and by Mr P Crangle, Solicitor, appearing on behalf of Thornton-in-Craven Parish Council, on whose application the registration was made.

The land comprised in this Register Unit ("the Unit land") is of some 0.26 acres which adjoins on the southeast the Colne-Skipton road: the middle section, as shown on the plan attached to the Objection, ("the disputed part") is bounded on the northwest by a property known as Beech House, from which it slopes down to the road. Mr Bearpark is provisionally registered as owner of the disputed part. The Objection to registration as village green is on the ground that the disputed part was not part of the village green at the date of registration. The disputed part is a grassed area - on the south eastern corner (divided from the remainder by a drive leading up to Beech House) - is a large chestnut tree, with a low retaining wall on the road side of the tree.

Mr Watkins produced an examined abstract of title to Beech House, culminating in a Conveyance of 11 September 1968 to Mr Bearpark. That Conveyance does include "the estate right title and interest (if any) of the Vendor" - a Mr J F Millard - in the disputed part. These are obviously grounds for Mr Bearpark's claim to ownership but in these proceedings I am not concerned to determine its ownership: the question is whether it qualified for registration as village green. The definition of 'village green' in Section 22(1) of the Commons Registration Act 1925 has three limbs:- (1) land allotted by or under an Act of Parliament for exercise or recreation of the inhabitants of any locality (2) land on which the inhabitants of any locality have a customary right to indulge in lawful sports or pastimes (3) land on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than 20 years (ie. the 20 years immediately prior to the passing of the 1965 Act: see *New Windsor Corporation v Mellor* 1975 Ch. 380).

Mr G Jackson the Chairman of the Parish Council gave evidence. He has lived in the village for 15 years: he said that the villagers regarded the unit land including the disputed part as village green. There was a carol service



held on the disputed part every year - this was a church activity; and there were Jubilee celebrations in 1975, not on the disputed part but on the area to the west where there are the stocks.

Statutory Declarations by Margaret Mason and Ellen Mason were furnished. Margaret Mason who is 75 and lived in the village until she was about 30 and afterwards from 1953 onwards stated that the disputed area and an adjoining area had always been recognised as the village green and when she attended Thornton Old School up to the age of 13 (ie about 1918), the areas were used by the children for sports and pastimes and that for many years the village held an annual feast on the village green. Ellen Mason is 88 years of age and has lived in the village all her life; the facts stated in her Declaration were to the same effect. Again she recalled that during her attendance at the School the lands were used by the children for sports and pastimes and said that the chestnut tree was planted in 1897 in commemoration of the Queen's Diamond Jubilee on which occasion a parish tea was held on the green.

Mr Bearpark in his evidence said that he had maintained the disputed part and had rebuilt the wall round the chestnut tree when it needed repair. No organised events had taken place on it in his time except that the village band came and played on it, and that the carol singers sang there in front of his house and from there went on to other houses.

On the evidence it has not, in my opinion, been established that the disputed part qualified for registration as village green, having regard to the definition of that term in the 1965 Act. There was no suggestion of any allotment by Act of Parliament, nor was the evidence sufficient to show a customary right to indulge in sports or pastimes, or the carrying on of such sports and pastimes in the 20 year period up to 1965. There have been no doubt occasional activities such as the band playing and the singing of carols but these can hardly be described as sports or pastimes, and the evidence as to user by the children related only to years at the turn of the century and before 1918.

In the result the Objection succeeds and I confirm the registration with the exclusion of the disputed part from the Unit land.

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

5 November

1980

L. J. Morris Smith

Commons Commissioner