



COMMONS REGISTRATION ACT 1965

Reference Nos 226/D/11  
226/D/12

In the Matter of (1) The Green  
and (2) The War Memorial Land at  
Barton Seagrave, Kettering Borough,  
Northamptonshire

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DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section of Register Unit Nos VG. 164 and VG. 165 in the Register of Town or Village Greens maintained by the Northamptonshire County Council and are occasioned by Objection Nos 113 and 114 made by The Trustees of the Wicksteed Village Trust and noted in the Register on 8 August 1972.

I held a hearing for the purpose of inquiring into the disputes at Northampton on 5 July 1977. At the hearing (1) the Trustees of the Wicksteed Village Trust (namely Mr John Brandon Jones chairman, Mr Peter Thomas Matthew Wilson vice-chairman, Mr John Richard Loak, The Rev Canon George Frederick Turner, Mr Howard Brian Smith, Mr Robert James Wicksteed, Mrs Jean Emilia Hilda Joynson and Mr Leslie Michael MacDonald Saunders Watson) were represented by Mr P. J. Wilson solicitor of Wilson and Wilson Solicitors of Kettering, and (2) Kettering Borough Council were represented by Mr J. W. Stirling their senior legal assistant. The Parochial Church Council of St Botolph's Church, Barton Seagrave, on whose application the registrations were made, were not represented.

The grounds of Objection (the same in both cases) are (stating their effect shortly) that the lands are not within any of the three parts of the definition of a town or village green in section 22 of the 1965 Act and that if any sports and pastimes have been carried on, it has been occasionally and not continuously during the prescribed period and have not been indulged in by the inhabitants of any particular locality but by the general public and such as have been indulged in have been with the licence of the Objectors.

The VG. 164 land is unenclosed grass land with some trees, being the greater part of an area which is surrounded on all sides by public roads suitable for motor traffic, and which is (as I scale the Register map) a little less than 100 yards long and about 50 yards wide; the remainder of the area is a dwelling house(s) and enclosed land about 20 yards by 15 yards.

The VG. 165 land ("the War Memorial Land") is much smaller than the VG. 164 land and is situated between it and the Church of St Botolph. It too is unenclosed grassland, and on it stands the Village War Memorial.



Mr Wilson produced: (1) a plan of the Wicksteed Park on which was marked the boundary of the Trust property and the proposals to be included in the Kettering Town map as affecting the Trust property and land adjoining; (2) a copy conveyance dated 28 October 1925 by which Rt Hon G A V Viscount Hood with the concurrence of trustees conveyed to Mr V N Ward five cottages and Blacksmiths Shop "on the west side of the Village Green...delineated on the plan drawn hereon"; and (3) a copy of a conveyance dated 26 May 1960 by which the Wicksteed Village Trust Trustees conveyed to the Mayor Aldermen and Burgesses of the Borough of Kettering ("the Council") a strip of land which is on the west side of the VG. 164 land and along which there now runs the road carrying the motor traffic from the south to the A6 road (a short distance to the north) bypassing the Church, the Rectory and the houses and other buildings fronting on the roads on the other sides of the VG. 164 land.

Mr Stirling in the course of his evidence said (in effect):- The New Road Strip was acquired by the Council to enable the St Botolph's Road to be realigned. Before the 1960 conveyance the VG. 164 land and the New Road Strip were enclosed as part of other Trust land on the west. After the completion of the transaction, there were discussions between the Council and the Trustees with regard to the VG. 164 land, following which the Council removed the fences, and laid out and seeded the land, but without any intention of creating a "Village Green" but simply to improve the overall amenity of the area. He had old plans in his possession which showed a row of cottages across the New Road Strip and the VG. 164 land.

Mr D Nightingale who is the Rights of Way Officer of the Northamptonshire County Council and who was representing them as registration authority, produced OS maps of 1926 and 1934 which showed nearly all of the VG. 164 land and of the New Road Strip as part of Castle Field (the land to the west) and showed the land at or near the south end of the VG. 164 land and of the New Road Strip as built on.

Two days after the hearing I inspected the lands.

From the maps produced by Mr Nightingale, and the plan attached to the 1925 conveyance, it seems that before the 1960 road improvement there was  
 → by the corner where the road from the south turns eastwards towards the Church, → then an open space surrounded on all sides by buildings (including the Smithy), and that this open space was what in the 1925 conveyance is called "The Green". Whether this open space could, but for the 1960 road improvement, have been registered under the 1965 Act as a town or village green is not a question which I need consider, because all this open space (except possibly a small and negligible area) is south of and outside of the VG. 164 land. For all practical purposes this open space, so far as it could possibly be regarded in any sense as a green, disappeared as a result of the road improvement.

The information and evidence given to me by or on behalf of the Trustees and the Council in my opinion establishes a prima facie case against the VG. 164 land being within the 1965 Act definition of a town or village green. Because nobody at the hearing supported the registration, it was I think unnecessary for the Trustees to produce any more detailed information or evidence. I conclude that the Objection as regards the VG. 164 land succeeds.



DGN/4                      1974                      OS map (reconstructed from former County Series and revised) 1/2500: plan TN 0278-0379

DGN/5                      13 June 1929                      Map prepared for Thrapston Rural District Council to show highways which would afterward be maintained by the County Council as highway authority

Dated this 26<sup>th</sup> — day of June — 1979

a. a. Baden Fuller

Commons Commissioner