



In the Matter of Woodborough Green,
Winscombe, Avon.

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. VG 82 in the Register of Town or Village Greens maintained by the Avon County Council and is occasioned by Objection No. 0/784 made by Courage Ltd and noted in the Register on 27 October 1971.

I held a hearing for the purpose of inquiring into the dispute at Bath on 21 July 1981. The hearing was attended by Mr F J Higgins, the Clerk of the Winscombe Parish Council, the applicant for the registration, and Mr A Whitefield, solicitor, on behalf of the Objector.

The Commissioners appointed under the Shipham and Winscombe Inclosure Act of 1797 (37 Geo. III, c.95 (private)) were authorised and required to divide, set out, allot and inclose the commons and waste lands in the parishes of Shipham and Winscombe with the exception of such part of the common or piece of waste land called "Woodborough Green" as lay on the east side of the highway leading from Sydcot Lane to Sandford, which was intended to be left open for the purpose of holding an annual fair as had been theretofore usually held. It is recited in the Act that the Dean and Chapter of Wells were the owners of the soil of the commons and wastes, so the excepted land remained in their ownership. According to Collinson's History of Somerset (1791), iii.613, the fair was held on the Monday before Whitsuntide. On a map attached to the Commissioners' award, made in 1799, the word "Woodborough" appears on the west side of the highway and the word "Green" appears on the east side of the highway. However, no boundary of the land on the east side of the highway is shown on the map, and all that can be said is that the word "Green" is more or less in the vicinity of the land comprised in the Register Unit.

The earliest document in which the land comprised in the Register Unit can be identified is the Tithe Apportionment map, on which the northern part is in No. 571 and the southern part is No. 572. In an indenture made 1 July 1869 between (1) The Ecclesiastical Commissioners for England (2) George Lock Squire Wilkins and John Wilkins No. 571 is described as "Woodborough Inn" and No. 572 is described as "Yards", both being then held under a lease dated 6 November 1841 granted by the Dean and Chapter of Wells to one Edmund Young.

The position is clarified by the plan on an indenture made 7 May 1884 between (1) G L S Wilkins (2) J Wilkins (3) Thomas Castle and Joseph Rogers, where the inn, by that time known as the Railway Hotel, is shown on No. 571 with an open space in front of it divided from the road by a firm line and No. 572 contained a building with an open space in front of it divided from the road by a dotted line, the two open spaces having a firm line between them.

The position is further clarified by a plan drawn in 1921 in connection with a proposal by the owners of the land to the south of No. 572 (Tithe No. 576) to construct a building with windows looking onto No. 572. On this plan the open space in front of No. 571 is described as "Garden" and is shown as bounded by a wall or fence, and the open space in front of No. 572 is described as "Pull up" and is shown as open to the road.



Mr Higgins agreed that the open space in front of No. 571 should not have been included in the Register Unit, so it only remains to consider the open space in front of No. 572, which is hereafter referred to simply as "the land".

Although the situation of the word "Green" on the 1799 map and the ownership of the land by the Dean and Chapter of Wells in 1841 are consistent with the land being that on which an annual fair had been held, there is no definite identification of it as the site of the fair until a letter dated 4 March 1924 in which Mr W H Shiner informed Mr A Brown of Mendip House, Winscombe that he had restarted Woodborough Fair 30 years previously and held his auctions on the land. Mr Shiner said that he had sold there on 13 May 1918, 2 June 1919, and 17 May 1920, these being the Mondays before Whit Monday. This was borne out by the evidence of Mr W H Hares, who was born near the hotel in 1913 and remembered the fair being held on the land when he was a boy.

The fact that Woodborough Fair was held on the land does not bring the land within the definition of "town or village green" in s.22(1) of the Commons Registration Act 1965, but the identification of the land as the site of the fair shows that in 1797 it was part of the common or piece of waste land called "Woodborough Green". The name by which it was known is some, though not very strong evidence that the inhabitants of the locality indulged in lawful sports and pastimes on it. The earliest firm evidence of such use of the land is that of Mr Hares, who played football on the land during the years when he was aged between 10 and 20. This was unorganised football played by the boys of the village. In 1937 Mr Brown, to whom Mr Shiner wrote in 1924, wrote to Mr F Burdge at the Axbridge Rural District Council office, saying that he had been born in Mendip House and that children had played on the land and that his father had told him that "the young men" had played fives and other games there.

On this evidence, I find that the inhabitants of the locality have played games on the land from time beyond the memory of man and have thereby acquired a customary right to do so. This brings the land within the second limb of the definition of "town or village green" in the Act of 1965.

For these reasons I confirm the registration with the following modification namely, the exclusion of the land included in Tithe No. 571.

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 this

30th

day of

July

1981

Chief Commons Commissioner