



COMMONS REGISTRATION ACT 1965

Reference Nos 226/D/9
226/D/10

In the Matter of (1) The Green in Astrop
Gardens and (2) The Green in Orchard Way,
both in Kings Sutton, South Northamptonshire
District, Northamptonshire

DECISION

These disputes relate to the registrations at Entry No 1 in the Land Section of Register Unit Nos VG. 144 and VG. 145 in the Register of Town or Village Greens maintained by the Northamptonshire County Council and are occasioned by Objection Nos 49 and 50 made by Brackley Rural District Council and noted in the Register on 2 April 1971.

I held a hearing for the purpose of inquiring into the disputes at Northampton on 7 July 1977. At the hearing Northamptonshire County Council as registration authority were represented by Mr P D Coleman solicitor with the Council.

The registration was made on the application of Kings Sutton Parish Council. The grounds of Objection (the same in both cases) are: "(1) That the land has not been allotted by or under any Act for the exercise or recreation of the inhabitants of the locality; it is not land on which the inhabitants of the locality have a customary right to indulge in sports or pastimes; and it is not land on which the inhabitants of the locality have indulged in such sports or pastimes as of right for not less than twenty years. (2) The land was acquired by the Brackley Rural District Council under the provisions of the Housing Acts, and still may be required for purposes ancillary thereto."

Neither the Parish Council as applicant for the registration nor the District Council as successor in title of the Objector, was represented at the hearing; Mr Coleman said that Mr D G Nightingale could give information about the lands which might be helpful. Mr Nightingale, who is the County Council Rights of Way Officer, said (in effect):- Both these lands (the VG. 144 and the VG. 145 lands) are part of, and within, an area which was developed for housing by the Rural District Council in 1951 and in 1966 (in two sections). On all sides of the VG. 145 land are public (adopted) roads. On all sides of the VG. 144 land (it is smaller than the VG. 145 land) is a public footpath (not adopted). The Council houses front on both the lands (the road and footpath being in between). According to the OS maps of 1922 and 1844, the area so developed was formerly allotment gardens (plots for growing vegetables), and before then undescribed land (apparently part of fields adjoining the Village used agriculturally).

On the day after the hearing I inspected the lands. Superficially the VG. 144 land and the VG. 145 land are very like many town or village greens, which are picturesquely surrounded by some of the oldest houses in the village, which have been, or are reputed to have been used for recreational purposes from time immemorial, and which are therefore within the definition of a town or village green in section 22 of the 1965 Act and accordingly properly registrable under section 4. However closer examination shows that the houses around these



lands are all new. The 1965 Act (stating its effect shortly and possibly with some loss of accuracy) provides for the registration of lands which are historically town or village greens, not of land which owing to modern developments resemble them. From the appearance of the land, and the evidence of Mr Nightingale, I conclude that paragraph 1 of the grounds of Objection have been established and that the lands are not within the section 22 definition, and therefore should not have been registered.

For the above reasons I refuse to confirm the registrations.

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 2nd day of *August* _____ 1977

a. a. *Baden Fuller*

Commons Commissioner