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COMMONS REGISTRATION ACT 1965

Reference No. 27/D/44

In the Matter of Land at Benthall, Beadnell, Berwick-upon-Tweed D., Northumberland

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG. 56 in the Register of Town or Village Greens maintained by the Northumberland County Council and is occasioned by Objection No. 80 made by Mrs. N.G.S. Wanless and noted in the Register on 2 August 1972. I held a hearing for the purpose of inquiring into the dispute at Berwick-upon-Tweed on 9 July 1974. At the hearing, Beadnell Harbour Fishermans Society Limited were represented by Mr. E. Chester solicitor of Adam Douglas & Son, Solicitors of Alwrick and Mrs. N.G.S. Wanless attended in person.

The Land ("the Unit Land") comprised in this Register Unit is a triangular piece of grassland (with some tracks and paths over it) containing (as I estimate from the Register map) about  $\frac{3}{8}$  of an acre and bounded on the north east by the road from Sea Houses to Beadnell Harbour (the beach is on the other side of the road), on the south by the garden walls of some cottages and open land in front of Benthall Farm House (possibly not including a footpath which runs by the walls), and on the north-west by a track which separates the Unit Land from the Farm steading. At the north part of the Unit Land are two winches, now being used for hauling up boats from the beach onto the Unit Land for painting and repair.

The registration was made pursuant to an application dated 27 June 1968 and made by Beadnell Parish Council. In the Ownership Section, Beadnell Harbour Fishermans Society Limited ("the Society") are (under an application dated 24 December 1969) registered as owners of the part of the Unit Land, north of the line AB and west of the line BC on the Register map (that is the north part, being about a quarter of the whole). The grounds stated in the Objection (it is dated 18 July 1972) are: "(a) That part of the land shown edged red on the plan attached hereto was not Town or Village Green at the date of registration. (b) The registration so far as the land shown edged red on the plan attached, is concerned, has no legal justification". The attached plan shows a rectangular piece of land having a frontage of 40 feet to the road, a depth of 68 feet and an area of 302 Square yards.

Mrs Wanless in the course of her evidence produced: (i) an abstract dated 1934 of the title of T.W. Craster to property at Beadnell; (ii) a conveyance dated 2 March 1935 by which Mr. T.W. Craster with the concurrence of his trustees, conveyed two pieces of land to Mrs. Wanless (then and therein called Miss N.G.S. Bird); and (iii) an agreement dated 21 April 1934 (endorsed with another agreement dated 28 August 1934) apparently being that pursuant to which the 1935 conveyance was made.

Mrs. Wanless said (in effect):- When she first knew the Unit Land in 1927, it was just a green triangle of grass with a track across it leading to the farm buildings and with two winches on the north corner used by fishermen to haul



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up boats. She arranged for a caravan to be put there and for it paid rent to the farmer, Mr. Kennedy. In 1935, to get security of tenure, she bought the site ("the Objection land") being the land shown edged red on the Objection plan and being one of the pieces conveyed to her by the 1935 conveyance and delineated on the plan annexed to it. The caravan was a permanent caravan (not just a trailer). In about 1961, she and her husband ceased to live there, having got a house elsewhere, but continued to use the caravan as a changing room near the sea for the children. The caravan got into a bad state: the Rural District Council complained and in November 1973 at her expense removed it. The Objection land in 1935 was never fenced around. There was never any other caravan on the Unit Land. While the caravan was there she paid rates on the Objection land. The children from the farm and the nearby cottages played on the Unit Land, but apart from this, she had never seen the Unit Land used for recreational purposes: farm implements and farm vehicles were left on the Unit Land from time to time: but otherwise (except for painting and repairing boats) the Unit Land was not used at all.

Evidence was also given by Mr. J. Barrow who is and has been for the last 10 years secretary of the Society, has lived since 1963 at Sea Houses about 2½ miles away and knows the Unit Land well. He said (in effect):- He had seen Mrs. Wanless's caravan on the Unit Land and had seen boats being hauled up by the winches and being repaired and painted. Except by children living nearby, games had never been played there. The Unit Land was not big enough to be a village green as ordinarily understood. He produced a conveyance dated 31 July 1951 by which (then Mr. J.M.) Craster conveyed to the Society the part of the Unit Land of which the Society is now <sup>the</sup> registered owner.

Sir  
John

The 1934 abstract shows a title in Mr. T.W. Craster regularly deduced from a general devise contained in the will dated 4 May 1876 of Mr. J. Craster (he died 13 March 1895), and included an abstract of a vesting deed dated 11 January 1928 comprising lands containing more than 100 acres in Beadnell as delineated on the plan annexed thereto. The lands so delineated included the Unit Land, the adjoining farm and cottage, Beadnell Harbour and much surrounding land extending down to the sea. There is nothing in the 1934 abstract, the 1934 agreement or in the 1935 conveyance suggesting that inhabitants of the locality have any recreational or other rights over it.

There was some discussion as to the relative boundaries of the lands expressed to be conveyed by the 1935 conveyance and by the 1951 conveyance: it appears that Mr. J.M. Craster is a successor in title of Mr. T.M. Craster. I am not, I think, in these proceedings concerned to determine any ownership dispute which has arisen or might arise between Mrs. Wanless and the Society. The lands are, I think, more or less side by side; any overlap or gap between them has, I think, no significance in these proceedings.

The only evidence I have in support of the Unit Land being within the definition in Section 22 of the 1965 Act is the statutory declaration made on 25 June 1968 by Mr. M.W. Clements (the then clerk of the Parish Council) in support of the application for registration. The contrary evidence given by Mrs. Wanless and Mr.



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Barrow as outlined above in my view establishes that, at least as regards the Objection Land, the registration should not have been made and I conclude therefore that I ought not to confirm the registration as regards the Objection Land.

There was some discussion at the hearing as to whether I ought to refuse to confirm the registration of the remainder of the Unit Land. If the Objection Land is removed from the Register the remainder will be oddly shaped; much of the evidence given by Mrs. Wanless and Mr. Barrow, casts doubt on the propriety of the registration. But against this, the Society when registering their ownership of the land comprised in the 1951 conveyance, apparently accepted the registration of such land as a village green; the circumstance that such land was conveyed separately from the Objection Land, is consistent with it, having under the 1965 Act a different status. Further the grounds of objection clearly indicate that Mrs. Wanless was concerned only to obtain the removal of her land from the Register, and the non-attendance at the hearing of the Parish Council may have been on this basis. Mrs. Wanless thought that the part of the Unit land south of the Objection Land had been sold or let by the Crasters, but she had no precise information. It may be that the registration of the remainder under the 1965 Act may serve some useful public purpose. But for the Objection such registration would have become final.

Balancing these conflicting considerations as best I can, I conclude that I should not treat the hearing before me as raising any questions beyond those distinctly set out in the grounds stated in the Objection.

For the above reasons, I confirm that the registration with the modification that the Objection land be removed from the register. I shall in the notice given by me pursuant to Section 6 (2) of the 1965 Act define the Objection Land as meaning the land delineated on the plan annexed thereto and thereon marked as having an "AREA 502 SQ. YARDS"; the plan which I shall so annex will be a copy of that annexed to the 1935 conveyance.

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

17<sup>th</sup>

day of

July

1974

a. a. Baden Fuller

COMMONS COMMISSIONER