



children may run across it, hardly any play there. It is wet land, although there is a common drain at the bottom (ie near the south side).

There was some discussion as to the possibility of a Unit Land being exchanged for something more recreationally convenient in the course of which Mr Barker put the value of the Unit Land (I suppose at a rough guess) at about £1,200 and indicated that any land more suitable for regular recreational use would cost much more. I understood that the real difficulty is: the population of the Village is now so small that there is never likely to be enough recreational demand to obtain the money (even if the value of the Unit Land be included) to buy and keep in order other land.

By Section 22 of the 1965 Act a town or village green is defined as including land "which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality". Under the 1859 Award the Unit Land was so allotted.

By Section 27 of the Commons Act 1876 land so allotted may be exchanged for other land and by Section 18 of the Commons Act 1899 the Charity Commissioners may exercise their ordinary jurisdiction over it (so that they could either authorise a sale or exchange or authorise some other use). It is not clear under the 1965 Act whether land which "has been" so "allotted" will for ever be within the definition, notwithstanding that by reason of some such exchange or some such sale it has altogether ceased to be available for recreational use. However this may be, I have no evidence that any action in relation to the Unit Land has ever been taken under the said sections or otherwise such as to render the 1859 allotment trust inapplicable to it. The circumstance that the land has been inclosed is not inconsistent with the trust, because the allotment contemplates that it shall be fenced at the expense of the Churchwardens and Overseers or their successors. The letting of the land since 1854 is also not inconsistent with the trust because Section 27 of the 1876 Act contemplates such a letting. There was no evidence (as suggested in the grounds of Objection) that the land had been let before 1954, although it is not unlikely; any such letting would be no more decisive than the after 1954 letting.

Upon the considerations set out above I conclude that the registration was properly made, and I accordingly confirm it without any modification.

As to costs:- In my view neither Mr Bourne nor the Parish Meeting are at risk as to costs merely by making the Objection; at that time (1970) the 1965 Act and the regulations made under it were little understood. The Unit Land was not (and indeed never has been) a village green within the ordinary meaning of these words although it now comes within the 1965 Act definition. Mr Bourne in a letter dated 29 March 1971 written in reply to the letter from the Society said that the Unit Land "has been used as agricultural land ever since it was enclosed on 10 January 1859 and will continue to be used as such. It never has been in any sense whatever a village green"; and after failing to reply to letters dated 6 April 1971 and 29 June 1973 said in a letter dated 10 July 1974 (in reply to a further letter from the Society): "This small parcel of land is still in the ownership of Haughton Parish Meeting and is controlled by the Parish Meeting, although let to an agricultural tenant". The reference of this dispute by the County Council to the Commons Commissioners is dated 11 January 1978. Neither in the said bundle of correspondence nor subsequently was there any suggestion that the Society might seek to make Mr Bourne or anyone else liable for costs although they did in a letter dated 30 May 1979 ask Mr Bourne whether the Parish Meeting wishes to maintain its objection.



In the Matter of the recreation
allotment Haughton Moss,
Haughton, Crewe and Nantwich
District, Cheshire

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. VG 24 in the Register of Town or Village Greens maintained by the Cheshire County Council and is occasioned by Objection No. 18 made by Mr Harry Bourne as clerk to Haughton Parish Meeting and noted in the Register on 23 December 1970.

I held a hearing for the purpose of inquiring into the dispute at Chester on 4 June 1980. At the hearing The Commons, Open Spaces and Footpaths Preservation Society on whose application the registration was made, were represented by Mr D MacKay of their national office at Henley-on-Thames, their deputy secretary; and there were present in person Mrs L Stanley who in March 1980 took over from Mr Bourne as clerk of the Haughton Parish Meeting, and Mr W W Barker who is now and has been since about 1976 the chairman of the Parish Meeting.

The land ("the Unit Land") in this Register Unit according to the register map is approximately triangular having sides of about 200, 180 and 75 yards. The grounds of Objection are:- "This land is totally enclosed and has been let as agricultural land since 1349".

Miss Y Jones of the County Architect's Department who was present as representing the Cheshire County Council as registration authority, produced from the County Archives a copy there held of an original in the Public Record Office, of the Haughton Inclosure Award made on 10 January 1859 and approved by the Inclosure Commissioners on 3 February 1859. By it there was allotted to the Churchwardens and Overseers of the Poor of the Township of Haughton a parcel of land containing two acres "to be held by them and their successors in trust as a place for exercise and recreation for the Inhabitants of the township of Haughton and neighbourhood and I direct that the fences on the North East Side and North West end of such allotment shall be made and from time to time repaired and maintained by and at the expense of the Churchwardens and Overseers for the time being of the said Township". It was not disputed that the Unit Land is the same as the parcel so allotted.

Mr MacKay who had no personal knowledge of the Unit Land, in the course of his oral evidence produced the below mentioned bundle of correspondence in support of his Society's claim for costs.

Mr Barker who has lived in the parish since 1924 (coming backwards and forwards not continuously though his wife has done so) said (in effect):- The Unit Land has always been recreational. But it was for this purpose used so little that it got in a very bad state, grass overgrown. So at the 1954 Parish Meeting it was decided to let it off for grazing a herd of cows on a yearly basis (not a permanent basis or for grazing horses who might damage it). The small rent (at first £6 later raised to £10 an acre, has been used to keep fences in repair; these fences are now good. There is no reason why the Unit Land should not again be used as a village green if the Parish Meeting so wished. He remembered cricket being played there in 1926 or 1927. Although



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WI/15	1980	Pages 133 from that part of Chapter 7 of Urbanised Villages headed Willaston from The Wirral by Alan Brack (printed octavo, B T Batsford, 208 pages).
WI/15 bis WI/16	22 April 1936	Two photographs (8" x 6") showing Pony Club meeting at a divine service on the Green.
WI/16	28 May 1968	Letter from County Archivist to Mrs Atfield (Clerk of Parish Council time of application for registration, 1 August 1968). Mr Hodgson objected to this letter being read.
EPB/1, No. 5	8 April 1931 to 3 March 1933	Extracts from minutes of Willaston Parish Council.
EPB/1, Nos. 6 & 8	—	OS map and enlarged OS map showing area registered, land originally school and car parking outside the land registered.
Referred to by Mr Hodgson .	February 1968	Association of Municipal Corporation: collection of opinions. Volume 20 No. 1, see particularly page 38.

Dated this 1st — day of July — 1982

A. A. Bacon-Jones

Commons Commissioner



EPB/1, No. 3a

22 August 1930

Order by Cheshire County Council investing Willaston Parish Council with the powers conferred on the County by the Open Spaces Act 1906 to undertake the care management and control of certain land in Willaston.

WI/9 (copy in EPB/1, No. 4)

22 February 1932

Conveyance by Vicar and Churchwardens to Willaston Parish Council for £200 of site of school and buildings containing about 240 square yards with a covenant not to be used otherwise than for an Open Space under the Open Spaces Act 1906.

WI/10

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Description of Village Green and of Maypole Festival (being page 53 of the said Scrap Book WI/5).

WI/11

1955

History of Willaston CE School being two pages of Christchurch, Willaston in Wirral Centenary (1855-1955), printed quarto (6 sheets bound as 12 unnumbered 2 sided pages).

WI/12

1945

Page 11 of All About Willaston (printed pamphlet 7" x 4½", 36 pages published by British Legion) relating to copper beech tree planted to commemorate Jubilee of King George V.

WI/13

24 November 1952
10 April 1953
28 April 1953
2 June 1953
25 September 1953

Minutes of meeting of Coronation Committee (foolscap book 24 pages of minute) starting and ending with meetings held 24 November 1952 and 15 September 1953.

WI/14

31 May -
2 June 1953

Programme of Coronation Celebrations.

WI/14

2 February 1971
(approved by S of S
1 July 1971)

Byelaws made by Neston UDC under Sections 12 and 15 of Open Spaces Act 1906 and Section 164 of the Public Health Act 1975.



SCHEDULE
(Documents produced)

EPB/1, No. 1	1774	Copy of Estate map.
WI/1	31.1.82	Letter from Mrs K M Greenwood authorising Mr R James to present case of the Willaston in Wirral Womens' Institute.
WI/2 (also extract from this map is EPB/1, No. 2)	1848	Copy, map of the township of Willaston in the parish of Neston; formerly annexed to Tithe Apportionment but in September 1964 separated for better preservation; from Cheshire Record Office. Also copy of said map.
WI/3	June 1970	Cheshire Life: vol. xxxvi; no. 6: photograph at page 54 of the Green (illustrating "Wake up, Willaston" by Alan Brack).
WI/4 (EPB/1 page 3)	March 1972	Extract from Stage 2 of Report of Cheshire County Council Planning Department.
WI/5	1951	Willaston (Wirral) Womens' Institute Scrap Book (printed octavo, 76 pages) see particularly page 58 under heading "Duncan Graham Esq and the Lydiate", of photographic copy of this Book.
WI/6 (also EPB/1, No. 3)	9 May 1882	Grant by Duncan Gray of School and buildings 'how and for many years used as the National School'
WI/7	Said to be about 1930	Photograph of School: 8½" x 5".
WI/8	—	Photograph (being page 48 of said scrap book WI/5) of "Old School and Village Green".