

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

The application is made on behalf of a small neighbourhood within a locality. (MAP A) To Establish that Rights of Way Use of Open Space have been established by practice and usage.

The neighbourhood have passed and re-passed Town Farm Court for over twenty years on foot, bicycle and vehicle. Town Farm Court has been used for play, pedestrian access to High Street and to Town Farm Orchard, cycling, delivery vehicles, resident parking, access to those maintaining a private sewerage system within the front garden of 3 Town Farm Court, the unimpeded access of refuse collection and emergency services

Town Farm Court provides access to Town Farm and had been used for recreation "as of right" for 20 years or more by the neighbourhood within a locality.

By a Letter dated 9th May 2009 the right to pass and re-pass Town Farm Court without let or hindrance, and to enter on foot Town Farm Orchard was ended by the current landowner of Town Farm Court roadway. The applicants property was fenced to its Eastern boundary.

This application is made within two years of 9th May 2009 and is therefore within the TWO YEAR limitation of Section 15 (3)

The Applicants' statement together with 8 OSS questionnaires PROVIDES EVIDENCE OF:

(i) The significant number of users. The area being in general use by the neighbourhood rather than sporadic use by trespassers. *McAlpine Homes v Staffordshire CC 2002*

(ii) the courtyard and orchard being predominantly used by the local inhabitants. *maps A and B*

(iii) lawful sports and pastimes

(iv) how the use appeared to the owner, the open use of the land, open pedestrian access and fencing of the land in July 2009.

(v) the land (Town Farm Court and Town Farm Orchard) which is described and mapped

(vi) The use made of the land over a period exceeding twenty years by many users, a picture is presented of continuous use of the land by the local neighbourhood within a locality.

The application is duly made and seeks to protect the utility, and rights of way, leisure use and peaceful enjoyment of Town Farm Court. The application seeks confirmation of the rights of way and access to land coloured green on MAP A.

The application seeks the reinstatement of signage, appropriate fencing, pedestrian and vehicular access and utility as existed in 1984. Under Section 15 (3) of the VILLAGE GREEN & OPEN SPACES ACT of 2006

STATEMENT OF WENDY and RAYMOND RAPACCHI APPLICANTS

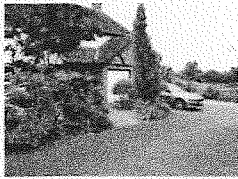
1st March 2011

1. Town Farm Court was a Farm Yard to the West side of Henlow High Street. Town Farm Court is an open space providing access and facilities for a small development of six dwellings in the Village of Henlow. Farm Courts are noted in the Conservation Review of Henlow Village as being a characteristic feature of the area. Town Farm Court is mapped on MAP A and its entrance photographed below. The driveway and dwellings are within the Henlow Conservation Area.



see; MAP A, PLAN B

2. 3 Town Farm Court was constructed in 1983, the last of the six dwellings. 3 TFC has provided a family home and business accommodation to the Applicants, without interruption for twenty eight years. The property and its gardens are within the Henlow Conservation area.

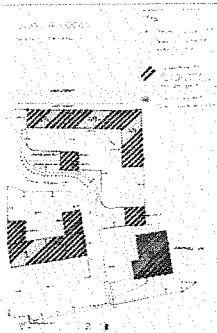


3. The transfer deeds contained legal easements and conditions:
 - a. relating to the vehicular and pedestrian passage to our property and rights in common with other Town Farm Court Users, rights to pass & re-pass 'and for all proper purposes'
 - b. The management of a private sewerage pumping system running from a store under our front garden and through the mid point of the length of Town Farm Court was established. The private sewerage system manages all soil waste from the properties 1, 2 and 3 Town Farm Court.
 - c. An agreement to maintain open and stock proof fencing to our property along its boundary with Town Farm Orchard.
 - d. An agreement to allow onto the Orchard the Land Owner of the Agricultural Land know as Town Farm Orchard
 - e. An agreement to allow the developer to link to the private sewerage system was reserved for 20 years from the Deed date (1983)

The agreement was between ourselves as Purchasers and the Developer/Driveway Landowner1 David Curzon of Dave Curzon Homes Ltd. The drive end was finished by the Developer with an open metal gate and pedestrian access to its side, facilitating access to Town Farm Orchard by all residents of Town Farm Court and 49a,b and c Henlow High Street.



4. The former farm yard was completed by the Developer in 1983 and provided access to 10 purpose built garages attached to 1,2 and 3 Town Farm Court and 49-49c Henlow High Street, pedestrian access from dwellings, and gardens to garages, cycle access, opportunities for outdoor play and vehicle and pedestrian access to Town Farm Orchard. Its wide central area provides a turning circle for emergency, delivery and refuse vehicles. The yard is an area in common and constant use by residents and visitors. No permissions were required before use.



refer: Land Registry Title TL1738SE Proprietor register

5. D Curzon (Property Renovation and Maintenance) Limited Landowner1 finished Town Farm Court by providing an unlocked metal gate (vehicle access) and a pedestrian kissing gate which was approximately 750cm wide. and was used by residents of the neighbourhood for over twenty years. The recreational and leisure use of the neighbourhood over a twenty year period are evidenced by pages 1__ to _27 and eight OSS Questionnaires.



6. In the late 1980s, the landowner of Town Farm Orchard become worried about the possibility of "gypsies accessing his property" JH. The Landowner of Town Farm Orchard removed the bridge over Henlow Brook to block the path which runs across the site preventing vehicle access via the brook. The applicants were given a padlock key in order that they could continue to use the Orchard field, the pedestrian access remained open to the neighbourhood within the locality of Henlow. Landowner1 and Landowner2 of TFC made no contact.



Aerial Photo C and Land Registry Aerial Photo D

7. Allotment gardening, bonfires of garden waste, fruit gathering, walking, dog walking, bird watching, cricket, play, fishing and herbage, children on cycles took place on the Orchard during the years 1983-2009, were enjoyed by the residents of the neighbourhood without incident or complaint. No notices were displayed on the field to indicate that any of the activities were not permitted.

PAGES 1_ to 27__ also Open Spaces Society Interview Sheets (8)

8. The orchard was used on occasion to host wedding receptions and biennial bonfire parties, hundreds of guests accessed the Orchard by the gate to the end of Town Farm Court. Service providers accessed the land by vehicle to prepare for these events by the gate to the end of Town Farm Court.



9. All residents of Town Farm Court and 49a, b and c Henlow High Street have over a period of many years established by custom and practice
 - a. Rights of Way over Town Farm Court.
 - b. Have at all times provided access to the Owner of 51 High Street Henlow the opportunity to use the length of the driveway and to access Henlow Orchard without let or hindrance.
 - c. they have never at any time blocked the Owner of 51 High Street's vehicle access to his private garden, or to the newly erected garages at 51 High Street, or TF Orchard
 - d. By their considerate parking on the driveway the road has never been obstructed.
 - e. By their considerate usage of the driveway children and cyclists have used Town Farm Court without injury.
 - f. No permission is required to use the driveway for a variety of purposes, including parking
 - g. Children do not require permission to play on Town Farm Court

1982-2009 residents and users of Town Farm Court have exercised due care and consideration by their customary use of the Court yard during the tenure of 3 Landowners of the driveway.

10. In a year not known to the applicants, D Curzon of D Curzon Renovation and Mntnc. Ltd (Landowner1) ceased trading, ownership transferred to the Official Receiver. **The residents were not informed of this change.** The driveway was purchased by the owners of 51 High St from the

Official Receiver for £500 on 24th September 2002 - Landowner3. **The residents were not informed of 2nd change of ownership.** Residents were not informed of the possibility of a joint purchase of the driveway., by Landlord1, 2 or 3. Land Registry Title no BD223729 attached.

ITEMS 1 on letter from Landowner3 20/DEC/2003

11. Landowner3 removed signage relating to Town Farm Court, and renamed the road.



12. In 2003 the driveway was resurfaced. Costs were apportioned between the six residents. Landowner3 made no contribution to the costs.

Pages 11 correspondence

13. Central Bedfordshire Council awarded Planning permission to demolish and rebuild a barn within the private garden of 51 High Street. The project adds additional garage space which is currently accessed from Town Farm Court. The residents of Town Farm Court continue to afford access to the new-build via Town Farm Court Driveway.

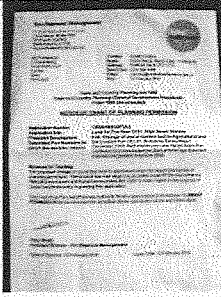


14. In 2009-10 TFC Residents Association notified Landowner3 that no rights existed which would enable the new build to connect or interrupt the use of the private sewerage system under Town Farm Court. The letter was copied to Central Beds Building Inspector. The building inspector team of Central Beds UC was informed when the road was blocked by construction traffic and craned deliveries to the site. The Building inspector was informed of residents' road safety concerns during the construction phase. Residents were not consulted on any matters relating to access and road safety and children's play during the construction phase. By Landowner1, 2 or 3.



Item 14, letter TFC Residents' Assoc

15. The residents of 2 and 3 Town Farm court made objection to Mid Beds Council when the Landowner3 applied to alter the usage of the Town Farm Orchard from Agricultural to a Private Garden by application to Mid Beds Council. The residents of 2 and 3 Town Farm Court were able to return the Orchard to Agricultural Use on 12th February 2010



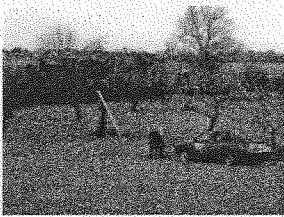
Item 15

16. The Orchard became the subject of a Biodiversity Action Plan in October 2008



item 16 BedsLife HAP

17. The Orchard was damaged in December 2009 by agents of Landowner 3



Item 17 Heritage Statement

18. Landowner3 together with Town Farm Homes Limited using RMA Architects as Planning Agents applied for planning permission to build a mixed housing estate with Socially affordable housing on land to the rear of 53 High Street Henlow, in 2008 and again in 2009 *The orchard area is part of the development site.*



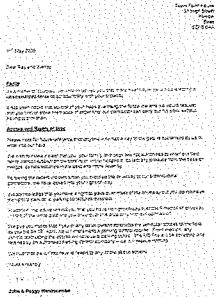
Item 18

19. The Orchard was destroyed by Landowner3's agents 17th April 2009. The felling was investigated by Bedfordshire Police, Insp Canning under the Wildlife Protection Action Section 1.



Item Statement Case no 151/18042009

20. The applicants received by recorded delivery, a letter dated 9th May 2009 from Landowner 3. The letter sought to impose parking restrictions and pecuniary clamping fees, deny access to the orchard and to fence the Applicants property with high fencing to its Western boundary and to vary the customary RoW.



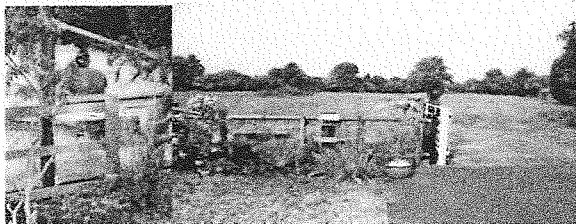
Item 20 Letter to Applicants from Landowner3

21. On 16th June 2009 a high length of fencing was erected against the western boundary of our property, obscuring the open and stock proof fencing, by Landowner3.



Additional photos available

22. On 16th June 2009 the pedestrian access was fenced, and the pedestrian access to all residents of Town Farm Court was closed on that date



Additional photos available

23. On 1st February 2010 D Curzon, Landowner1 acting as an agent for the Landowner3 on the

Orchard site dug deep trenches were cut to the site, making the open space that was Town Farm Orchard unsuitable for Agricultural, recreational or leisure use.



Item 23: email from Hannah Firth to D Curzon 13th January 2010.

24. The land remains derelict, March 2011 as the trenches have never been made good.

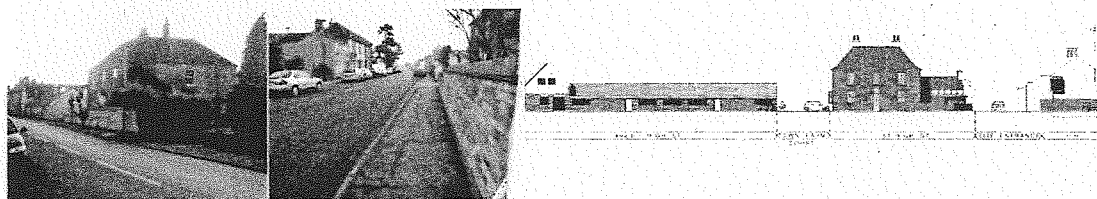


additional photos available

25. 24th March 2010 Central Bedfordshire UC grant Conditional Conservational Area Demolition Consent to Landowner3 and others to demolish 53 High Street Henlow. CB/09/06630/CA



26. In March 2010 Central Bedfordshire UC granted Conditional Planning Permission to develop a mixed housing development, including socially affordable housing on land to the rear of 53 High Street Henlow to Landowner3 and others. The development will be accessed from the High Street with close proximity to Town Farm Court. CB/09/06626/FULL



27. Town Farm Court is unsuitable for use by heavy construction traffic during the construction phase. Which conflict with the RoW of children pedestrians, cyclists and all using the courtyard. Additionally the Courtyard open space is habitually used by toddlers and children at play and the health and safety of all would be severely compromised if Town Farm Court were again used to accommodate construction plant under easements granted by Landowner3 and others to their agents.



ITEM 27 letter from landowner 3
Summary refers.

SUMMARY:

By presenting to Central Bedfordshire Rights of Way Team a factual history of the land use of a Neighbourhood within the locality of Henlow we have demonstrated the Rights of Way and Use of Open Space on land marked Green on MAP A Over a period exceeding 20 years. Statements 1-8

The neighbourhood was unaware of the changes of ownership of the land they used by custom for access, leisure and recreation and in the absence of direction the residents have established the customary usage over all the land coloured green. Statements 9-10

Landowner3, between 2002 and 2009 damaged, arranged a change of use, renamed and blocked access on the land coloured green on MAP A. The Landowner's actions were based on a continuity of land and ownership rights, responsibility and easements that were assumed and not within his gift of.

This application is made under section 15 subsection 3 of the Village Green & Open Spaces Act of 2006, within the prescribed limitation of two years from 9th May 2009 after the Applicants received notice of discontinuation of RoWs, Access and the peaceful and unhindered use of the Land Coloured Green on MAP A. Item 20. Landowner 3 purported to have been the long term Landowner to neighbourhood who had afforded to the Landowner considerate usage and who were not afforded consideration themselves.

Landowner3 changed, restricted and damage the land coloured green on Map A in June, 2009, December 2009 and February 2010 at times when the Landowner should have contributed to the common use peaceful enjoyment of the Land. Statements 11-19

The Application seeks to secure recognition under the 2006 Act Section 15.3 to protect in perpetuity the RoWs and usage of the Land Coloured Green on Map A and to protect the land from further damage, restriction or further loss of biodiversity

It is hoped that the Landowner will:-

- make restitution to residents and restoring the Rights of way and utility which were available to residents in 1983.
- Protect residents from further damage and loss of quiet and peaceful enjoyment by not parking construction vehicles in close proximity to homes in Town Farm Court
- Protect the underlying utility pipes from damage by heavy vehicles by not allowing construction traffic to pass over Town Farm Court

- **Replace with low stock-proof fencing and remove the high fence to the eastern boundary of 3 Town Farm Court as required by Conveyance to them 1983**
- **Re-open the pedestrian access to TF Orchard and enable the land's continued use by residents**
- **Clarify the new parking arrangements and charges to be imposed on Town Farm Court**
- **Return Town Farm Court signage**
- **Work in common with the residents to improve and maintain the Courtyard and Orchard and to improve the safety of children and pedestrians and aided pedestrians using the Courtyard**

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

LANDOWNER 1 D. CURZON, 33 HIGH ST. HENLOW
 LANDOWNER 3 J/P M. HANDESCHE 51 HIGH ST. HENLOW SG16 6AA
 OPTION HOLDERS DIRECTORS TOWN FARM HOMES LTD. R/O THE ROOKERY
 HR BD203622 PLEACH, BENNINGTON, HERTS SG2 7BU
 MORTGAGEES BARCLAYS BANK. PO BOX 187, LEEDS LS11 1AN
 TITLE NO BD203622, 22/08/2009

9. Voluntary registration – declarations of consent from ‘relevant leaseholder’, and of the proprietor of any ‘relevant charge’ over the land

NOT VOLUNTARY REGISTRATION

10. Supporting documentation

MAP A AND STATEMENT attached.
 PLAN B
 AERIAL PHOTOS C+D
 OPEN SPACES SOCIETY COMPLETED QUESTIONNAIRES
 ITEMS 1-27 LISTED SEPERATELY.

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

11. Any other information relating to the application

It is expected that the following may wish to challenge this application.

PARTIES to a 106 Declaration Agreement on land at 53 High Street Henlow. D Corzon, Mr J Handscombe K+A Everton, and CENTRAL BEDS U.C.

LANDOWNERS 1, 2 and 3 TOWN FARM CRT.

THE DIRECTORS OF TOWN FARM HOMES LTD.

J Handscombe, D Corzon and other newly appointed

THE OWNER OF 53 HIGH STREET, HENLOW

CENTRAL BEDS U.C. PLANNING DEPT

FULL DETAILS ON SEPARATE SHEET. ITEM 28

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

3rd MARCH 2011

Signatures:

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name (and address if not given in the application form).

I, _____, solemnly and sincerely declare as follows:—

² Delete and adapt as necessary.

1.² I am (~~the person~~ (one of the persons) who (has) (~~have~~) signed the foregoing application)) (~~the solicitor to (the applicant)~~)³ (one of the applicants)).

³ Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in the case of voluntary registration (strike through if this is not relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

⁴ Continued

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

Handwritten initials: JM JB

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Handwritten initials: JM JB

..... ok JB

Declared by the said)
WENDY RAPACCHI)
at)
Sharman Law Bedford)
this 3rd day of March 2014)

Signature of Declarant

Before me *

Signature:

Handwritten signature: James Brown

Address:

Sharman Law
1 Harpur Street
Bedford
MK40 1PF

Qualification:

FILE X

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit