

APPENDIX J

Town Farm House
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Henlow
Bedfordshire
SG16 6AA

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Mr C Heard
Orders and Commons Registration Officer
Central Bedfordshire Council
Technology House
239 Ampthill Road
Bedford
MK42 9BD

4th August 2011

Dear Mr Heard,

Commons Act 2006: Section 15 (3)

**Application for the registration of land at Town Farm Court, Henlow
as a Village Green: CBC4/2011**

Thank you for the copy of Mr & Mrs Rapacchi's letter and their written comments on our Statement of Objection.

We would like to make a few further comments.

We reject the Applicants' request to withdraw comments they consider irrelevant. All information included has been carefully considered and is entirely relevant either as background information or as a response to the Application and comments made by the Applicants. We also reject the Applicants' request to withdraw the comments they consider derogatory or personally offensive. This was not our intention but we stand by all the information we have provided, and it is supported in our evidence.

The Commons Registration Authority is the arbiter in this process and it is for that body to decide what is true and valid and what is not.

We attach a response to their challenges in a separate document, "Owners' Comments to Applicants' Comments Regarding Owners' Objection". This document also includes answers to questions asked of "Margaret and Peggy Handscombe".

Applicants' Written Comments of 27th July 2011

- The Objectors' private garden *does* include the "agricultural land forming part of application CB4/2011". The change of use sought by the Applicants did not change the fact that it is still our private garden (23/MB/95/705/LDC), and it is irrelevant because it is not in the timescale of this application and has been superseded by CBC09/06626/FULL.

- The Owners' rights over the whole subject areas are legally documented in our conveyances, kindly supplied by the Applicants.
- The Applicants' defined "locality within a neighbourhood" or rather, "neighbourhood within a locality" is the same as the previous application.
- The Applicants refer many times to the Application being "validated" by CBC or by the Registration Authority. This is certainly true, but that does not mean that the Application has been tested nor that the contents merit registration.
- We believe that the legal easements as noted in property conveyances preclude any accrual of rights (case law).
- The Applicants' concerns over the maintenance cost and the safety of the driveway are surely at odds with their wish to welcome allcomers to the Village Green. Their concerns over construction vehicles using the roadway have proved to be unfounded. Indeed the owners of 1 TFC were pleased to be able to access the rear of their property via the roadway and our rear garden when they recently had work done to their patio and trees. We have given assurances on several occasions that we will not permit construction traffic to access the planned development through TFC, neither would this be permitted by the local authority.
- A statement from the Police has not been submitted, just an inaccurate and libelous report written by the Applicants.
- TFCRA is an informal group to which the owners of six of the seven Town Farm properties were invited. The Applicants' website lists two members, one of whom has left the area.

Much of the above is irrelevant to a Village Green Registration Application and has more to do with a dispute between neighbours over a planned development of an adjacent piece of land. The fact remains that to register land as a Village Green it has to be proven that a significant number of inhabitants of a neighbourhood within a locality has used the land for legal sports and pastimes for a period of at least twenty years, as of right, without permission, force or secrecy.

The subject area is made up of two quite distinct areas: the driveway of Town Farm Court, over which all residents of Town Farm have a **legal easement** to pass and repass; and the land west of the locked gate, which has already been the subject of a failed registration application.

No evidence has been produced to show any support outside the Applicants' family for this application and no evidence has been produced to show that any legal sports or pastimes have taken place anywhere on the subject area without the permission of the landowners.

Indeed, none of the residents that the Applicants claim to represent have even seen a copy of the Application, nor been apprised of the consequences of its approval and loss of privacy in Town Farm.

The CRA Guidance states that the burden of proof that Section 15(3) applies rests on the Applicant for registration. It is no trivial matter for a landowner to have land registered as a green, and that accordingly all the criteria for registration must be properly and strictly proved and careful consideration must be given by the decision-maker to whether that is the case. Those *dicta* were approved by Lord Bingham and Lord Walker in the Beresford case. The standard of proof is the usual civil standard, that is, the balance of probabilities.

I trust that the evidence we have already supplied will demonstrate that the application is unsound and on the balance of probabilities it is clear that Town Farm cannot be registered as a Village Green.

Yours sincerely,



John Handscombe



Margaret Handscombe