

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS SUB-COMMITTEE

10 FEBRUARY 2012

LAND AT BLIND LANE, KNARESBOROUGH APPLICATION TO REGISTER LAND AS A TOWN OR VILLAGE GREEN

Report of the Corporate Director - Business and Environmental Services

1.0 PURPOSE OF REPORT

- 1.1 To report on an application (“the Application”) for the registration of an area of land at Blind Lane, Knaresborough identified on the plan at **Appendix 1** (“the Application Site”) as a Town or Village Green.

2.0 LEGAL CRITERIA

- 2.1 Under the provisions of the Commons Act 2006 (“the Act”) the County Council is a commons registration authority and so responsible for maintaining the Register of Town & Village Greens for North Yorkshire.

- 2.2 Section 15(1) of the Act sets out that

Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies

- 2.3 Section 15(2) of the Act provides for land to be registered as green where:-

(a) *a significant number of the inhabitants of a locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years*

and

(b) *they continue to do so at the time of the application*

- 2.4 A commons registration authority needs to be satisfied on the balance of probabilities that all the elements of section 15(2) have been demonstrated to have been met by an application relying on that provision for it to be approved. The onus of proof rests with an applicant.

3.0 APPLICATION SITE

- 3.1 The Application Site, shown hatched on the plan at **Appendix 1**, has been owned by Linden North Limited (prior to 1 April 2011 known as Stamford Homes North) since November 2010. Prior to that the site was owned by Winifred Mary Jacob Smith who died in 2003. Her family had a long history of ownership of the land in question.
- 3.2 The Application Site is bounded to the north west by Blind Lane, to the south west by a public footpath and to the south east and north east by residential property.
- 3.3 Planning permission has been granted for the construction of low cost housing across an area of land of which the Application Site forms part and some construction work had taken place before the Application was submitted. It is understood construction work has subsequently stopped.
- 3.4 Various photographs of the Application Site will be displayed on screen at the committee meeting.

4.0 APPLICATION

- 4.1 The Application submitted by Elizabeth Inman (“the Applicant”), a local resident whose property backs on to the Application Site, was signed by her on 7 March 2011 and received by the County Council on 7 March 2011 and accepted as duly made on 15 March 2011. It relies on the criteria contained in section 15(2) of the Act as having been met. A copy of the standard Form 44 as completed by the Applicant comprises **Appendix 2**.
- 4.2 With the Application was submitted the petition copied at **Appendix 3**, signed by 24 residents (signatures have been omitted from the appendix copy). Additionally in support of the Application a total of 42 pro forma letters from local residents all in the format comprising **Appendix 4** have been submitted.
- 4.3 A further letter of support dated 17 August 2011 was submitted by Mrs D.Brand (**Appendix 5**).
- 4.4 Determining an application of this kind is a matter of assessing evidence to determine whether or not the relevant criteria set out in section 15 the Act have been met. Any representations which might be made relating to the alleged merits or otherwise of a site being a village green are immaterial and must be ignored in considering the application.

5.0 OBJECTIONS

5.1 David Arnold Cooper(solicitors) (Appendix 6)

5.1.1 Objection to the Application was received from David Arnold Cooper (solicitors) on behalf of Linden Homes North.

5.1.2 The objection submitted includes affidavits completed by :-

- Richard William Rusby(solicitor to previous landowner)
- Betty Margerite Walker(an acquaintance of the previous landowner)
- Alistair Allan Butler(local resident)
- Chris John Tossell(local resident)

5.1.3 Mr Rusby states that he has dealt with Miss Smith's affairs for in excess of 30 years and visited her fairly regularly during that time. He states that for the first 10 years of his visits the Application Site was a vegetable garden. Thereafter the land concerned was grassed and then left to become overgrown with "a great deal of ground cover" becoming a target for unauthorised dumping of rubbish. His statement does not specify the year in which vegetables were last grown on the site.

5.1.4 Ms Walker describes visiting the Application Site in around 1998 and describes the land as being heavily overgrown, full of rubbish and very difficult to walk through.

5.1.5 The rear boundary of Mr Butler's property is situated opposite the Application Site on the other side of Blind Line. He recalls the hedges around the Application Site becoming overgrown following the death of the former landowner in 2003 and fly tipping that followed making the land unsightly. He does not recall ever seeing dog walkers on the Application Site. He does acknowledge that about 3 years ago children played on a part of the site for a period of time. This he says was following breaking through boundary hedging at the north east corner of the Application Site. Mr Butler also submitted his own objection and photographs included with his affidavit are dealt with elsewhere in this report in reference to his own objection.

5.1.6 The rear boundary of Mr Tossell's property is also situated opposite the Application Site on the other side of Blind Line. He describes how since the death of the previous owner (Winifred Mary Jacob Smith) the land became "completely overgrown". He found the site very difficult to access when attempting to recover stray hens from his own property.

5.1.7 In summary David Arnold Cooper consider that the evidence contained in the affidavits makes it clear that the relevant legal criteria have not been met. Comments contained in their letter concerning the alleged intentions of the former landowner and the proposals of the current owner to prevent future access to the site are not material to assessing the criteria.

5.2 Harrogate Borough Council (Appendix 7)

5.2.1 Harrogate Borough Council object to the Application in doing so citing observations of officers and former officers that the site was not readily suitable for use for leisure pursuits throughout the last 20 years and including photographs taken in 2008 one of which, labelled “middle of the site” showing very thick sapling and weed growth on the site.

5.3 Alastair Allan Butler (Appendix 8)

5.3.1 Mr Butler completed an affidavit which was submitted with the objection submitted by David Arnold Cooper (see para 5.1.5). He also submitted his own letter of objection. With his letter he submitted aerial photographs showing the Application Site :-

- one dating from 1981 shows the site as ploughed for agricultural use
- two from 1994 show the site covered in long grass and invasive weeds
- a further photo from October 2003 shows what Mr Butler describes as vegetation typical for a site not used for any purpose with invasive tree and shrub species

In his letter, affidavit and later correspondence (see “Further Representations”) Mr Butler explains his expertise in interpreting aerial photography.

5.4 G.M.Warren/Miss P.Fisher/E.M.Robshaw/K.B.Hirst/Mrs J.Robertson Mrs M.C.Andersson/K.R.Burn (“kids played there but without permission”) (Appendix 9)

5.4.1 Submissions have been received from a further seven objectors listed above in the heading at para 5.4

5.4.2 Mr Warren’s comments relate largely to his view of a lack of merit in the Application Site becoming a green. Miss Fisher refers to her view of the merits of having low cost housing on the land concerned. Issues concerning the merits of the use to which an application site should be put are immaterial in assessing a Town or Village Green application. Miss Fisher does though also include comment on the condition of the site over the last 12 years describing it as a wood with very dense undergrowth.

5.4.3 E.M. Robshaw describes moving to Knaresborough in 1942 and walking down Blind Lane to get to work. It is not clear how long this continued and whilst mention of the site being agricultural use at that time is of interest as background no evidential weight can be given to the letter given the uncertainties of timing.

- 5.4.4 Mr Hirst has lived in the vicinity of the Application Site since 1965 firstly in Scriven Road and since 1992 in Manor Road. He describes how the Application Site became overgrown following the death of the previous landowner.
- 5.4.5 Mrs Robertson claims to have walked along Blind Lane at least once a week since moving to Knaresborough in 1985. She says that whilst there was some evidence of fruit bushes and trees at first the Application Site was heavily infested with weeds even then. Progressively the site became subject to unauthorised tipping.
- 5.4.6 Mrs Andersson has been resident in Inman Grove for 58 years and claims to have used Blind Lane daily. She says that the Application Site has never been used for leisure pastimes by the local inhabitants and cites the dangerous condition of the site (due to tipped items) in recent times.
- 5.4.7 Mr K.R.Burn has lived in Knaresborough for 71 years. It is not clear whether he is familiar with the Application Site in the present day. Whilst he mentions that the Application Site was a field used to grow kale or cabbages he does mention then when farming of the land ceased kids played there.

6.0 APPLICANT RESPONSE (Appendix 10)

- 6.1 The County Council followed due procedure by offering the Applicant the opportunity to comment on objections received and her further representation was submitted dated 11 September 2011.
- 6.2 In it the Applicant queries objections that describe the site as impenetrable but acknowledge the dumping of household rubbish on the site suggesting the site must have been accessible for dumping to have occurred. There may be some merit in that argument although the suggestion amongst objectors is that tipping occurred largely around the boundary of the Application Site.
- 6.3 The Applicant's understanding of the meaning of "significant" in the context of section 15(2) of the Act is correct but her letter does not contribute to evidencing that a significant number actually have been using the Application Site.
- 6.4 The Applicant questions Mr Butler's interpretation of the aerial photographs from 1994 and 2003 and his conclusions about them evidencing lack of use of the Application Site. The photographs do appear to evidence heavy, largely undisturbed, growth on the Application Site and whilst the Applicant is entitled to her view Mr Butler's expertise (as evidenced under oath) give considerable weight to his interpretation.

- 6.5 In pointing to comments of children playing on part of the site in the last three years the Applicant does not challenge that entry was forced (thus not comprising use “as of right”). It is correct to point out that one of the former Harrogate Borough Council officers’ submissions refers to children using the old orchard. In itself though that offers little evidence of use of the whole of the Application Site for A 20 year duration (it is acknowledged that for a claim to succeed it is not necessary to evidence use of all parts of an application site).
- 6.6 The comment by Mrs Robertson referred to does not contribute in any way to evidencing use of the site for lawful sports and pastimes.

7.0 FURTHER REPRESENTATIONS (Appendix 11)

- 7.1 Following the Applicant’s response the further submissions attached at Appendix 11 were received. No new material issues were raised though in particular the Applicant’s suggestion that objectors did not have first hand knowledge of the Application Site was challenged by some largely with justification.
- 7.2 The Applicant’s reference to fly tippers accessing the site was also challenged on the basis that such activity could not be considered a lawful sport or pastime. At no point though did the Applicant suggest her point was to suggest that such activities evidenced that the Application Site was not impenetrable as suggested by some parties.

8.0 EVIDENCE REVIEW

8.1 Evidence of use

- 8.1.1 Other than the letter from Mrs D.Brand (see para 4.3 above & 10.1.4 below) the Application relies for evidence of use entirely on the petition and pro-forma letters. Evidentially those submissions are weak notwithstanding there are quite a number of them.
- 8.1.2 The terms “recreation” and “family enjoyment” referred to in the pro-forma letter are too general and unspecific to be given any weight evidentially. Every letter claims that the signatory has themselves accessed the site for at least 20 years. However, there is no further evidence from the individuals concerned to confirm that they have each used the site for the full 20 years. Neither is there any indication of the extent of the site that they have used nor any suggestion of with what regularity by each of the alleged users. It is extraordinary in your officers’ experience that ALL those claiming to have used a site in a way which might contribute to it being registered have done so for the full 20 years concerned or more.
- 8.1.3 The petition, whilst referring to “dog walking” and “childrens playground” is only marginally of any greater evidential value than the pro-forma letter. The petition lacks any detail to help reach a view, even taken at face value, that

the nature, extent and regularity of use may have occurred to suggest on the “balance of probabilities” the relevant legal criteria for registration as having been met.

- 8.1.4 The letter from Mrs Brand (whose property backs onto the Application Site) refers to her playing on the Application Site in the 1960’s and 1970’s (outside the relevant 20 year period). She goes on to say that her children and grand children have played on the site but is less detailed about the nature and extent of their activities. She ends by advising that people were “playing in there” until site clearance took place for the proposed housing development recently.
- 8.1.5 Against a starting point of very weak evidence to support the Application there is convincing evidence to cast doubt that practically the sufficient level of public use has or could have practically taken place across the site during the relevant 20 years from March 1991 until March 2011. Credible detailed witness evidence has been submitted to indicate that neither was the site as whole subject to regular widespread public use during the twenty years but some evidence (in particular photographic) indicates that in general even the potential for such use was impractical. It is true to say that some objector’s evidence recognises some minor sporadic use of the site during the twenty years by children it does not amount to anything that suggests consistent use over twenty years, even of part only of the Application Site.
- 8.1.6 In summary claims of relevant usage of the Application site appear fundamentally flawed and at best extremely weak and are countered by credible evidence that qualifying use of the site did not take place.
- 8.1.7 For completeness each of the criteria contained in section 15(2) of the Act is addressed in the following paragraphs below notwithstanding the lack of evidence of use.
- 8.2 **significant number of the inhabitants of a locality, or of any neighbourhood within a locality**
- 8.2.1 Part 6 of the application form refers to “Scriven Park ward”. Given this the Application appears to be relying on claiming use from a “locality” rather than a “neighbourhood within a locality” and for the purposes of the Application that locality is to be the local electoral ward. A locality needs to be an administrative unit recognised in law and the courts have been satisfied that electoral wards constitute such an area.
- 8.2.2 What constitutes a “*significant number*” in any one case does not need to be considerable or substantial. The characteristics of the neighbourhood concerned determine what is likely to be considered to constitute being a significant number from that neighbourhood. To constitute use by a significant number the usage needs to signify evidence of general use by the local community. There is no formula as to precisely what number of users will constitute a significant number in any one case.

8.2.3 In the event that credible user evidence had been submitted in the volume of what has been submitted in the petition and by the pro-forma letter used then it seems likely the “significant number” criteria would be met

8.3 **as of right**

8.3.1 The courts have interpreted “as of right” to be use which has not been by “force, stealth nor with the permission or licence of the owner”.

8.3.2 It is not possible to offer any real assessment on this point without there having credible user evidence to refer to. That said there is some suggestion of children having played on at least a small part of the site but as a result of an initial break through the site boundary. That use is likely therefore to have amounted to a use “by force” and so not satisfy the “as of right” criteria.

8.4 **lawful sports and pastimes**

8.4.1 The courts have interpreted what constitutes “lawful sports and pastimes” widely. Again though given the lack of detail in the evidence submitted there is little to comment on other than to say dog walking is, as a general rule, a lawful sport and pastime.

8.5 **Period of at last 20 years**

8.5.1 The twenty years in question in this case is from March 1991 until March 2011 being the 20 years preceding the application.

8.5.2 The evidence in support of the Application offers no indication of the regularity of alleged use of the site during the twenty years. Evidence submitted in objection to the Application is convincing that any use of the Application Site by local inhabitants was at most limited and not consistent or extensive enough to justify registration of the land as a Town or Village Green.

9.0 **DECISION MAKING**

9.1 The decision whether or not to approve the Application rests with the County Council in its role as a commons registration authority. In doing so it must act impartially and fairly.

9.2 It is not relevant to consider the merits or otherwise of the land being (or not being) registered. Consequently any representation that other open space already exists locally is immaterial and should be ignored. The County Council must direct itself only to whether or not all the relevant criteria set out in section 15 have been met.

10.0 CONCLUSIONS

- 10.1 For the Application to be approved the County Council must be satisfied that on the evidence available to it that ALL the criteria contained in section 15(2) of the Act are met.
- 10.2 Whilst the Courts have suggested that where there is serious dispute a non statutory inquiry be convened by commons registration authorities to fully test evidence there has to be evidence of some substance worthy of testing to justify taking such a step. That is not the case for this Application.
- 10.3 It is your officers' view that the evidence is overwhelming that on the balance of probabilities the relevant criteria of Section 15(2) of the Act are not met by the Application and that it should be refused.

11.0 RECOMMENDATION

- 11.1 That the Committee resolves to refuse the Application on the grounds that it is not satisfied that all the relevant criteria of section 15(2) of the Act are evidenced by the application for the reasons set out in this report.

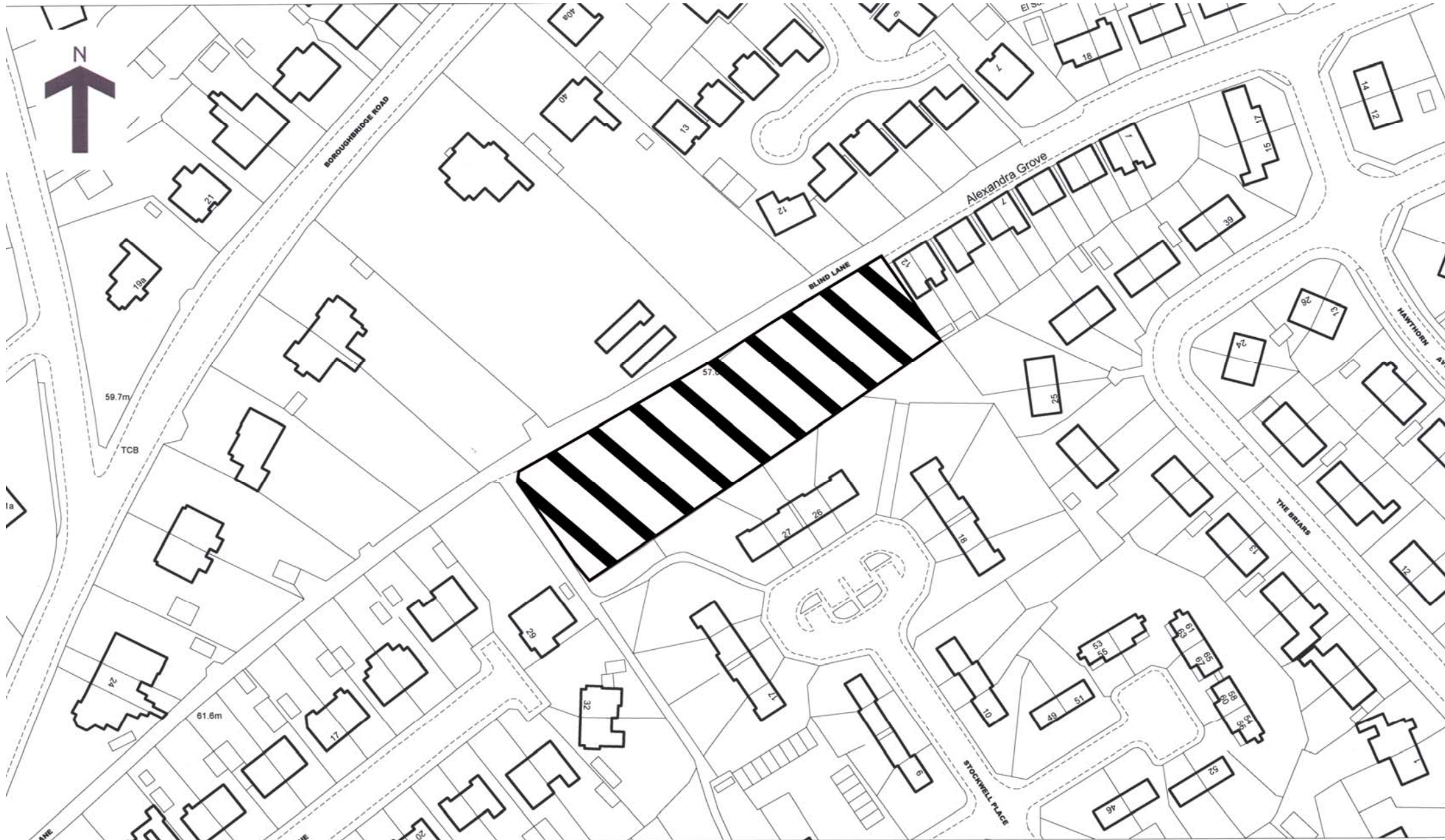
DAVID BOWE
Corporate Director – Business and Environmental Services

Author of Report: Doug Huzzard and Chris Standford

Background Documents: Application case file held in County Searches Information - Business & Environmental Services

APPENDIX 1

APPLICATION TO REGISTER NEW VILLAGE GREEN AT BLIND LANE, KNARESBOROUGH

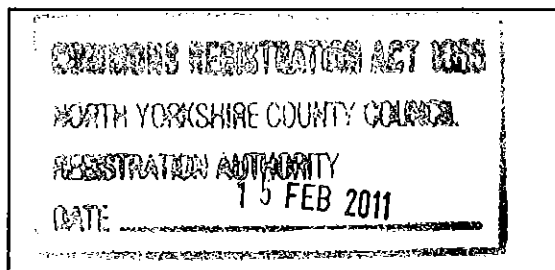


APPENDIX 2

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:



Application number:

NEW VG55

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

NORTH YORKSHIRE COUNTY COUNCIL
 COUNTY HALL
 NORTH ABERPTON
 NORTH YORKSHIRE DL7 8AD

Note 1

Insert name of registration authority.

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

Full postal address:

Postcode

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

** Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**:

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

SOMERLY, 38 BOROUGHBRIDGE ROAD/BLIND LANE,
KNARESBOROUGH - THE OLD ORCHARD SITE

Location:

BLIND LANE, KNARESBOROUGH
SCRIVEN PARK WARD

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

SCRIVEN PARK WARD.

Tick here if map attached:

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

* Only complete if the land is already registered as common land.

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

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).

THIS LAND HAS BEEN OPEN TO THE PUBLIC AND HAS BEEN USED BY THEM FOR RECREATION, DOG WALKING, AND AS A CHILDREN'S PLAYGROUND FOR MORE THAN 20 YEARS.

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).

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

STAMFORD HOMES NORTH
231 HENEAGE ROAD
GRIMSBY
SOUTH HUMBERSIDE
DN32 9JE

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

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).

10. Supporting documentation

Note 10

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

Please use a separate sheet if necessary.

A. MAP OF THE SITE, SOUTH EAST OF BLIND LANE.
B. PETITION FROM LOCAL RESIDENTS.

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.

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.

11. Any other information relating to the application

DECLARATION ATTACHED

Date:

7.3.11

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).

ELIZABETH
I.....INMAN.....¹ 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.

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

Declared by the said

ELIZABETH INMAN

at BRADFORD

this Seventh day of March 2011



Signature of Declarant

Before me *

Signature:



Address: 10 Wentworth Avenue
Leeds LS17 7TN

Qualification: Solicitor

* 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

APPENDIX 3

The following people declare that the land known as The Old Orchard, Blind Lane, Knaresborough, has been open to the public and has been used by them for recreational purposes, dog walking, and as a childrens playground for at least twenty years.

Anita Wharley 8 Colebrook meadows Knaresborough

Juriet Anderson 23, Stockwell Place "

Sophie Anderson 23 Stockwell place " "

Jeanne Steele 21 Stockwell Place

James Steele " " "

Sharon Woodward 19. stockwell Place

Kelley Hymas 15 Stockwell Place

Sack Hymas " " "

Leigh Roper " " "

SUSAN COLLIER 17, STOCKWELL PL.

LINDA COLLIER " " " "

MAVIN JONES 25 STOCKWELL PLACE

Carol Jones. 25 Stockwell Place



Emma Wilkins 23 Chain Lane Knaresborough

Dianne Clark 26 Stockwell Place K. Boro

Mr B Mr Brand 8 Colebrook Meadows Kboro

Katie Pedel 15 Chain Lane Knaresborough

Stuart Drake 104 Harewood Road, Harrogate

Paella Coxe 2 Hawthorn Avenue Knaresborough

Ms P White 32 Meadow Road K. Boro

Stuart Cadd 17 Inman Walk Knaresborough

STEVE NORMAN 25 INMAN GROVE K. Boro -

NICHOLAS BRAND 1 HAWTHORNE AVE

F. Nutter Meadow Road K-boro

APPENDIX 4

Handwritten notes:
1/1/11
1/1/11
1/1/11
1/1/11

**MR C STANFORD
COMMONS REGISTRATION
HIGHWAYS NORTH YORKS
COUNTY HALL
NORTHALLERTON
DL7 8AH**

Ref; GEN / CNS / 52007

21ST MARCH 2011

Dear Mr Stanford,

I am writing to support the application to register the land known as the Old Orchard on Blind Lane, Knaresborough as a village green which was submitted by Miss E Inman.

I confirm I have had access to this beautiful green space and haven for wildlife for at least 20 years and which I have often used for recreation and for my family's enjoyment.

I am aware much of the local community was saddened at the news of losing a place of such natural beauty especially when the land was cleared displacing the diverse bird population including owls as well as an array of other wildlife.

I trust you will accept this declaration and validate the application.

Yours faithfully,

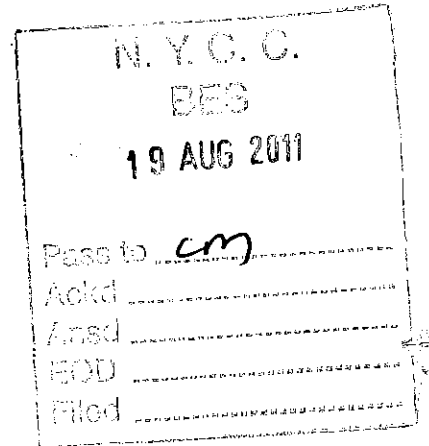
APPENDIX 5

Mrs D Brand
26 Stockwell Place
Knaresborough
HG5 0LJ

Mr C Stanford
Commons Registration
Highways North Yorkshire
County Hall
Northallerton
DL7 8AH

17th August 2011

Ref; NEW VG55/CNS



Dear Mr Stanford,

I write with further information to support the application to register the Old Orchard, Blind Lane in Knaresborough as a village green.

I have lived in Knaresborough all my life and remember playing on the site as a little girl with my sisters, brothers and other youngsters. We used to visit Watsons, a shop at the bottom of Blind Lane which sold fruit and vegetables. At the time the site was partly allotments. When I was young in the 1960s/1970s everyone used to play in the site, there were lots of trees and we all used to go blackberry picking in there and play, as my children did growing up and my grandchildren until the site was cleared recently. We all used to enjoy watching the wildlife, especially the nesting Owls and Bats.

Over the last few years the land has sadly gone to rack and ruin. It would be fantastic for it to be returned back into an orchard as it was always intended to be for the enjoyment of the local community. The Green Group and other local groups have shown a lot of interest in this. Liz Baxandall from Renaissance Knaresborough Green Group said "if the application is successful in securing this land for community use, we would be delighted to consult and work with a 'Friends' group to establish a community orchards project. Planting and caring for edible trees and bushes would enhance the area, increase bio-diversity and provide quality local food for our community." (Knaresborough Post p3 29th July 2011)

I am aware there have been some objections to the application by people living in the area but they do not live overlooking the site so must have a limited view of what goes on there. My house directly backs on to the Old Orchard and I can see

into it from all the windows at the back of my house as well as from my garden. I would like it to be known that people were playing in there right up until the site was cleared.

Yours faithfully

A large black rectangular redaction mark covering the signature of Mrs D Brand.

Mrs D Brand

APPENDIX 6

N. Y. C. C.
BES
22 AUG 2011

F2-50-52763

Mr Chris Stanford
Common and Village Green Officer
North Yorkshire County Council
County Hall
Northallerton,
North Yorkshire DL7 8AH

Pass to cm
Akd
Ansd
HOD
Ded
Our Ref:
Your Ref:
DDI:
Email:
Office:

1330/187885.1
NEWVG55/CNS
020 7293 4538
amorgan@dac.co.uk
London, Bouverie Street

BY SPECIAL DELIVERY

19 August 2011

Dear Mr Stanford

**APPLICATION TO REGISTER A NEW VILLAGE GREEN
THE OLD ORCHARD, BLIND LANE, KNARESBOROUGH**

We are instructed on behalf of Linden Homes North, the owner of the site which is the subject of the application made on 7 March 2011 to register a new village green under reference NEW VG55.

We are writing to set out the terms of our client's objection to the application on the basis that it fails to satisfy any of the registration criteria prescribed by Section 15 (2) of the Commons Act 2006 ('the Act') and is otherwise wholly inappropriate.

We enclose with this letter, signed affidavits from the following individuals who have considerable experience of the neighbourhood and the application site:

1. Mr Richard William Rusby - solicitor and executor for the estate of Ms Winifred Jacob Smith (deceased), the previous owner of the application site;
2. Ms Betty Margerite Walker - who regularly attended Ms Jacob Smith at her property (a certified copy has been attached and the original copy of Mrs Walker's affidavit will follow shortly in the post) ;
3. Mr Alastair Allan Butler - a resident of 36 Boroughbridge Road since 2002;
4. Mr Chris John Tossell - a resident of 40 Boroughbridge Road since 1996

187885/117397493.2

DAVIES ARNOLD COOPER LLP

LONDON
6-8 Bouverie Street
London EC4Y 8DD
T +44 (0)20 7936 2222
F +44 (0)20 7936 2020
DX 172 London Chancery Lane
E daclon@dac.co.uk

LONDON MARKET
85 Gracechurch Street
London EC3V 0AA
T +44 (0)20 7936 2222
F +44 (0)20 7936 2020
DX 172 London Chancery Lane
E daclon@dac.co.uk

MADRID
Serrano, 37
28001 Madrid
T +34 91 781 6300
F +34 91 576 8669
E dacmadrid@dacspsain.com

MANCHESTER
60 Fountain Street
Manchester M2 2FE
T +44 (0)161 839 8396
F +44 (0)161 839 8309
DX 14363 Manchester
E dacman@dac.co.uk

MEXICO CITY
Monte Pelvoux 210 PB-A
Colonia Lomas de Chapultepec
Delegación Miguel Hidalgo
11000 México, D.F.
México
T +52 (55) 11 07 60 56
F +52 (55) 52 02 93 85
E dacmexico@dacmexico.com

www.dac.co.uk

Cont.../...

The above statements provide a detailed account of the condition and use of the application site relating to the period of 20 years preceding the application.

By reference to the evidence contained in the affidavits we have set out below a clear statement of the reasons why the application fails to satisfy the required elements of Section 15 (2) of the Act.

Section 15 (2) applies where both the following sub-sections are satisfied:

- (a) **a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and**
- (b) **they continue to do so at the time of the application.**

Subsection 15 (2) (a)

'a significant number of the inhabitants of any locality, or of any neighbourhood within a locality...'

All of the accounts described in the affidavits confirm that the application site has not been used by a 'significant number' of local residents, either from the neighbourhood or the locality. Alastair Butler describes the only isolated instance of attempted play use of part of the site in 2008 (paragraph 11 of his affidavit) and which required a parent to gain forcible entry through the boundary hedge and clearance of the ground; which quickly developed into a muddy area unsuitable for his children. Neither Alastair Butler nor Chris Tossell, who both live in close proximity to the application site, have witnessed any members of the public walking their dogs on the site.

The number of members of the public who have entered the application site (for any reason) cannot therefore be described as significant.

'...have indulged as of right...'

The legal meaning of the phrase 'as of right' has been clarified by the House of Lords' decision in the case of *R v Oxfordshire County Council and others, ex parte Sunningwell Parish Council UKHL 28 [1999]*. The test as to whether this criteria is met is an objective one, requiring that any use must be without force, without secrecy and without permission.

In the present case there is no evidence that any use capable of justifying registration has occurred during the period of 20 years preceding the date of the application. However, as described above, the only instance of known use necessarily involved forcible entry onto the site through the boundary hedge. As is clear from the aerial photos exhibited to the Affidavit of Alastair Butler ("AAB2") the application site has for at least the last 20 years been surrounded by a substantial boundary hedge, the purpose of which has plainly been to define and assert the private ownership of the land and otherwise act as a physical barrier to prevent unauthorised access.

As is also clear from the affidavit of Richard Rusby, solicitor and executor of Ms Jacob Smith's estate, there was no express intention by Ms Jacob Smith that this land was to be subject to public access for recreation and therefore no indication that such use would, to any degree, have been tolerated.

The application site has been owned by Linden North Limited since the end of November 2010 and we can confirm that our client will take positive steps to prevent and enforce any unauthorised entry onto its development site and for the avoidance of doubt permission will not be given to any member of the public seeking to access the site for any recreational purpose.

'...in lawful sports and pastimes on the land..'

The case of *Sunningwell* also considered the meaning of the phrase 'lawful sports and pastimes'. Whilst activities such as dog-walking are capable of falling with the statutory definition there must be an established pattern of use and any use must not be 'trivial and sporadic'. There is in this case no evidence of any established pattern of use for any qualifying activity. It should of course be noted that the land has been subject to the unlawful dumping of household waste in recent years, rendering it wholly unsuitable and unsafe for any kind of use.

'...for a period of at least 20 years'

On the basis of the affidavit evidence provided, during the period of 20 years preceding the 7 March 2011 there has been no qualifying use of the application site within the meaning of Section 15 (2) (a) of the Act.

Subsection 15 (2) (b)

'they continue to do so at the time of the application'

For the reasons already stated above there is no evidence to support the applicant's assertion that any qualifying use of the application site has taken place at any time within the requisite period.

In conclusion, we would request that this letter and accompanying affidavit evidence be considered in response to the application, which is plainly an unmeritorious attempt instigated by one local resident to stymie the beneficial redevelopment of land owned by our client. In the circumstances it is considered that the appropriate and responsible course of action to be taken by the local authority is to request that the application be withdrawn, so as to avoid the needless cost and misallocation of both public and private resources.

We would be grateful if you would acknowledge receipt of this letter and enclosures.

Yours faithfully


DAVIES ARNOLD COOPER LLP

Encl./...

AFFIDAVIT OF RICHARD WILLIAM RUSBY

I, **RICHARD WILLIAM RUSBY** a partner in the firm of Cowling Swift & Kitchin Solicitors of 8 Blake Street York YO1 8XJ make oath and say as follows:

1. I am one of the joint executors of the Estate of Winifred Mary Jacob Smith formerly of Somerley Boroughbridge Road Knaresborough North Yorkshire
2. For in excess of thirty years I have dealt with the affairs of Miss Jacob Smith who died on the 23rd day of May 2003.
3. Prior to her death Miss Jacob Smith lived at Somerley and her family had lived there since 1911
4. In the last five years of her life Miss Jacob Smith lived at Bilton Hall Nursing Home
5. Prior to her residency at Bilton Hall Nursing Home I attended Miss Jacob Smith on a reasonably frequent basis to discuss her properties and affairs. It was not unusual for me to walk round her extensive garden at Somerley and also to view her vegetable garden on Blind Lane
6. The land edged red on the plan attached hereto as Exhibit "RWR 1" was always used as the vegetable garden for Somerley and during the first 10 years of my visits to Miss Jacob Smith it remained a vegetable garden
7. In her latter years Miss Jacob Smith ceased growing vegetables and the said land in Blind Lane was grass then became overgrown and as the years passed it became extensively overgrown
8. There was a huge number of self seeded trees and saplings, a great deal of ground cover in the form of weeds grass and other plants. It was also extensively used by people in the neighbourhood as a tip and there were always old washing machines and every other conceivable household item you could consider dumped on the land
9. Throughout that period until the date that the land was sold it was not used by the locality as a village green. It would have been impossible as it was utterly impenetrable.
10. Its former use was a garden exclusively for the benefit of the Jacob Smith family and its latter use was a tip and overgrown area of land
11. As the Executor of the Estate I wholly refute that it could ever be classed as a recreational green space. It was an impenetrable dumping ground. The thought that it was used as a children's playground or for dog walking for 20 years is ridiculous as it was so overgrown you could not have passed through it and no parent would have allowed their children to play in it as they could have been injured
12. Had Miss Jacob Smith ever intended that this area of land would have become a village green as per the application she would undoubtedly have instructed me as her solicitor to that effect. Miss

Jacob Smith has made a hugely generous donation to Harrogate Borough Council of the Jacob Smith Park which is for the benefit of Knaresborough Scriven and the locality consisting of thirty one acres of land at Scriven which is now being much enjoyed by the people of Knaresborough and is only a short walk away from the said land in Blind Lane

SWORN at Duncombe Place, York

This 10 day of August 2011

Before me)


~~Solicitor/Commissioner for Oaths~~

This is the exhibit marked "RWR1" referred to in the affidavit of

Richard William Rusby sworn on... 10 AUGUST 2011

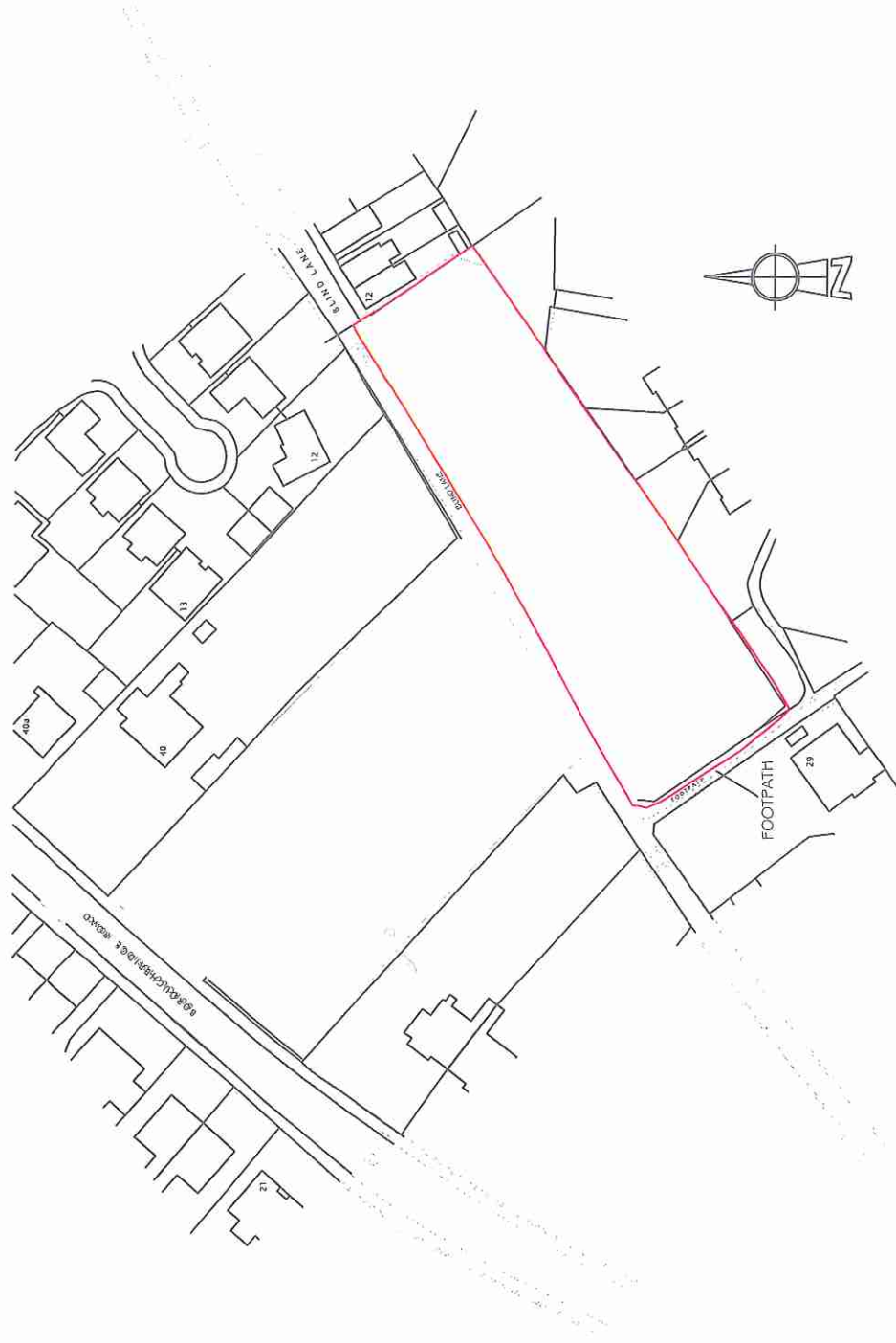
Before me: ANSELA DEIAHOLZ

Signed..

~~Solicitor/Commissioner for Oaths/~~

EXHIBIT "RWRI"

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Revision:	-
Drawing No:	842/NG/03
Date:	02/08/11
Scale:	1:1250 @ A4
Project:	Boroughbridge Road Knaresborough
Title:	Village Green Application Site (General)



Linden Homes North
 Peninsular House
 Hesselwood Office Park
 Hessele
 HU13 0PA
 Tel: 01482 359360
 Fax: 01482 644193

Rev	Details	Date

Revisions

Affidavit of Betty Margerite Walker

I, Betty Margerite Walker, of Weir House, Nidd Bank, Knaresborough, HG5 9BX make oath and say as follows:

- 1 I knew the former owner of Somerley, Winifred Jacob Smith for about 12 years before her death in May 2003.
- 2 In the last five years of her life, Ms Jacob Smith lived at Bilton Hall Nursing Home. *vjs*
- 3 Whilst Ms Jacob Smith lived at Somerley, I used to visit her regularly, approximately 3 - 4 times per week and occasionally walked around the garden and discussed the maintenance of the garden with Jack Birch, who was Miss Jacob Smith's gardener and handy man.
- 4 Around the time Ms Jacob Smith went into Bilton Hall, I recall going onto the area of land edged red on the attached plan (exhibit "BMW1") which would have been around 1998. The land was heavily overgrown and full of rubbish, including tipped household goods. It was very difficult to walk through the site and there were hazards present.
- 5 In 1998 I cannot recall there being any pathways through the site and due to the condition of the land it would have been unsuitable for children to play on or for people to walk through.

Sworn at

*Knaresborough
North Yorkshire*

On *17 August 2011*

Before me:

Signed:

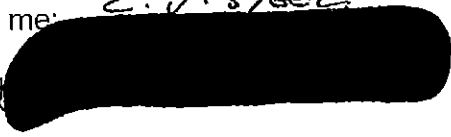
Commissioner for oaths/solicitor

Certified as against the Original

Cowling Swift & Kitchin

Cowling, Swift & Kitchin
Solicitors, York

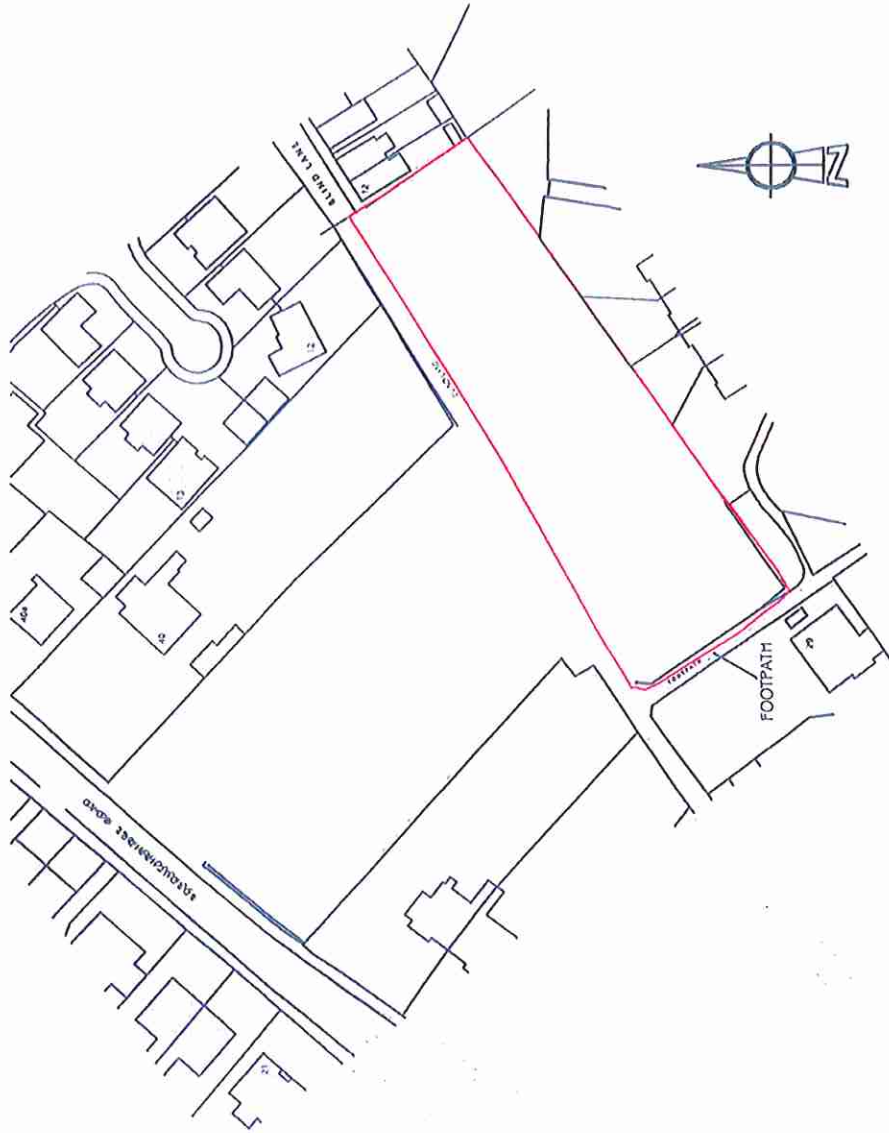
This is the exhibit marked "BMW1" referred to in the affidavit of
Betty Margerite Walker sworn on..... 17/8/11.....

Before me: *C. J. STEEL*
Signed: 
Commissioner for oaths/Solicitor

Certified as against the Original
Cowling Swift & Kitchen
Cowling, Swift & Kitchen
Solicitors York

EXHIBIT BMW 1

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Cowling Swift & Kitchin
Cowling, Swift & Kitchin
Solicitors, York

 Linden Homes North Peninsular House Henslowood Office Park Hasle HU13 0PA Tel: 01482 355960 Fax: 01482 644193	Project: Boroughbridge Road Knaresborough	Drawing No: 842NG/03	Revision: -
	Title: Village Green Application Site (General)	Scale: 1:1250 @ A4	Date: 02/08/11
Rev Details Revisions	Date		

Affidavit of Alastair Allan Butler

I, Alastair Allan Butler, of 36 Boroughbridge Road, Knaresborough, HG5 0NJ make oath and say as follows:

1. I purchased 36 Boroughbridge Road in May 2002 and have lived there since that date. The location of my property is shown edged dark blue on the attached plan as exhibit "AAB1".

2. When I arrived in 2002, Miss Jacob Smith, the then owner of Somerley (38 Boroughbridge Road) was in Bilton Hall Nursing Home, Harrogate, and the garden of Somerley was maintained by a gardener. The area of land at the other side of Blind Lane, referred to as the Old Orchard (shown edged red on "AAB1"), was not maintained but was an area of long grass, willowherb and other invasive species of shrub and tree. This was bordered by a traditional hedge which was regularly cut.

3. After Miss Jacob Smith died the gardener was no longer employed and the hedges surrounding the Old Orchard became overgrown. Trespassers, mainly youths and thieves, did go into the house and vandalise it and we called the police on numerous occasions. The police regularly chased the youths out of the property. Eventually after several fires Somerley was destroyed (by fire) and subsequently demolished. Since about 2004 the old house and garden sheds were attractive to children and youths but no adults ever went on to the Somerley site.

4. As the Old Orchard and the hedges surrounding it became overgrown pedestrians walking along Blind Lane and also along the footpath to Stockwell Place (as shown on "AAB1") started to throw drink cans, beer, wine and spirits bottles onto the site. Fly-tipping also started to take place and old carpets, settees and other domestic waste was dumped on the land. During winter months, when the vegetation on the land died down, a mass of dangerous litter (e.g. rusting cans and broken glass) was clearly visible on the whole of the periphery of the site. The waste and litter would cause a significant risk of injury to anyone trying to enter the Old Orchard.

5. At no times have I ever seen any dog walkers entering the Old Orchard. I do not believe that any responsible dog owner would have allowed their dog onto the site due to the risk of physical injury and as the rubbish, particularly the carpets and settees, would have attracted vermin.

6. I graduated in 1981 with a 2.1 BSc degree in Geography from Sheffield University and had a keen interest in aerial photo interpretation for mapping and was offered the position of reading for a Phd in Aerial Photography Interpretation and Mapping at Aston University, Birmingham in 1981. I am also a Life Fellow of the Royal Geographical Society.
7. Through my professional and academic interest in photography (described above) I have in my possession a series of dated aerial photographs of the Old Orchard site attached as exhibit "AAB2". (1 - 5)
8. The photograph taken in May 1981 shows that the Old Orchard was at that time a ploughed agricultural field on which agricultural crops were grown. It was bounded by a hedge and barbed wire.
9. The photograph taken on 28th July 1994 shows that the Old Orchard was completely covered in long grass and weeds and was bounded by a hedge. Based on the photograph there are no visible signs of anyone having walked through the long grass and weeds or any indications that the site was in use at that time.
10. The wider aerial photograph taken on 7th October 2003 shows the majority of the Old Orchard site as a typical 'succession vegetation' site, where a site has lain undisturbed and trees and shrubs have colonised the area.
11. Up until about three years ago the site was left undisturbed. In the last three years one of the residents of Alexandra Grove broke through the hedge and cleared part of the north east end of the Old Orchard site in order that his children could play there. That part of the site quickly became very muddy and the children stopped playing there.
12. Since 2002 I have never regarded the Old Orchard as an area used, or indeed suitable, for any form of public recreation.
13. In either February or March of this year Ms Elizabeth Inman (known to me and my wife Caroline as Ellie), the person who has made the village green application, came to our property and spoke to my wife. I understand that Ellie asked my wife if we would be willing to sign a pre-prepared form of letter to support her application, describing the Old Orchard site as a beautiful green space to which we have had access for at least 20 years and one often used for recreation. For the reasons already stated the Old Orchard cannot accurately be described in that way nor, from my experience, has it at any time been used in the



AAB

manner which Ellie has sought to portray in her letter. My wife and I were therefore unwilling to support the application.

Sworn at *Knaresborough* in the
County of *North Yorkshire*
On *1st August 2011*

Before me:

Signed

~~Commissioner for oaths/solicitor~~

This is the exhibit marked "AAB1" referred to in the affidavit of

Alastair Allan Butler sworn on..1st August 2011

Before me:.....Lynda Delf Greenwood

Signed..........

~~Commissioner for oaths/Solicitor~~

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		<p>Linden Homes North Peninsular House Hessewood Office Park Hesse HU13 0PA</p> <p>Tel: 01482 359360 Fax: 01482 644193</p> 	<p>Project: Boroughbridge Road Knaresborough</p>	<p>Drawing No: 842/VG/01</p>	<p>Revision: -</p>
Rev	Details	Date	<p>Title: Village Green Application Site</p>	<p>Scale: 1:1250 @ A4</p>	<p>Date: 21/07/11</p>
Revisions					

This is the exhibit marked "AAB2" referred to in the affidavit of

Alastair Allan Butler sworn on...1st August 2011

Before me:.....

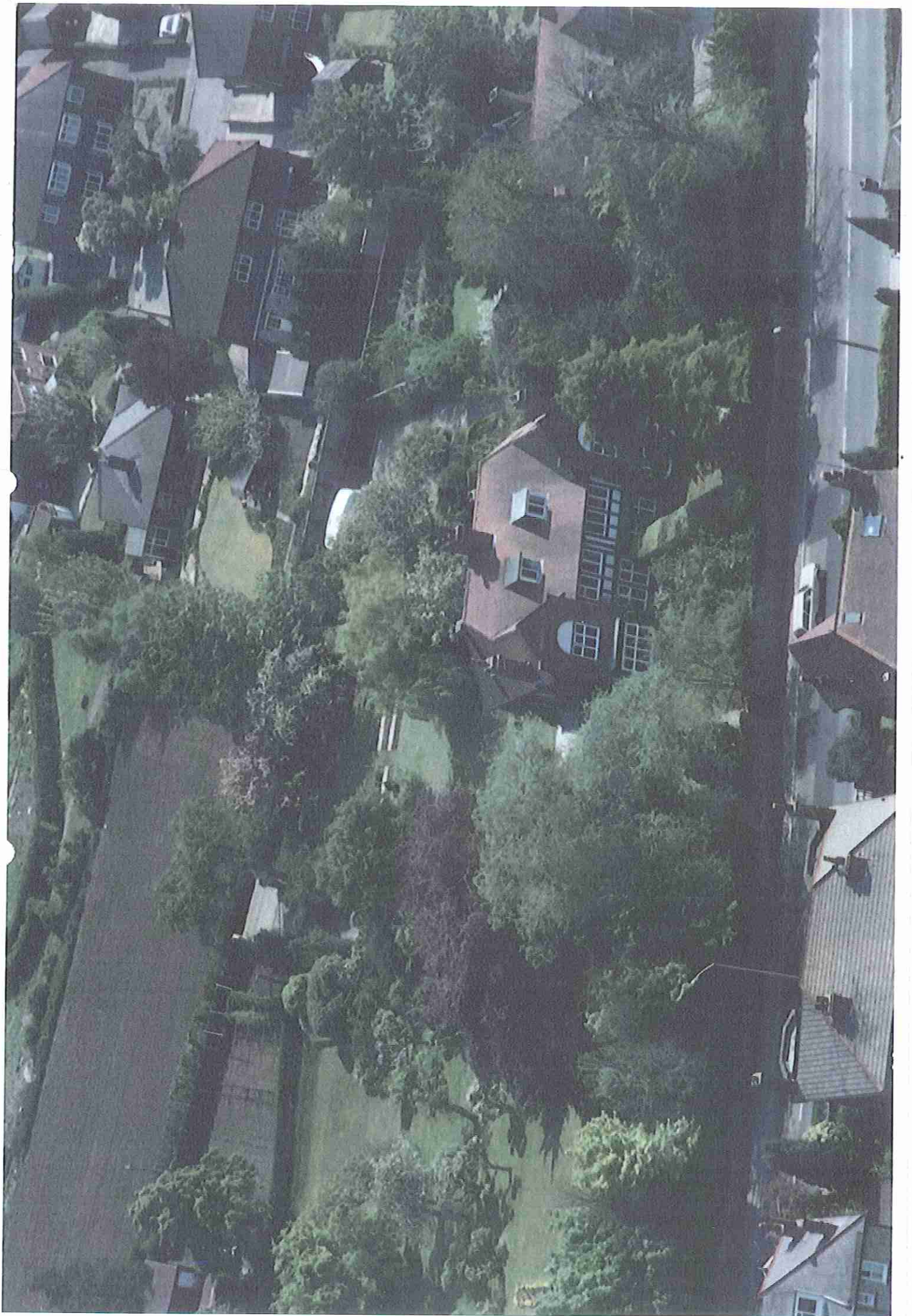
Signed.....

~~Commissioner for oaths/Solicitor~~









Affidavit of Christopher John Tossell

I, Christopher John Tossell, of 40 Boroughbridge Road, Knaresborough, HG5 0NJ make oath and say as follows:

- 1 I have lived at 40 Boroughbridge Road for approximately 15 years and am very familiar with the area of land at Blind Lane in respect of which an application has been made to register a village green. The location and proximity of my property (edged blue) in relation to the application site (edged red) is shown on the attached plan as exhibit "CJT1".
- 2 At least twice every year I have gone down to Blind Lane to tend to the hedge and fence at the rear of my property which bounds the lane and have been able to see clearly the state and condition of the application site.
- 3 Since the death of Miss Jacob Smith (the previous owner) approximately 6 years ago the area became completely overgrown with nettles and brambles and was for all practical purposes impenetrable. I have on several occasions attempted to recover one of my lost chickens from that area and found access to it very difficult indeed. During Miss Smith's ownership the area was looked after and regularly maintained by her gardener and men from the local farm.
- 4 I am not aware that the application site has ever been used for recreational purposes by members of the neighbourhood during the last 6 years, either by local children as a play area or for dog-walking; although dogs may have been able to enter onto that land. Due to the poor condition of the land and the absence of any apparent use I have never regarded the application site as an area of any recreational value to the neighbourhood.
- 5 The public footpath which runs along the side of the application site (shown marked on "CJT1") is regularly used to access Blind Lane from the estate, which is clearly marked and kept open.

Sworn at

On 28th July 2011

Before me: JOANNE BRENNAN

Signed: 

Commissioner for oaths/solicitor



JOANNE L. BRENNAN
Solicitor
Knaresborough

Steel & Co.
Cranbourne House
36 Gracious Street
Knaresborough
HG5 8DS

This is the exhibit marked "CJT1" referred to in the affidavit of

Christopher John Tossell sworn on 28th July 2011

Before me

Signed.....

Commissioner for Oaths/Solicitor

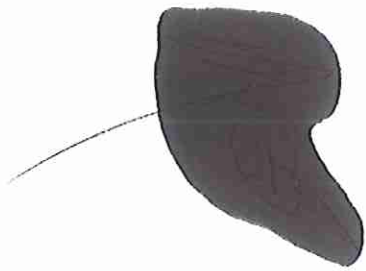
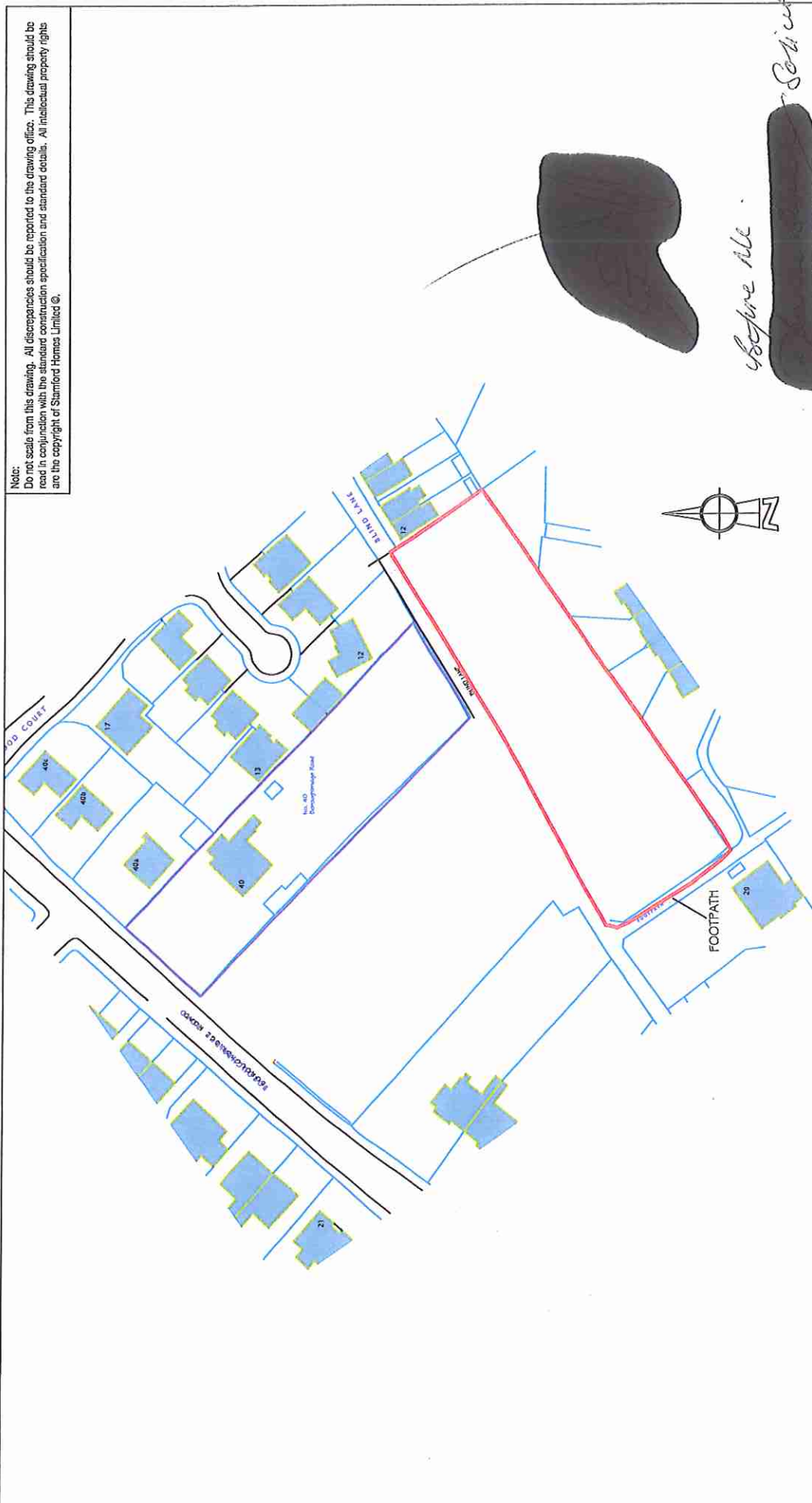


JOANNE L. BRENNAN
Solicitor
Knaresborough

Steel & Co.
Cranbourne House
36 Gracious Street
Knaresborough
HG5 8DS

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before the

Steel & Co Knaresborough

Linden Homes North Penitular House Hoslewood Office Park Hessle HU13 0PA Tel: 01482 355360 Fax: 01482 644193	Project: Boroughbridge Road Knaresborough		Drawing No: 842/VG/01	Reviser: -
	Title: Village Green Application Site		Scale: 1:1250 @ A4	Date: 21/07/11
Rev Details	Date	Revisions		

APPENDIX 7

19 AUG 2011

Dear Chris,

Harrogate Borough Council wishes to object to the registration of The Old Orchard, Blind Lane, Knaresborough as a village green. Attached in support of the Council's objection are :

Statements from two Council Officers, who have over the years had personal knowledge of the site in a professional capacity (a further statement from the Planning Case Officer for the site will follow on Monday, along with his photos of the site from early 2008).

Statements from two local residents. These have been provided to the Council's Parks Development Manager (who has been involved with the Estate of the Jacob Smith sisters) and forwarded to me for inclusion in our representation. The residents have asked not to be named.

Comments from Councillor Anthony Alton, former Planning Chairman.

A letter received by Councillor Batt from a local resident.

Thank you.

Jenny Wood

Please note: I normally work in Harrogate on Tuesdays, Thursdays and Fridays. I work in Craven on Mondays and Wednesdays and can be contacted there on 01756 706433 or by e mail - jmwood@cravendc.gov.uk

Jenny Wood

Principal Development Officer

Department of Community Services

Springfield House

Kings Road

Harrogate

HG1 5NX

01423 556891

Dawn Saxby

From: Anthony Alton
Sent: 28 July 2011 11:38
To: Dawn Saxby
Cc: Caroline Bayliss; Nick Brown-EXT; Jean Butterfield; Richard Cooper; Michael Harrison; Don Mackenzie
Subject: RE: "Village Green" application - Blind Lane, Knaresborough

Dawn

I have followed the progress of this site through Planning from when I was the Chairman. I have been on-site at least twice and to the best of my knowledge and belief, the previous use of the site has been as a garden and orchard. I could not support a 'Village Green' on this site.

Anthony

Jenny Wood

From: Patricia McLaughlin
Sent: 16 August 2011 12:57
To: Jenny Wood
Subject: FW: "Village Green", Blind Lane Knaresborough

Hi lennv

Best wishes

Trish McLaughlin - Parks Development Manager
01423 841094

I have been walking up and down Blind Lane regularly close on 20 years (it used to be my route home from school) and in all that time the land has never been used for community use and has never been more than scrubland. I have also been in conversation with a good friend of mine who is ten years older and was brought up in one of the houses that back onto the land and he has no recollection of the land being used either. In fact he went so far as to say that when he heard about the village green application he thought that there must be a piece of parkland that he had never been to in his childhood.

Jenny Wood

From: Patricia McLaughlin
Sent: 15 August 2011 08:44
To: Jenny Wood
Subject: FW: "Village Green", Blind Lane Knaresborough

Hi Jenny

Here is a response from a resident of Knaresborough:

In the almost 9 years that we've lived here, I have walked quite often up Blind Lane, especially at weekends. In all of that time, the land in question has just been a neglected area of scrubby ground with one or two old sofas and other discarded rubbish on it. From time to time there would be children playing in there, but not in anything more than just the way kids do on a patch of land that no one else seems to want.

Best wishes

Trish

Jenny Wood

From: Andrew Soper
Sent: 16 August 2011 15:09
To: Jenny Wood
Subject: The Orchard Blind Lane

Dear Jenny,

Whilst working in Knaresborough between 1979 and 1991 as a Council employee I remember working next to the Orchard cutting grass and facing up the hedge running along two sides of the plot. At this time it was overgrown with briars and sapplings and there appeared no entrance/ public access. However there was evidence of children using it to make dens in and there were ropes hanging from trees. Fly tip debris was also evident.

My colleague, Simon Collier, was a gardener in Knaresborough between 1991 and 2000 and recalls the Orchard being used for the production of vegetable crops. This was believed to be cultivated by Watson Nursery who also owned a nursery site close by which was then sold for building in the mid 1990's, now known as Norwood Avenue. In March 2010 I viewed a house down The Avenue which backs onto the Orchard and remember having concerns about the land behind the house. We made two visits in the evening to ascertain the amount of activity of children/ youths passing or using this area . There were people passing the site but we did not see anybody inside the Orchard.

Regards,
Andrew.

Andrew Soper
Area Manager Harrogate Parks Operational
Department of Community Services
Harlow Hill Nursery
Harlow Hill
Otley Road
Harrogate
HG2 0AZ
Tel: 07525 987997
E Mail: andrew.soper@harrogate.gov.uk
Web Address: www.harrogate.gov.uk

Jenny Wood

From: Kirsty Stewart
Sent: 16 August 2011 15:12
To: Jenny Wood
Subject: RE: Blind Lane - Village Green application

Hi Jenny

Just to clarify the site was fenced off and the house was boarded up. As far as I was aware there was no access to the site.

Kirsty
Operations Support Officer

Kirsty Stewart
Operations Support Officer
Department of Community Services
Harrogate Borough Council
Springfield House
Kings Road
HARROGATE
HG1 5NX
Tel 01423 841002
Fax 01423 556810
Customer Services: 0845 3006091
Email: kirsty.stewart@harrogate.gov.uk
Web: www.harrogate.gov.uk

From: Jenny Wood
Sent: 16 August 2011 13:57
To: Kirsty Stewart
Subject: RE: Blind Lane - Village Green application

Thanks Kirsty – could you just add a bit to describe what you mean by mothballed please? Was the Old Orchard site fenced off? Was there any access ?

When you send it back, could you also just put your title on the bottom please? I am going to forward the emails I have to NYCC for their consideration of the village green application.

Thanks again for doing it so soon after you got back.

Jenny

From: Kirsty Stewart
Sent: 15 August 2011 16:18
To: Jenny Wood
Subject: RE: Blind Lane - Village Green application

Hi Jenny

I have worked for the Council in the Parks department for 21 years.

As far as I am aware the site which was the Jacob sisters home on Boroughbridge Road, was after their death "mothballed". This was I presume done by the executors of the estate to prevent access to their private garden and the house was boarded up as well, again to prevent squatters. The property and grounds was like this for quite a number of years prior to the land been sold for development.

We have done work at the request of the executors to cut back the rear hedge which bounders onto Blind Lane as it was causing an issue with public highway access. We did this at least 2 years on the trot but have not done it for several years now.

As far as I am aware we have never entered these grounds to undertaken any work on behalf of the public, or that the public have ever gained access and used it as a public open space.

Kirsty

NEW VIG

F2-50-52811

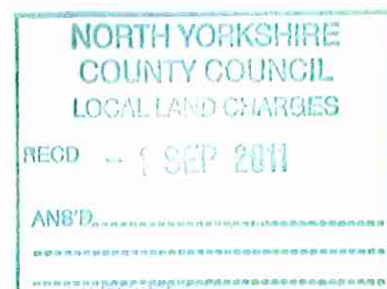
From: "Jenny M. Wood" <JWood@cravenc.gov.uk>
To: "chris.stanford@northyorks.gov.uk" <'chris.stanford@northyorks.gov.uk'>
Date: 22/08/2011 12:14
Subject: FW: Blind Lane
Attachments: DOC220811.pdf

Chris,

Please see comments below and attachment from the Planning Officer for the Blind Lane development. I will also forward photographs of his site visit from early 2008 which he has asked me to pass on (sorry - I'm struggling to attach them!). His involvement began in 2005.

Thank you.
 Jenny

Jenny Wood
 Principal Development Officer
 Department of Community Services
 Harrogate Borough Council



-----Original Message-----

From: Neville Watson [mailto:Neville.Watson@harrogate.gov.uk]
Sent: 22 August 2011 11:18
To: Jenny M. Wood
Subject: Blind Lane

Jenny

See attached letter from Solicitors setting out the position in December 2005.

I have no reason to doubt the conclusion that the land was orchard/garden and was not publically accessible.

Neville

Neville Watson BA (Hons) MRTPI
 Deputy Team Leader Major Developments
 Planning Development Control
 Department of Development Services
 Knapping Mount
 West Grove Road
 Harrogate HG1 2AE

tel 01423 556562
 fax 01423 556620
 neville.watson@harrogate.gov.uk
 www.harrogate.gov.uk

-----Original Message-----

From: Development Control HBC [mailto:ddsatosh5@harrogate.gov.uk]
Sent: 22 August 2011 12:11
To: Neville Watson
Subject: Scanned from MFP-04781913 22/08/2011 11:11

Scanned from MFP-04781913.
 Date: 22/08/2011 11:11
 Pages: 1
 Resolution: 200x200 DPI

RUSBY

WHEN CALLING OR TELEPHONING ASK FOR MR.

**COWLING, SWIFT & KITCHIN,
SOLICITORS,
COMMISSIONERS FOR OATHS.**

TELEPHONE No.
01804 825878

FAX 01804 820214
OX 61550 YORK

E MAIL:
enquiries@csk Solicitors.co.uk

R. W. RUSBY, B.A.
A. L. WARD, LL.B.
C. R. SPENCE, LL.B., M.A.
J. R. HANLEY, LL.B.

LEGAL EXECUTIVE
O. R. TATE
LICENSED CONVEYANCER
L. A. HUMPHRIES

**8, BLAKE STREET,
YORK.
YO1 8XJ**

OUR REF:

RWR CA

YOUR REF:

06 December 2005

Dear Mr. Burns,

Re: Land at Blind Lane, Knaresborough

I refer to our telephone conversation in connection with the land at Blind Lane in the Estate of Miss Winifred Jacob Smith.

I have been familiar with the land for a great number of years with the Jacob Smith family. I can confirm that the Jacob Smiths having lived in Knaresborough since the 1910's, and being in possession of that land from that date to the present date, always used it as a vegetable garden and orchard. It was only in the latter years when Dorothy Jacob Smith and Winifred Jacob Smith became very old that they were unable to continue with it as a vegetable garden and orchard. Apple trees, plum trees and other fruit trees are still visible on the site.

I wonder if you could bring it to Mr. Neville Watson's notice that the land has always had a domestic use, which has not been abandoned.

I trust this is of assistance to you. Should any further confirmation be required I am sure that this can be obtained.

Yours

R.W.Rusby

Mr. J.R. Burns
The Bothy
Brandsby Hall
Brandsby
YO81 4RN



Blind Lane



Blind lane



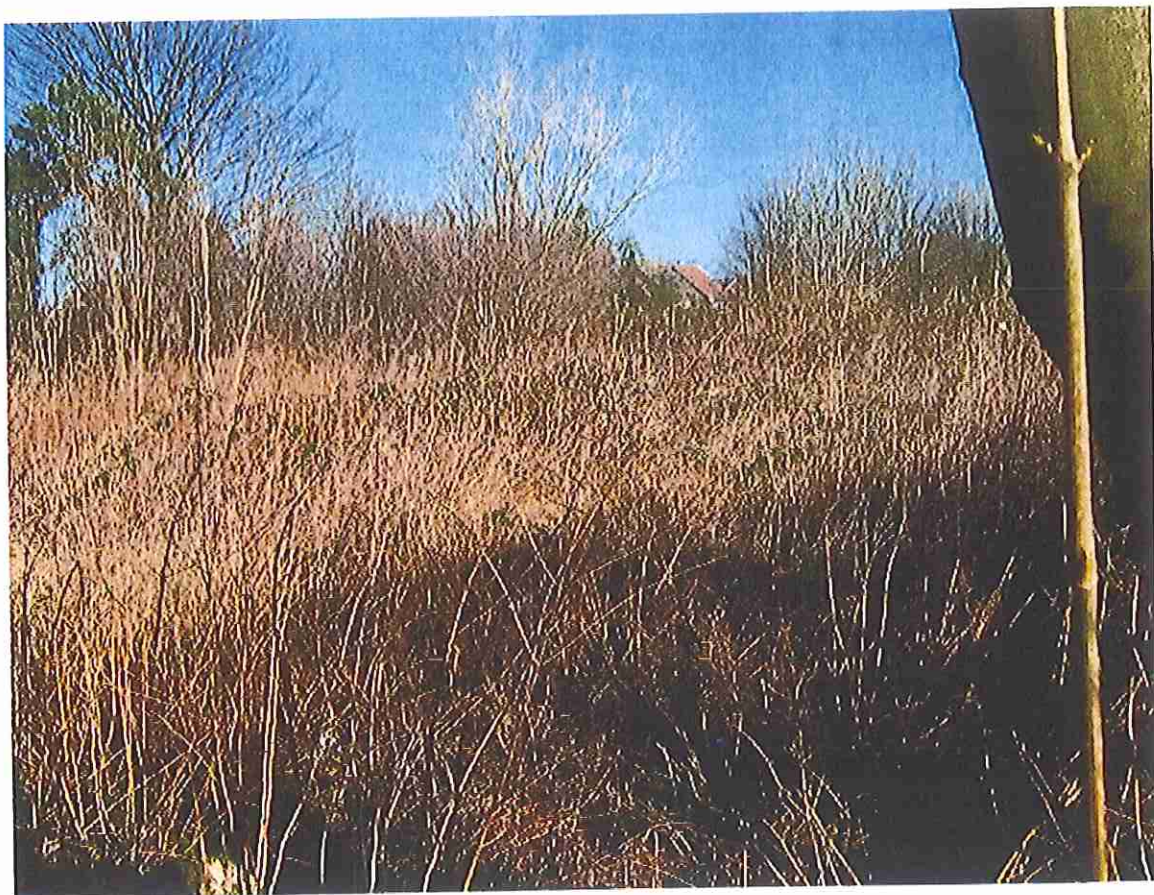
Blind home.



Towards Blind Lane.



Blind lane



Looking towards Blind Lane



Middle of site



Footpath to Stockwell.



from footpath looking back
to Shiloh Lane.

APPENDIX 8

N. Y. C. C.	
DEG	
- 9 AUG 2011	
Presented to	
By	<i>Eack</i>
Approved	
By	
Filed	

Alastair Allan Butler
 36 Boroughbridge Road
 Knaresborough
 North Yorkshire HG5 0NJ
 Tel 01423 797133

8th August 2011

Chris Stanford
 NYCC Commons Registration
 Highways North Yorkshire
 County Hall
 Northallerton
 North Yorkshire
 DL7 8AD

I am writing to object to the registration of 'The Old Orchard' as a village green. This piece of land has not been used by local people for the last 20 years for leisure pursuits.

I studied Geography at Sheffield University from 1978-1981. One of my particular interests was the study of vegetation distribution and succession. A key part of that was the study of aerial photography.

In May 2002 I bought 36 Boroughbridge Road. At that time, Miss Jacob Smith was the owner of what is being called 'The Old Orchard' by Miss E.J. Inman. Miss Jacob Smith was in Bilton Hall Nursing Home and 'The Old Orchard' was an area of overgrown grass with typical successional plants beginning to become established. The hedge boundaries to 'The Old Orchard' were maintained by Miss Jacob Smith's gardener.

As the basis of this objection, I have included a series of aerial photographs, taken in May 1981, 28th July 1994 and 7th October 1993.

The photographs taken in May 1981 show that the site was a ploughed agricultural field, bounded by a hedge.

The two photographs taken in 1994 show that the land was covered in long grass and invasive weed species. The photographs clearly show that the site consists of vegetation which is at least 1 metre high and that this has not been flattened in any way by the site being used for leisure purposes. It could be argued that there is possibly a footpath crossing the site, but in terms of town green registration, a footpath does not count as use for leisure purposes.

The photograph taken in October 2003 shows a typical successional vegetation situation, where an area of land has not been used for any purpose, and invasive tree and shrub species have been able to colonise the site.

Had the site been used by members of the public for leisure purposes, the invasive tree and shrub species would not have grown to the height which is clearly discernable on the photograph.

I feel that these aerial photographs clearly show that the site has not been used by local members of the public for leisure purposes for a period of 20 years.

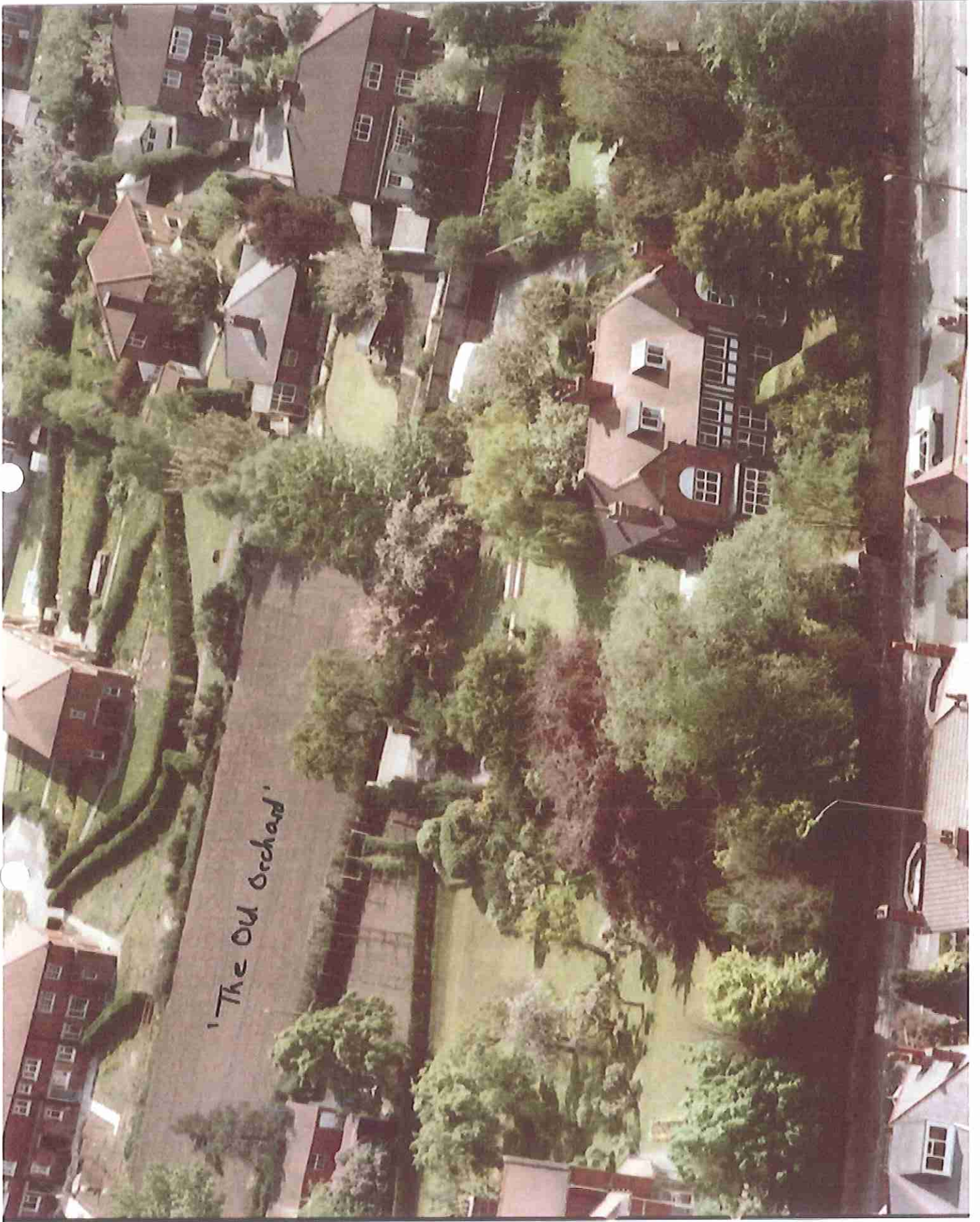
Yours sincerely



Alastair Allan Butler
BSc Geography. Fellow Royal Geographical Society.



The Old Orchard









APPENDIX 9

G warren
45 Park Grove
Knaresborough
North Yorks
HG5 9ET
24/07/2011

Orchard Wood Development,
Chris Stanford,

Dear Sir,

Thank you for your reply regarding the above. I enclose a copy of the letter Ms .Inman sent to the Knaresborough Post ,together with the recent report in said paper dated July 22nd. I have highlighted the comments of Mr .Alastair Butler. As for Councillors Fox and Jones support I wonder of they know that five minutes walk from Ms. Inman's house there is a large playing field with an enclosed children's play area and a skateboard park. I have rarely seen the children's play areas at Hay-a-Park (2) the Spinney and at the Knaresborough Community Centre being used. I may have been passing these places at the wrong time!

For Orchard Wood to become a green field will no doubt lead to the council being responsible for its upkeep, and it will revert to its previous condition, I.e. a dumping ground.

The Jacob Smith Park was put to public consultation held in the Methodist church in Park Grove at which I attended. Somerly and Orchard Wood were not on the agenda so I presume the Trustees of the Jacob Smith family were not considering these as future green site areas as they sold the sites to a house builder.

Mr. Pat Kilburn as head of Parks and Recreation at Harrogate Council was in charge of the consultation and will if he is still in that position be able to furnish you with further information and the address of the Trustees

Yours faithfully .



N. Y. C. C.
BES
26 JUL 2011
Pass to <u>C M</u>
Accd _____
Ans _____
FOD _____
Filed _____

New housing hit by annoyed neighbour

By Maggie Gell

A UNIQUE and surprising move by a local resident has delayed building work on a new housing estate in Knaresborough.

Land has been cleared in preparation for four houses to be built on the site of the former Somerley House on Boroughbridge Road and other ten (including seven affordable) off Blind Lane, on land formerly known as The Old Orchard.

However, developers, Linden Homes now have to delay part of the work after North Yorkshire County Council received a claim under the Commons Registration Act 2006 to register The Old Orchard site as a New Village Green.

The reason for the claim submitted by Elly Inman of Stockwell Place, whose back garden overlooks The Old Orchard is 'by virtue of its use for leisure pastimes by the local inhabitants for at least 20 years' - in other words if the land can prove to have been used for leisure purposes for a block of 20 years or more.

Notices have been posted near the site asking for comments to be sent to the Council and for any proof

that the land has been used by local people for leisure reasons.

Ms Inman wrote to the *Knaresborough Post* in March asking for people to contact her. Since then, she has collected a lot of support and forwarded approximately 30 letters to the council.

"I have been in touch with many people who declare they've had access and used this site as a children's play area and for dog walking," said Ms Inman.

"I'm sure there are more who know far more about the history of the land than I do. Unfortunately, the site has been cleared displacing much of the wildlife and it is now fenced off."

Councillors commenting this week included County Coun Bill Hoult who said: "This is the first application under the Commons Act 2006 in Knaresborough and officers tell me it is unlikely to be resolved before October this year at the earliest.

"I understand that it is up to the developer to decide whether to cease construction work or go on at his own risk."

District councillor for the Scriven Park Ward, Ivor

Fox said: "Although it may be a little late in the day for a 'Village Green,' I fully support the location of a children's play area close to the development which has been requested by many residents. The safety questions on the Blind Lane access especially for children have yet to be resolved and are a major concern."

Coun Anne Jones added: "I'm aware that an application has been lodged to register land known as The Old Orchard as a Town Green. This will need to follow due process but it is unlikely to be resolved before autumn. During the planning process for the development, I raised the concerns of local residents regarding road safety and traffic calming measures."

One nearby resident on Boroughbridge Road, Mr Alastair Butler has lived in the town since 2002.

He doesn't recall the land being used in recent times by locals other than trespassing youngsters, particularly as the plot was overgrown and surrounded by barbed wire.

"I have some photos from 1981 showing the land as a ploughed field, then in 1984 it became long grass and

overgrown and another one in 2002 showing shrubby land and long grass. In the last three years or so, someone has cleared part of the land and children have been able to play in there. Nobody has walked dogs or anything there though," said Mr Butler.

A spokesperson for Linden Homes said: "We were surprised to receive notification in relation to the village green application, which as a result will delay part of site including delivery of the affordable housing units, particularly when planning consent has been granted for development."

"We are unable to comment any further on the detail at this time."

● The application can be viewed at Knaresborough Library or the NYCC offices at Northallerton. To register your comments, email elly.inman@hotmail.com or write to Chris Stanford, NYCC Commons Registration, Highways North Yorkshire, County Hall, Northallerton DL7 8AD

From Elly Inman. 24, Stockwell Place, Knaresborough HG5 0LJ

As readers may be aware, planning has been passed for development of ten houses (seven affordable) on the Blind Lane site known as the Old Orchard. This is under review at the moment to reduce the number of affordable housing to five.

Research strongly suggests that originally this land was left by the Jacob Smith family, along with the site formally known as Somerley on Boroughbridge Road (also passed for planning) and Jacob Smith Park on Scriven Lane, for the benefit of the local residents and for no other purpose.

The details of the site being acquired for residential housing and the proposed alterations to the access route on Blind Lane (one of the oldest tarmacked roads in Britain and historically linked to Blind Jack of Knaresborough) have provoked a lot of concern from local residents, who oppose this and the disruption the build will incur along with the long term limited access to their properties.

Before last week I believed there was little that could be done to change the outcome, until I discovered that where open land has been used for recreational purposes for at least 20 years, an application to register the land as a village green can be submitted.

I have since collected around 30 signatures from local people who declare they have had access, and used this site for reasons including a children's play area and dog walking for a minimum of 20 years. These signatures including the completed Registration Authority for Village Green Application form were delivered by myself to North Yorkshire County Council in Northallerton last week.

I'm sure there are many more local people who know far more about the history of this than I do (being relatively new to the area) and who have likely also used and enjoyed this space not only for recreation but for the wonderful wildlife it attracted including owls and other rare birds. Unfortunately, most of this site has been cleared within the last few days, displacing much of the wildlife, and the site has been fenced off in order to deny any access.

I wonder if readers know more history of both this site, and the intention of the Jacob Smith family in leaving this land in trust, as it seems to me to be just another example of big business and local government riding roughshod over both the intended use of this land and the rights of the local citizens.

Any help people can give me in the form of documentary or photographic evidence of the site would be very gratefully received. I can be contacted at the address above or by emailing elly.inman@hotmail.com

F2-50-S 2635

NEW V.G. 55

G Warren
45 Park Grove
Knaresborough
North Yorks
HG5 9ET

18/07/2011

Orchard Wood Development

Chris Stanford,
N.Y.C.C.

Dear Sir,

I wish to object to the proposals put forward by Mrs. Inman. Enclosed is a letter I sent to the Knaresborough Post in response to one she sent to the same paper. She seems to want a green field for her children to play on, despite the Knaresborough Community field being only a few minutes walk from her house. You are probably aware this field has a childrens play area and a skate board park.

I feel that the building of houses, whether private or social will be of more benefit to Knaresborough as a whole, than a green field which would cost the council in upkeep and would rapidly degenerate into its previous condition.

A parkland has already been donated by the Jacob Smith Foundation, and feel that together with this and The Community Centre provide enough space for the area.

Yours faithfully



N. Y. C. C.
BES
19 JUL 2011
Pass to <u>cm</u>
Ackd _____
Ansd _____
EOD _____
Filed _____

From: malcolm [mailto:malpatwarren@talktalk.net]
Sent: 27-03-2011 10:17
To: planning.control@northyorks.gov.uk; clr.bill.holt@northyorks.gov.uk; Kna News
Subject: old orchard blind lane

Elly Inman gives the impression that the Old Orchard was a pleasant wood where children and dog walkers could roam in perfect safety and observe the abundant wildlife. This may have been true in the past but during the past twelve years. The only wildlife seen and heard has been the human kind leaving beer cans, broken bottles and take away cartons in their wake. Now that the area has been cleared the full extent to which it has been used as a dumping ground has been revealed, with among other things mattresses and garden furniture. No responsible person would allow their children or pets into such an environment. When the house on Boroughbridge Road was demolished planning application notices were posted as well as published in the Knaresborough Post. Why did Elly Inman not object then, is this a case of nimbyism.

G M Warren 45 park grove knaresborough north yorks HG5 9ET

72-80-52650

NEW JGSS

Miss P Fisher
45 Park Grove
Knaresborough
North Yorks
HG5 9ET
19/07/2011

I object to the proposal for Orchard Wood. I have been walking my dog through Blind lane for the last 12 years at no time have I seen anyone in the wood, due to undergrowth it was just about impossible to get in, where you could see in it was covered in broken bottles, beer cans and half eaten take-aways. Once it was cleared it became obvious what the land was being used for, a local rubbish dump, there was a mattress, an assortment of garden chairs, half a kitchen cabinet lots of broken toys and other various bits including hundreds of beer cans, and bottles of all description .

There is enough green space in the , Jacob Smith park the community centre's playing field, and Hay-a-park estate.

As we are desperately short of housing, especially social housing, I feel this land should be put to better use than making another green space for the youths to destroy and leave more rubbish.

Yours Sincerely



N. Y. C. C.
BES
21 JUL 2011
Pass to CM

72-50-S 2667

20th July 2011

Chris Stanford,
NYBC Commons Registration Highways,
North Yorkshire.
County Hall.
Northallerton DL7 8AD.

Dear Sir,

I am writing in response to the article in the Knaresborough Post dated 22nd July 2011 regarding the new housing on Blind Lane, Knaresborough.

I came to live in Knaresborough in 1942 and lived at 32 Stockwell Avenue. As a result of the war effort I was employed at Farnham ammunition factory. To take the bus to work I walked down blind lane every day. The parcel of land referred to in the article by Ms Elly Inman was always used for agricultural purposes growing turnips, corn and other crops.

It was never designated a play area or dog walking area. The only persons using it were trespassers.

Yours faithfully,



E M Robshaw.

N. Y. C. C.
BES
26 JUL 2011
Pass to <u>cm</u>
Ackd _____
Ansd _____
EOD _____
Filed _____

72-50-52687

Tel. Hgte (01423) 863824

Jasmine House
19 'B' Manor Road
Knaresborough
North Yorkshire
HG5 0BN

Mr. C. Stanford.
N.Y.C.C.
County Hall
Northallerton

N. Y. C. C.
BES
27 JUL 2011
Pass to cm
Accel
Ampl
AVD
Print

26-07-11

Dear Sir,

I am writing to you to oppose the petition to register a New Village Green at the old Orchard Blind Lane Knaresborough.

I have worked + lived in Knaresboro. since 1955. In 1962 my family and I moved into 10 Screen Rd, within 2-300 yds of the Jacob-Smith property on Boroughbridge Rd.

Both the Jacob-Smith sister lived in the house with a large garden + orchard at the Blind Lane end of the property. My wife + I moved in 1992 into Manor Rd (down screen) + the Jacob Smith were still on Boroughbridge Rd. A few years after this one sister died, the other continued to live alone for a few years until she fell ill + went into a nursing home, until she died.

The grounds + orchard became overgrown with high grass + weeds. Squatters moved into the house and had to be evicted, the house was boarded up + barbed wire erected round the site.

I have never seen anyone having a picnic on this site. Occasionally a few teenagers would drink + smoke on the site. On your photographs in the library the one showing the cut grass picnic area. The grass has been long, was it just cut for the photo?

P.T.D

The garden area was used annually for a garden party by the local Conservative party.

This petition to show this to be designated as a village green is wrong as it has never been used as a village green only a private garden.

Yours faithfully.



Copies to -

~~C.C. J. Batt~~

C.C. W. Howet.

C. Christine Willoughby

Chris Stanford

From: Judith Robertson <grannyrob@hotmail.co.uk>
To: <chris.stanford@northyorks.gov.uk>
Date: 30/07/2011 12:04

Tc
 Chris Stanfor
 NYCC Commons Registrar
 County Hal
 Northallertor
 North Yorkshire
 DL7 8AC

Mrs J Robertson
 5 Orchard Close
 Knaresborough
 North Yorkshire
 HG5 0NH
 29 July 2011

Re:- development of The Old Orchard, Blind Lane, Knaresborough
 Application for Village Green status

Dear Sir

I've lived in Knaresborough since 1985, at which time there remained some slight evidence of fruit bushes and trees on the site in question, although it was, even then, greatly overgrown with weeds. As time went on and the weed growth was joined by increasing amounts of rubbish – old mattresses, bags of refuse, off-cuts of carpet, cardboard boxes and the like – it was evident that, despite the difficulty of accessing the site, there was human activity of some kind taking place.

As I've walked past at least once a week over the years I have seen some rubbish cleared only to be replaced by more. There have been increasing quantities of bottles and cans scattered on areas of flattened ground that usually show an attempt to provide shelter using the cardboard boxes and plastic bags so conveniently at hand. There has been an occasional vagrant, emerging from the undergrowth in a haze of aromas, as well as the sound of young voices rapidly hushed by approaching and passing footsteps. I've seen many a scurrying rodent and heard, in passing, various rustling sounds which I have not investigated! If all this counts as community use as a recreational area and a spot for romantic meetings, as Ms Inman seems to have been told, I'd be very surprised.

Whilst I can sympathise with the wish to retain an existing open space if it has been of genuine benefit to nearby residents, it seems, given the almost 26 years of increasing dereliction that I've observed, unlikely that this plot was used, at least during that time, as anything other than a rubbish dump and hiding place.

Judith Robertson

72-50-52698
Mrs M. C. Andersson
9 Inman Grove
Knarsborough
Yorkshire
HG5 0PJ

Dear Sir

I have been resident in Inman Grove for the last 58 years and have used Blind Lane daily. The land concerned has never to my knowledge been used for leisure past times by the local inhabitants. The land has always been hedged and access was by a locked gate. However it is only in the last 2-3 years that children have forced their way into this area and become a nuisance. How an accident has not happened

is a miracle.

I was shocked to read in The Knarborough Post last week that a local resident is making claims that people have used this area for dog walking and as a children's play area. How can this be when for the last few years it has been used as a dumping ground for car tyres, mattresses, highchairs and rubbish. Who in their right mind would call this a children's play area, more like an accident waiting to happen.

We have two Parks in the area these being Jacob Smith Park and Stockwell Community Centre. Plus we have a Village Green at Seisewen all within

easy walking distance to
Blind lane. The longer the
delay goes on it is we, the
residents of Inman Grove/
Blind lane who actually
access the lane that are
inconvenienced. I hope
this matter will soon be
resolved

Yours faithfully

A thick black horizontal bar used to redact the signature of the sender.

72-50-52728

28. Greengate Lane.

Knarborough

HG5 9EL

Dear Sir.

Regarding field belonging to
Sommerly on south side of
Blind Lane. Knarborough

I have lived in Knarborough for
71 years, as a child and young man
I lived at Carrives Ave, and used
Blind Lane daily. In my time
the field has never been an
orchard, or allotment or play area.
The Jacob Smiths used to grow
kale or cabbages for cattle feed
these, but not for about 25 years.
When the Jacob Smiths became too
old to farm local people

took advantage and dumped
rubbish and kids played there
but without permission.



N. Y. C. C.
BES
- 9 AUG 2011

Eack

APPENDIX 10

Ms E J Inman,
24 Stockwell Place,
Knaresborough,
HG5 0LJ.

Mr C N Stanford,
Common Land and Village Green Officer,
Yorkshire County Council,
Commons Registration,
Highways North Yorkshire,
County Hall,
Northallerton,
DL7 8AH.

11/9/2011

Dear Mr Stanford,

Ref: NEWVG55/CNS. Blind lane, Knaresborough.

I refer to your letter dated 24th August and have now had the opportunity to read the enclosed objections to the above village green application.

Every single objection attempts to imply that the site has been 'impenetrable' for many years yet they all admit that large amounts of household rubbish have been dumped on the land. How can this be possible? Either there is access or there isn't. It is indeed unfortunate that a mindless minority choose to dump rubbish on the site but nevertheless this is concrete proof that the public have had access to the site, and more to the point, that they have used this access on a very regular basis.

It is also not surprising that these objectors have rarely seen the public on site, none of them live adjacent to the site, indeed the majority live some distance away where monitoring the site on any regular basis would have been extremely difficult, if not impossible. The assertion therefore that 'the number of members of the public who have entered the site cannot be described as significant' is clearly unsubstantiated. Significant does not mean considerable or substantial but merely has to be sufficient to indicate that the land is in general use by the local community for informal recreation. Also, the statement that the public have not 'indulged as a right' onto the site is equally unjustifiable. To satisfy this criteria the use must be without force, secrecy or permission. This is clearly the case. The objection is an assumption which relies heavily on isolated aerial photographs

taken in 1981, 1994 and 2003 which I have now had time to study. I can see no way of identifying the height of the vegetation and no evidence to substantiate the claim that the land was not being used. The 1981 photograph of the land after being ploughed clearly shows it was fully accessible and would have taken a considerable number of years before being covered with such dense vegetation as to become challenging to access, during which time, some areas would've been kept flattened due to being used for access on a regular basis, there is no evidence to the contrary. From these photographs and the additional photographs sent to me on 1/9/11 attached to a letter from Mr Rusby it is evident that in the absence of any consistent fence or hedge on the parameter of the land, that any access was not required to be forcible as has been suggested. I conclude that these photographs offer no proof in support of any objection to my application and ask that they be dismissed when reviewing this case.

One point which is undisputed is that no attempt over the period in question and before the builders started work has ever been made to either prevent access or provide any type of maintenance to the orchard site. If this was the intention of the late Miss Jacob Smith and subsequent duty of the solicitors instructed thereafter, the failure to provide such proves there can be no claim that access was unlawful.

A number of objection appear to have no formal grounds and some of which I feel should be used as supporting evidence for the village green application. A letter from Mr Andrew Soper, a council employee from 1979 – 1991 claims, *"there was evidence of children using it (the old orchard) to make dens in and there were ropes hanging from trees"*. Another letter from Mrs Judith Roberson states *"despite the difficulty of accessing the site there was human activity of some kind taking place"* and Mr Alastair Butler stated *"In the last 3 years one of the residents broke through the hedge and cleared part of the north east end of the Old Orchard site in order that his children could play there"*. I can confirm children were playing there up until the area became a building site and was fenced off.

I have knowledge of only a small number of objections to my application and around 50 letters of support from local residents, some of whom have lived around the site for as long as 80 years, and have enjoyed sharing with me their experiences of growing up playing on the site and watching their children and grandchildren doing the same. Following the interest in the local paper there may be many more who have written to you directly to offer their support.

The written statement from Mrs Brand, a local resident who fulfils the two main criteria of a reliable witness, that of time and space – she has lived in the area all her life, and she lives directly adjoining the site, obviously carries credence. This is echoed by the number of other adjoining residents who have written letters of support, and who in addition have no

vested interest or commercial gain from the site apart from a desire to keep the site for community use in the hope that some of the wildlife will return and for it to remain a village green.

As you may be aware there has been a lot of interest from various groups in Knaresborough to develop this area as a usable community green space, in particular the Renaissance Knaresborough Green Group. Liz Baxandall from Renaissance Knareborough spoke to the Knareborough Post (29/7/11 page3) saying *"If the application is successful in securing this land for community use, we would be delighted to consult and work with a 'friends group' to establish a Community Orchards Project. Planting and caring for edible trees and bushes would enhance the area, increase bio-diversity and provide quality local foods for our community."*

It seems to me unquestionable that this is the wish of the mass majority of local residents. I would therefore ask you to consider all the relevant facts and reliable statements and register this site as a village green.

Yours sincerely,

E J Inman.

APPENDIX 11

FL-So-70029

Mr Chris Stanford
 Common and Village Green Officer
 North Yorkshire County Council
 County Hall
 Northallerton,
 North Yorkshire DL7 8AH
 First Class Post and e-mail:
commons.Registration@northyorks.gov.uk

Our Ref:
 Your Ref: 1330/187885.1
 DD: NEWVG55/CNS
 Email: 020 7293 4538
 Office: amorgan@dac.co.uk
 London, Bouverie Street

N. Y. C. C.	
BES	
23 SEP 2011	
Sent to	CM
Word	-----
Apnd	-----
ROD	-----
Filed	-----

22 September 2011

Dear Mr Stanford

**APPLICATION TO REGISTER A NEW VILLAGE GREEN
 THE OLD ORCHARD, BLIND LANE, KNARESBOROUGH**

We are instructed on behalf of Linden Homes North, the owner of the site which is the subject of the application made on 7 March 2011 to register a new village green under reference NEW VG55.

We have received a copy of your letter of 13 September 2011 enclosing the response of the applicant to the written objections made to the application.

We write in response to the points raised in the applicant's letter of 11 September 2011.

Addressing those points in order:

Paragraph 2

The applicant seeks to imply that the abundance of refuse, as evidence of regular 'fly-tipping', supports accessibility to a site which, it is being claimed, merits registration as a new village green.

This is an absurd proposition and such illegal activity can in no way support the case for registration.

DAVIES ARNOLD COOPER LLP
 LONDON
 6-8 Bouverie Street
 London EC4Y 8DD
 T +44 (0)20 7936 2222
 F +44 (0)20 7936 2020
 DX 172 London Chancery Lane
 E daclon@dac.co.uk

LONDON MARKET
 85 Gracechurch Street
 London EC3V 0AA
 T +44 (0)20 7936 2222
 F +44 (0)20 7936 2020
 DX 172 London Chancery Lane
 E daclon@dac.co.uk

MADRID
 Serrano, 37
 28001 Madrid
 T +34 91 781 6300
 F +34 91 576 8669
 E dacmadrid@dacspsain.com

MANCHESTER
 60 Fountain Street
 Manchester M2 2FE
 T +44 (0)161 839 8396
 F +44 (0)161 839 8309
 DX 14363 Manchester
 E dacman@dac.co.uk

MEXICO CITY
 Monte Pelvoux 210 PB-A
 Colonia Lomas de Chapultepec
 Delegación Miguel Hidalgo
 11000 México, D.F.
 México
 T +52 (55) 11 07 60 56
 F +52 (55) 52 02 93 85
 E dacmexico@dacmexico.com

www.dac.co.uk

187885/1/7514867.1

Cont.../...

The applicant has failed to take a common sense approach to the issue of public access. To quote the relevant statements made in relation to access in their proper context:

Affidavit of Christopher John Tossell (para. 3):

'Since the death of Miss Jacob Smith (the previous owner) approximately 6 years ago the area became completely overgrown with nettles and brambles and was for all practical purposes impenetrable. I have on several occasions attempted to recover one of my lost chickens from that area and found access to it very difficult indeed'.

Affidavit of Betty Margerite Walker (para. 4):

'The land was heavily overgrown and full of rubbish, including tipped household goods. It was very difficult to walk through the site and there were hazards present.'

Affidavit of Richard William Rusby (para. 11):

(of the application site) *'.....it was so overgrown you could not have passed through it and no parent would have allowed their children to play in it as they could have been injured*'

The applicant clearly chooses to ignore the very important distinction between use of land by responsible members of the public and those engaging in the illegal practice of fly-tipping, whose motivations in gaining access to land are totally inappropriate in this context.

The above statements demonstrate that the condition of the land was such that it could not be accessed without great difficulty nor without significant risk of injury.

Paragraph 3

The applicant is incorrect to state that none of the objectors live in close proximity to the site. By reference to the affidavit evidence:

Affidavit of Christopher John Tossell (para. 1):

'I have lived at 40 Boroughbridge Road for approximately 15 years and am very familiar with the area of land at Blind Lane in respect of which an application has been made to register a village green.'

Affidavit of Alastair Allan Butler (para. 1):

'I purchased 36 Boroughbridge Road in May 2002 and have lived there since that date.'

The locations of both Mr Tossell's and Mr Butler's properties are clearly shown on the plan exhibited to their respective statements and they have lived in the immediate vicinity of the site for a significant time during the relevant period.

The statements of Mr Tossell, Mr Butler, Mr Rusby and Mrs Walker all demonstrate a consistent and detailed account of the state and condition of the site within the relevant period.

The applicant is correct to acknowledge that the term 'significant' does not necessarily imply a large number of people when considering whether land is being used for recreational purposes by the public. The relevant consideration is whether the number of people using the land is sufficient to indicate that it is in general use by the inhabitants of the locality or the neighbourhood. That test was established in

the case of *R on the application of Alfred McAlpine Homes Ltd v Staffordshire County Council* [2002] EWHC 76 (Admin).

As a matter of fact however the appropriate test cannot, on any view, be satisfied as there is no substantive evidence of general use for recreational purposes by members of either the locality or the neighbourhood. The pro-forma letters, patently prepared by the applicant for canvassing purposes, cannot reliably or responsibly be regarded as representative of any use of the land for recreational purposes.

The same sentence is replicated in each of the applicant's pro-forma letters:

'I can confirm that I have had access to this beautiful green space and haven for at least the past 20 years and which I have often used for recreation and for my family's enjoyment'

As far as we are aware none of those who have been willing to sign the pro-forma letters have provided any more detailed accounts of their purported use of the land within the relevant 20 year period and those letters should not, without proper investigation in each case, be given any weight as to use.

The very limited material produced by the applicant as evidence of use is to be contrasted with the detailed and considered statements provided from the above-named individuals whose accounts clearly demonstrate that the application site has not, within any relevant period of time, been a recreational green space for the local community.

We would draw particular attention to paragraph 13 of Mr Butler's affidavit in which he describes his and his wife's unwillingness to sign the pro-forma letter when approached by the applicant, considering its content to be a wholly inaccurate portrayal of the site and its use.

The applicant claims that the purported use of the application site has been 'as of right' and has correctly identified the appropriate criteria for meeting that test as set out in our previous letter - being use without force, secrecy or permission. We refer to the discussion on that point as set out in our letter of 19 August. All of those criteria must therefore be satisfied and cannot be in this case.

The aerial photos of the site (as exhibited to the affidavit of Mr Butler) provide clear evidence of the historical condition of the application site and it is inconceivable that such an important visual record could be ignored. We are incredulous at the applicant's plea that they be dismissed when considering the application.

The applicant's speculation in relation to the photo taken in 1981 is irrelevant.

As at 2003 it is clearly shown that the site had become densely overgrown and, combined with the presence of refuse, would have been unfit and unsafe for recreational use of any kind. All those who have provided affidavit evidence confirm that this was not an area of land regarded as fit for use by the community.

Paragraph 4

The applicant's comments are irrelevant and have no bearing on the application.

Paragraph 5

In respect of the reference to the affidavit of Mr Butler the applicant has, we assume, selectively quoted the statement to give the impression that a part of the site that had been cleared was used as a play

area for a significant period. That is not the case. The applicant omitted the following (para. 11 of Mr Butler's affidavit):

'That part of the site quickly became very muddy and the children stopped playing there.'

Paragraph 6

For the reasons already discussed the pro-forma letters produced by the applicant cannot be taken at face-value and no credence should be given to them without proper testing in each case.

Paragraph 7

The applicant's reference to potential and aspirational future use of the application site is irrelevant, as the appropriate statutory test as to whether the site merits registration is concerned solely with its historic use. We would highlight the applicant's acknowledgement that the site would need to be developed for it to become a 'usable community green space'; which, on the basis of the evidence available, it has never been over the relevant 20 year period.

As the Council is aware the Government has recently issued proposals to reform the statutory regime for registration of new village greens, recognising that the current system is too susceptible to speculative and unmeritorious applications which undermine its credibility as a means of preserving land that is genuinely valued by local communities and deserving of village green status.

The current application is exactly the kind that the Government wishes to stamp out, by giving appropriate powers to local authorities *'to ensure that weak or vexatious applications may be sifted out at an early stage'* (paragraph 5.3.2, page 30, 'Consultation on the registration of new town or village greens' DEFRA July 2011) and so that they do not place an unnecessary strain on both public and private resources.

For all the reasons set out in our letter of 19 August and above, supported by the detailed affidavit evidence provided, the Council should not allow this application to proceed any further on the basis that it lacks both substance and merit.

We would be grateful if you would acknowledge receipt of this letter.

Yours faithfully



DAVIES ARNOLD COOPER LLP

New VG 55

F2-50-70035

From: "Jenny M. Wood" <JWood@cravenc.gov.uk>
To: commons Registration <commons.Registration@northyorks.gov.uk>
Date: 26/09/2011 15:22
Subject: RE: FW: Scanned from dcstosh1 19/08/2011 12:10
Attachments: DOC260911.pdf

Dear Mr Stanford,

Thank you for forwarding Ms Inman's letter of 11 September 2011. As you are aware, I have no personal knowledge of the site and have merely collated statements submitted by members of the public to the Borough Council, as well as those of Officers and the former Chair of Planning Committee who do. Other than the Planning Case Officer, I have not asked these people for further comments in response to Ms Inman's letter. It seems to me that Ms Inman's account of the site's usage and theirs are so wildly different that little would be achieved by asking them to reiterate or add to what they have already said. I would simply comment that those people who have made objections through the Council would appear to have nothing either to gain or to lose through the statements they have made.

I have spoken again to the Planning Case Officer, Neville Watson, who has been involved with the site and the various planning applications on it since 2005. He states 'My recollection when I first became involved with the site in 2005 was an overgrown area that was not publically accessible'. He also confirms that no objection to the site's development has ever been raised on the grounds of loss of open space or a recreation area. This is despite the fact that when the most recent application was submitted in early 2011 there were 26 letters of objection made, including an objection from Ms Inman (I am assuming Ms E J Inman and Elly Inman as per the e mail are the same). Objections included highways, affordable housing and loss of trees. Ms Inman's objection was on the potential loss of trees and the need to enforce Tree Preservation Orders. No mention was made about the use of the land for recreation, nor was an objection to its loss on those grounds made by Ms Inman or any other objector.

I have attached a copy of the relevant planning committee report. Objections from members of the public are referred to at the top of page 4. Ms Inman's objection, dated 4 March 2011, is on page 7.

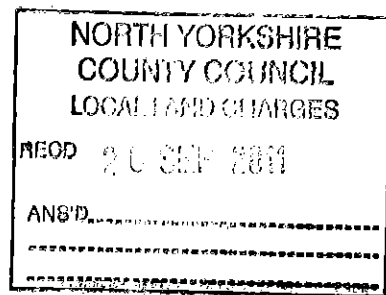
Thank you
Jenny Wood
Principal Development Officer
Harrogate Borough Council
Jenny.wood@harrogate.gov.uk

-----Original Message-----

From: commons Registration
[mailto:commons.Registration@northyorks.gov.uk]
Sent: 13 September 2011 15:12
To: Jenny M. Wood
Subject: RE: FW: Scanned from dcstosh1 19/08/2011 12:10

Please refer to the attached.

Chris Stanford
Commons Land and Village Green Officer
Telephone 01609 780780 ext. 2370
e-mail: commons.registration@northyorks.gov.uk



**HARROGATE BOROUGH COUNCIL
PLANNING COMMITTEE – AGENDA ITEM 6: LIST OF PLANS.
DATE: 15 March 2011**

**HARROGATE BOROUGH COUNCIL
PLANNING COMMITTEE – AGENDA ITEM 6: LIST OF PLANS.
DATE: 15 March 2011**

PLAN: 05	CASE NUMBER: 10/05480/FULMAJ
	GRID REF: EAST 435092
	NORTH 457920
APPLICATION NO. 6.100.2475.D.FULMAJ	DATE MADE VALID:
22.12.2010	
CASE OFFICER: Mr R N Watson	TARGET DATE: 23.03.2011
Park	WARD: Knaresborough Scriven

VIEW PLANS AT:

APPLICANT: Stamford Homes North

AGENT: John R Paley Associates

PROPOSAL: Erection of 14 dwellings including 5 affordable units and formation of road from Boroughbridge Road and Blind Lane (site area 0.7ha) (revised scheme).

LOCATION: Somerley 38 Boroughbridge Road Knaresborough North Yorkshire HG5 0NJ

REPORT

SITE AND PROPOSAL

This is an application for 14 dwellings on land at Boroughbridge Road Knaresborough.

The proposed development is on the site of the property known as Somerley(38 Boroughbridge Road). This property has now been demolished. This part of the site would be developed with four new properties. The remainder of the site to the south east of Blind Lane would be developed with a further 10 dwellings of which 5 properties would be affordable units. The application was originally submitted with seven affordable units, but the Council's Acting Valuation Officer has reviewed the position and has recommended that the number of affordable units be reduced to 5 to allow for other planning requirements to be met and still produce a viable scheme..

The submitted scheme now comprises 4no. five bedroomed houses, 3no. four bedroomed houses, 4no. three bedroomed houses and 3no. two bedroomed houses.. Plots 1to 9 would

NYCC Highways And Transportation

Recommends conditions

H.B.C Land Drainage

No objections

DCS - Open Space (Brandreth)

Advise of a commuted sum of £30,452 directed to sites throughout Knaresborough

Yorkshire Water

Recommends conditions

Police Architectural Liaison Officer

Advise that the design and access statement makes commendable reference to "Secure by Design" and has been in active positive dialogue with the developer.

DCS Arboricultural Officer

Has been in close dialogue with the developer to agree appropriate tree works

Landscape Officer

See assessment

RELEVANT PLANNING POLICY

PPS1	Planning Policy Statement 1: Delivering Sustainable Development
PPS03	Planning Policy Statement 3, Housing
PPG13	Planning Policy Guidance 13, Transport
PPG17	Planning Policy Guidance 17, Planning for open space, sport and recreation
CSSG1	Core Strategy Policy SG1 Settlement Growth: Housing Distribution
CSSG2	Core Strategy Policy SG2 Settlement Growth: Hierarchy and limits
CSSG4	Core Strategy Policy SG4 Settlement Growth: Design and Impact
CSEQ1	Core Strategy Policy EQ1: Reducing risks to the environment
CSEQ2	Core Strategy Policy EQ2: The natural and built environment and green belt
LPH05	Harrogate District Local Plan (2001, as altered 2004) Policy H5, Affordable Housing
LPHD20	Harrogate District Local Plan (2001, as altered 2004) Policy HD20, Design of New Development and Redevelopment
CSC1	Core Strategy Policy C1: Inclusive communities
SPGRES	Supplementary Planning Guidance, Residential Design Guide
LPHD13	Harrogate District Local Plan (2001, as altered 2004) Policy HD13, Trees and Woodlands

APPLICATION PUBLICITY

SITE NOTICE EXPIRY:	04.02.2011
PRESS NOTICE EXPIRY:	04.02.2011

REPRESENTATIONS

form of the proposed development is acceptable.

2 DESIGN/RESIDENTIAL AMENITY - The site is in two parts: one is the curtilage of the property known as Somerley which has now been demolished; the other is the land facing Blind Lane . Neither part of the site is within the conservation area although Boroughbridge Road is an important approach into Knaresborough.

Boroughbridge Road is characterised by detached and semi-detached houses set in generous gardens . The gardens are often mature with trees that contribute to the character and visual amenities of the area.

Blind Lane has an intimate character with a strong feeling of enclosure.

The submitted scheme proposes 14 new dwellings that equates to an overall density of 20 dwellings per hectare. Drawing on an Arts and Craft style of development the scheme reflects the grain and form of the two different part of the site having a lower density of large detached properties on the Boroughbridge Road site with a mixed for of detached, semi-detached and terraced properties on the Blind Lane part. Taking into account the differing characteristics of the two parts of the site it is considered that the scale, density design and layout is appropriate and conforms to the principles outlined in policy SG4 of the Core Strategy

It is also considered that the Arts and Crafts style of development will make a positive contribution to the area's character and layout and are of a scale that respects the scale and character of surrounding development without directly mimicing other development in the area.

Existing buildings in the locality are constructed in a variety of materials including brick, render, natural and artificial stone. It is proposed that the development will be constructed principally in brick, although there is the opportunity to introduce render. The final approval of materials including roof tiles or slates can be appropriately dealt with by condition.

The scheme has been the subject of detailed design considerations many of which have been addressed by the submission of amended plans and it is concluded that on balance the scheme is acceptable and conforms with policy HD20 of the Local Plan.

Residents have expressed concern about the impact the development would have on their amenities. To this end the boundary with 36 Boroughbridge Road will now be finished with a 2 metre high close boarded fence and the boundary to plot 5 retains the existing hedge. Taking into account the distances the proposed properties are from adjacent dwellings and the boundary treatments it is considered that the development will provide an acceptable level of residential amenity for existing and prospective residents.

3 HIGHWAY ISSUES - The road layout linking Boroughbridge Road to Blind Lane is the same as the extant consent. The scheme also includes the re-alignment of Blind Lane and traffic calming measures

The Highway Authority have no objections to the scheme subject to appropriate conditions.

The Town Council and residents have now raised concerns about the new link road

From: elly inman []
Sent: 04 March 2011 10:14
To: CustomerServices
Subject:

Dear Sirs,

The site known as ' Somerly, 38 Boroughbridge Road/ Blind Lane, Knaresborough, the site of the old orchard, is the subject of a planning application to erect 14 dwellings upon it, and which has not yet been passed.

In the past both the Council and a local Councillor have assured residents that there is a tree preservation order on at least six of the trees on site, however the site has now been cleared of all trees except two on the southern boundary, and it appears work is about to commence on drains, groundworks etc.

I would urgently request that you register tree preservation orders on the remaining trees to ensure that all of them are not lost.

Yours faithfully,

Elly Inman.

NEW VG55

72-50-70027

Ref NEW VG55 / CNS / 52729

23rd September 2011

From
Mr A A Butler
36 Boroughbridge Road
Knaresborough
North Yorkshire
HG5 0NJ

To
Mr C N Stanford
Common Land and Village Green Officer
Commons Registration
Highways North Yorkshire
County Hall
Northallerton
North Yorkshire
DL7 8AH

Responded by e-mail
23/9/2011

Dear Mr Stanford

Following your letter of 13th September 2011 I would like to add the further specific points regarding Ms Inman's letter of 11/9/2011.

Paragraph 2. Concerning household rubbish on the site.

The rubbish was thrown in from Blind Lane and from the footpath through to Stockwell Place, and did not require access to the land.

Paragraph 2.

Ms Inman is inaccurate as we do in fact live adjacent to the site. The driveway from our house faces across Blind Lane to the site. Every time we leave our property by car we have to drive past the site. We invariably leave our property on foot past the site as it is safer walking along Blind Lane for a family of 6, including babies and toddlers. (Our children are now 6/9/11/13 years, and we have lived adjacent the site for 9 years.)

When we bought our property – a large 7 bedroom Edwardian property with large garden we carefully studied and inspected the local area, as we did not want to buy a property where there were 'youth' problems. We have had many vandalism problems over the years from youths in Blind Lane, but police records will clearly show that the problems all emanated from youths on Blind Lane and/or the footpath through to Stockwell Place. Police records will show that we have never had a problem with youths on The Old Orchard. Police recorded problems over the last 9 years include a broken kitchen window, from a stone thrown from Blind Lane, beer cans and whisky bottles thrown over our wall facing Blind Lane, greenhouse smashed by youths entering from Blind Lane (and again yesterday), graffiti on our wall from youths on Blind lane.

All these incidents have been recorded at Knaresborough Police Station, but records will show that none of these incidents involved youths going onto The Old Orchard, as it was an impenetrable area of tall vegetation.

Paragraph 3.

I studied aerial photography at Sheffield University between 1978 and 1981, gaining a 2.1 BSc Special Honours Degree in Geography. After graduating I was offered a place at the University of Aston, Birmingham, to study for a PhD in 'Remote Sensing' which is the study and interpretation of aerial and satellite photography. I did not take up the offer but instead took the commercial route, and have for the last 30 years been involved in aerial photography, and have for over 20 years run my own business 'Fotoaire Specialist Aerial Photography'.

Ms Inman states in her letter of 11/9/2011 that she can see "no way of identifying the height of the vegetation".

From my professional experience, (and I invite the photographs to be inspected by any independent University Geography department involved in remote sensing/aerial photography interpretation), I can quite categorically say that the photograph of 28/7/1994 shows The Old Orchard as an area of long grass/weeds (nettles, willowherb, thistle type). There is no sign of any human activity as the vegetation has not been flattened. The photograph of 7/10/2003 (nine years later) shows typical invasive successional vegetation (small trees, mainly sycamore in this case). This invasive successional vegetation can only become established where a site is undisturbed by human activity. If regular human activity takes place these successional tree species are unable to become established.

The photographs clearly show that there has not been regular human activity on the site.

For the site to be declared a village green, then there must be independent University interpretation of these aerial photographs refuting the conclusion of my photographic and professional evidence. Ms Inman's evidence strikes me as hearsay when compared to this factual evidence.

Yours faithfully

Alastair A Butler

Tel. Hgte (01423) 863824

Mr. C. Stanford,
N.Y.C.C.,
County Hall
Northallerton

N. Y. C. C.	
BFS	
22 SEP 2011	
Pass to	cm
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Age	
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F2-50-70023

Jasmine House
19 'B' Manor Road
Knaresborough
North Yorkshire
HG5 0BN

20-9-11

Dear Sir,

Commons Registration Act 1965

Application to register new Village Green VG 55

The Old Orchard, Blind Lane Knaresborough

Thank you for your letter dated 13-9-2011 and enclosures!

I would like to add to my previous comments
The Muses Jacob Smiths were great benefactors to the town.

They donated the large farm at land at the end of Scarwein Road to the town it is now Jacob Smith (Scarwein) Park Community area, trees have been planted and the area made into a picnic area, walks and play area for children and families and it is well used by people
There is a large childrens play area on the Stockwell Estate & a childrens playground next to the swimming pool.

The Jacob Smiths asked for affordable housing to be built on the house land and I feel the people of Knaresborough will benefit greatly by having houses available to them
I feel the children of the town are adequately catered for.

Blind Lane is a narrow road at the top with no footpaths and half of the road is only wide enough for one car to go up or down and is therefore dangerous.
Please refuse this application
Yours faithfully,

New JG 55

F2-50-70021

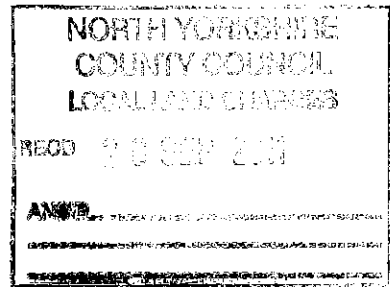
From: g warren <gwarren@btinternet.com>
To: <commons.registration@northyorks.gov.uk>
Date: 16/09/2011 11:37
Subject: the old orchard

Dear Mr Stanford

After reading the e-mails concerning the application for a village green, I am appalled that Mrs Inman asked Mrs Butler to sign a paper stating that the site had been a beautiful green space, in it's entire history it could never be described as that. Mrs Inman only started this campaign after the site was cleared and all the evidence that would have disputed what she is saying had been destroyed. As the letter from Mr Soper states that it was being used for vegetable growing until the mid 1990's, how could people be using it for leisure . Mr Butler says photos taken in 1994 shows the area bounded by a hedge. I posted a letter to you yesterday showing dense hedging taken from a street view from google 2011 that confirms that the hedge was there right up to the time the builders cleared the site, if I had read the e-mail before posting that letter this would have all been included . The aerial photo's are not conclusive regarding the hedge but the one's I summited are. Finally just because we do not live adjacent to site the does not mean we do not know what's going on, I am convinced that Mrs Inman has only her own selfish reasons for applying for this village green, in fact she's a nimby

Ms P Fisher

Responded by e-mail
23/9/2011



New 1G 55

F2-50-70019

From: <gwarren@btinternet.com>
To: <commons.registration@northyorks.gov.uk>
Date: 15/09/2011 13:14
Subject: Blind Lane

Mr Chris Stanford
Dear Sir

Thank you for the copy of the letter sent by E Inman. The style and content would make any solicitor proud.

Except for the small clearance in the north east corner the area was difficult to access. The rubbish that came to light would appear to have been dumped close to the back gardens of E. Inman and her neighbours. Maybe the developers could confirm where the said rubbish was found. This clearance was forced as admitted later on in her letter. If as E. Inman maintains the area was regularly used as informal recreation where were the paths? No paths were visible in the aerial photographs because the area was covered by dense scrub.

Tis area has never been a village green. A village green is the centre of a village with the front of the houses overlooking it. A perfect example is Scriven Village.

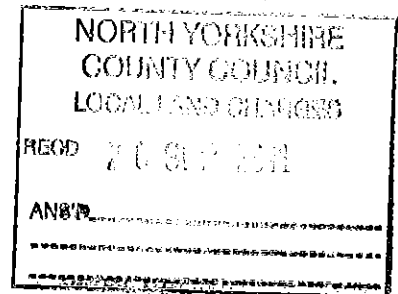
There has indeed been human activity of some kind as witness the broken glass, tins and other rubbish visible on the boundary and inside the area.

At a time when the council is looking for sites for housing development I feel it would be very remiss if the planning committee vote in I favour of this so called village green. Surely the needs of the public at large should take precedence over residents who do not want somebody overlooking their homes. If there had not been a large green field with enclosed children's play area and skate park, within five minutes walk of E. Inman's house I would have supported her project, but there is.

Could you please inform me by e-mail of the date of the hearing if known.

Yours faithfully
G.M. Warren

Responded by e-mail
23/9/2011



New VG 55

F2-50-70020

From: Judith Robertson <grannyrob@hotmail.co.uk>
To: <commons.registration@northyorks.gov.uk>
Date: 15/09/2011 13:35
Subject: response to Ms Inman's letter

Mrs Judith Robertson

5 Orchard Close

Knaresborough

North Yorkshire

HG5 0NH

15 September 2011

To

Mr C Stanford

Commons Registration

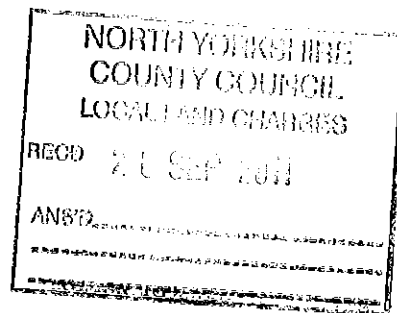
Highways North Yorkshire

County Hall

Northallerton

North Yorkshire

DL7 8AH



Responded by e-mail
23/9/2011

Dear Sir

Thank you for forwarding Ms Inman's interesting letter. Unfortunately, it seems that my letter of objection was not made sufficiently precisely, so I will attempt to clarify the phrase she quotes, completely out of context, in order to dispel any misunderstanding.

Firstly, may I point out that Orchard Close is almost immediately opposite the Halfpenny Lane junction with Blind Lane, not immediately adjacent to the building site I agree, but a scant few minutes away on foot. I and a great many others have used the lane as a short-cut to and from Boroughbridge Road on a regular basis and at varying times of day. I have always assumed that the existence of the privately owned orchard/kitchen garden was the reason that the council house building programme, possibly post-WW2, couldn't extend into it and that the terrace of older houses adjacent stopped at its edge for the same reason.

Secondly, the phrase Ms Inman quotes as being supportive of her cause – "despite the difficulty of accessing the site there

was human activity of some kind taking place" – whilst being accurately reproduced was, as you will know from my original letter, taken from a longer passage which referred, amongst other things, to the proliferation of empty alcohol containers and bags of rubbish. Fencing was certainly in place in the mid to late 1990's because I remember having to lean over it to retrieve my disobedient dog! I will phrase my view slightly differently so that there can be, hopefully, no further misunderstanding.

In common with the majority of people I do not count the act of dumping rubbish of any kind at random, either on public or on private land, after climbing over or forcing a way through an existing fence (however damaged) as legitimate access under any circumstances and I believe that the law basically supports that view. It is an unfortunate fact that the bags, bottles, cardboard boxes, old carpets and so on indicate that such access to the site was possible but surely these rubbish-dumping activities would have been visible to occupiers of the adjacent properties. Who would want to risk being seen adding to the rubbish in broad daylight when waiting until darkness fell was a much safer option to protect the identity of the offender?

On the subject of community use I can only comment that, despite passing the site at various times of day and evening I have seen no evidence of legitimate activities, never observed nor heard of organised games being played there or community events being arranged upon it, not once seen the inevitable remnants and after-effects of such use but only the overgrown remains of ramshackle shelters and their dismal surroundings. If my observations have "no formal grounds" I'm sorry, but I can only offer the evidence of my own eyes and ears.

It seems clear from the letter I have read that Ms Inman is willing to challenge all information that runs contrary to her intention to create a village green and I would not have expected her to do otherwise. However, I completely reject her attempt to use my objection and the objections of others by quoting selectively to her own advantage. Judith Robertson (Mrs)

From: Judith Robertson <grannyrob@hotmail.co.uk>
To: <commons.registration@northyorks.gov.uk>
Date: 15/09/2011 15:09
Subject: RE: response to Ms Inman's letter

Thanks for the extra information. It confirms my suspicion that none of us who object know anything!!!!

- > Date: Thu, 15 Sep 2011 13:53:17 +0100
- > From: commons.Registration@northyorks.gov.uk
- > To: grannyrob@hotmail.co.uk
- > Subject: Re: response to Ms Inman's letter
- >
- > Please refer to the attached.
- >
- >
- >
- > Chris Stanford
- > Commons Land and Village Green Officer
- > Telephone 01609 780780 ext. 2370
- > e-mail: commons.registration@northyorks.gov.uk
- >
- >
- > Access your county council services online 24 hours a day, 7 days a week at www.northyorks.gov.uk.
- >
- > WARNING
- >
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- >
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- >
- > North Yorkshire County Council.

72-50-70015

P Fisher
45 Park Grove
Knaresborough
North Yorks
HG5 9ET

15/09/2011

Dear Mr Stanford

Thank you for giving me the opportunity to add to my original objection.

Mrs Inman is wrong, there was a perimeter hedge around the site as the pictures I have included show very clearly how thick and high the hedge was.

Mrs Inman states that a local resident broke through the hedge to make a play area for his children, that proves to me there was no or very difficult access and this was in the last three years.

Just because the area wasn't maintained does not give people the right to break in and trespass.

As for the bottles and beer cans they are not difficult to throw over hedges, the other rubbish came to light after the site was cleared and they all seemed to be behind Mrs Inman and her neighbour's fences.

In the light of the obvious discrepancies in Mrs Inman's letter I would ask you to refuse this application in the interest of social housing that Knaresborough so desperately needs.

I have no vested interest in the outcome of this application only that I, like Mrs Inman have somewhere to live and would like others less fortunate than I, to have the same opportunity.

Yours faithfully



N. Y. C. C.
15/09/2011
16:45:50
cm

Sent: 31 January 2012 11:53

To: Chris Stanford

Subject: RE: NEW VG55 - APPLICATION TO REGISTER NEW VILLAGE GREEN AT THE OLD ORCHARD, BLIND LANE, KNARESBOROUGH

Dear Chris,

Thank you for your email dated 19th January regarding the above application to register a new village green.

Your email went before Knaresborough Town Council at its meeting held last night. The Council unanimously resolved to make the following comment with regard to this matter: "To the best of the Town Council's knowledge the land was initially a productive orchard, which became derelict land. The Council is not aware of it ever being used as a village green."

Kind regards,

Clare Smith

Office Assistant

Knaresborough Town Council

T: 01423 864080

www.knaresboroughtowncouncil.gov.uk