



**Lewes District Council**

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COUNTY HALL		k
ST ANNE'S CRESCENT	my ref	MR/MLMS/
LEWES	your ref	Chris Kingham Rights of Way Access CET
EAST SUSSEX BN1 1UE	date	5 June, 2014

**FAO CHRIS KINGHAM RIGHTS OF WAY ACCESS CET**

Dear Sirs

**Re: Commons Act 2006 - Application to register land as a village green –  
Hollycroft Field Chapel Lane East Chiltington (O/S Ref. TQ3737515459)**

Further to your letter of 25 April, enclosing a copy of the application and supporting evidence, please accept this letter as the District Council's statement in objection to the application, which the registration authority is obliged to consider in accordance with the Commons (Registration of Town or Village Green) (Interim Arrangements) (England) Regulations 2007.

The District Council relies on the following:-

1. Hollycroft Field and the adjacent housing estate were acquired by the Rural District Council of Chailey, Lewes District Council's predecessor authority, for the purposes of Part V of the Housing Act 1936. Part V of the Housing Act 1936 enabled a local authority to provide housing accommodation for the working classes.
2. From the laying out of Hollycroft Field as a recreation ground until the present day, it has been made available to the occupiers of the housing estate and the public under a statutory power, originally section 80 of the Housing Act 1936 and latterly section 12 of the Housing Act 1985.
3. Hollycroft Field was lawfully held by Lewes District Council under the Housing Act 1957, and is now lawfully held by Lewes District Council under section 12 of the Housing Act 1985.
4. Use of the land by local inhabitants is therefore 'by right' and not 'as of right'.

5. The District Council contends that the fact that Hollycroft Field may be used or may have been intended to be used by persons other than the persons for whose principal benefit the statutory power under the Housing Act existed, does not invalidate the exercise of the Council's statutory power. The District Council relies on authority given in the case of *HE Green and Sons v Minister of Health (No 2)* [1948] 1KB 34 . This case was given further consideration on appeal in *Barkas v North Yorkshire County Council* [2012] EWCA Civ 1373. The Supreme Court upheld the decision of the Court of Appeal in *R. (on the application of Barkas) v. North Yorkshire County Council and another* [2014] UKSC 31.
6. User 'by right' is not use 'as of right' as required by Section 15 (3) (a) of the Commons Act 2006.
7. The principles upon which the District Council relies are set out in *R. (on the application of Barkas) v. North Yorkshire County Council and another* [2014] UKSC 31.

Please find enclosed statutory declaration in support of the objections raised by the District Council.

Please acknowledge receipt of this statement in objection and statutory declaration in support.

Yours faithfully



Catherine Knight  
Assistant Director of Corporate Services

Encl. Stat. Dec. (1) and exhibits (3)

I GILLIAN MARSTON, Director of Service Delivery of Lewes House Southover House Southover Road Lewes East Sussex BN7 1AB do solemnly and sincerely declare that:-

1. I am the Director of Service Delivery for Lewes District Council with responsibility for the housing function of Lewes District Council and overall responsibility for housing services. I make this declaration in respect of the application to register Hollycroft Field, Chapel Lane, East Chiltington ("the Recreation Ground") as a new town or village green under the Commons Act 2006. The Recreation Ground is shown edged red on the plan now shown to me marked "GM1".
2. Lewes District Council is a local housing authority for the purposes of Part I of the Housing Act 1985. The housing estate at Hollycroft, Chapel Lane, East Chiltington (the "Estate") and the Recreation Ground are within the area of Lewes District Council acting in its capacity as local housing authority.
3. The Council's Tenancy Manager has made a search of existing records held by the Housing Services Department. Most of the historic records were destroyed when the Council adopted a paperless management system.
4. The Tenancy Manager and the Housing Officer for the area including East Chiltington have gone through such records as are still available and interviewed council officers with direct knowledge as to how the Council manages the Recreation Ground. The few remaining files still in existence demonstrate that Lewes District Council and its predecessor authority have managed the Estate and the Recreation Ground in their capacities as the local housing authority.
5. The Estate and the Recreation Ground were acquired by the Rural District Council of Chailey, Lewes District Council's predecessor authority, for the purposes of Part V of the Housing Act 1936. Part V of the Housing Act 1936 enabled a local authority to provide housing accommodation for the working classes.
6. The main area of the Estate was acquired by a conveyance of 22<sup>nd</sup> day of January 1946 and made between Alfred Carlisle Sayer Arthur Gerald Miller and Lt. Colonel Charles Harold Noel Adams of the first part Herbert Ivor Powell Edwards and Nora Theodora Imogen Powell Edwards of the second part and The Rural District Council of Chailey of the third part. A copy of the conveyance dated 22<sup>nd</sup> day of January 1946 is now shown to me marked "GM2"

7. Title as to the remaining part of the Estate together with the Recreation Ground was acquired by a conveyance of 23<sup>rd</sup> day of April 1947 and made between Alfred Carlisle Sayer Arthur Gerald Miller and Lt. Colonel Charles Harold Noel Adams of the first part Nora Theodora Imogen Powell Edwards of the second part and The Rural District Council of Chailey of the third part. A copy of the conveyance dated 23<sup>rd</sup> day of April 1947 is now shown to me marked " GM3"
8. Both conveyances contain a recital that the land was acquired for the purposes of Part V of the Housing Act 1936.
9. Part 5, section 80 of the Housing Act 1936 included a power to provide and maintain, with the consent of the Minister of Health and if desired jointly with any other person, in connection with any such housing accommodation, any recreation ground, which in the opinion of the Minister would serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation was provided.
10. Section 80 of the Housing Act 1936 was repealed and substantially re-enacted in the Housing Act 1957, whose provisions were in turn repealed and substantially re-enacted in section 12 of the Housing Act 1985. Section 12(1) reads as follows:

"12(1) A local housing authority may, with the consent of the Secretary of State, provide and maintain in connection with housing accommodation provided by them under this Part—

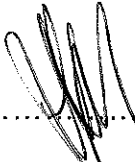
  - (a) buildings adapted for use as shops,
  - (b) recreation grounds, and
  - (c) other buildings or land which, in the opinion of the Secretary of State, will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided."
11. The land at Hollycroft was partly developed as public sector housing accommodation in 1946. The remainder of the land was set aside as a recreation ground provided and maintained by the Rural District Council of Chailey, and Lewes District Council as statutory successor, in their capacities as local housing authority in connection with the housing accommodation.
12. Lewes District Council cannot find any copy records relating to the ministerial consent but has no reason to believe that the proper consent was not obtained.

13. The Recreation Ground is currently held by Lewes District Council as Housing Revenue Account land. It has not been appropriated for any other purpose. Grounds maintenance is recharged to the Housing Revenue Account.
14. To the best of my knowledge the Recreation Ground was lawfully held by the Rural District Council of Chailey under section 80 of the Housing Act 1936 and its Housing Act 1957 re-enactment.
15. To the best of my knowledge the Recreation Ground was lawfully held by Lewes District Council under the Housing Act 1957, and is now lawfully held by Lewes District Council under section 12 of the Housing Act 1985.
16. From the laying out of the Recreation Ground until the present day, the Recreation Ground has been made available to the public under a statutory power, originally section 80 of the Housing Act 1936 and latterly section 12 of the Housing Act 1985. The use of the land by local inhabitants is therefore "by right" and not "as of right".

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

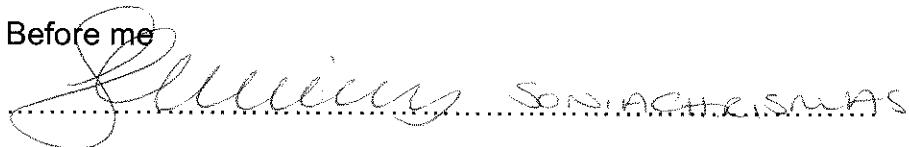
DECLARED at Beverley Ogdenz company

this 5<sup>th</sup> day of June 2014



(signature of declarant)

Before me



(signature of person before whom declaration is made)

(insert description of person taking declaration)