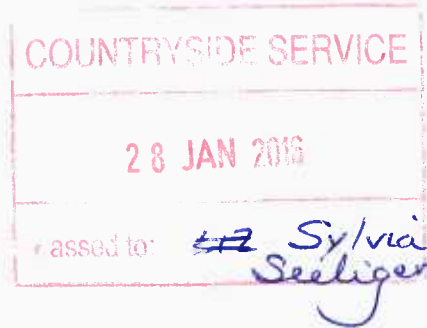


Our Ref: NVJ/DKH/KLC/051028/00232
Your Ref: SS/VG 257/Headley



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27 January 2016

Dear Sirs

Village Green Registration Number: VG257
Application for a Map Modification Order Number: CR/1112

We refer to your email dated 13 January 2016, enclosing draft reports relating to the above Applications.

We confirm that we have the below additional comments to draw to the attention of the Committee.

Village Green Application – Application Number VG257

We note that the recommendation of the report is to refuse the application. In the circumstances, we intend only making brief comments below.

The Diocese's position in relation to the Council's findings where legal tests are found to have been met pursuant to the Commons Act 2006 are strictly reserved. In particular, the Diocese wish to bring the Committee's attention to the fact they have not been able to properly test the evidence submitted by the Applicants, as they have only been provided with anonymised tables summarising the use. By the Council's own admission, the responses to proformas are confusing and the Diocese reserves its position in relation to the quality of the evidence relied upon.

At Page 1 of the Appendix 2 to the draft Report, it is stated (8th bullet point) that "there are references to the road alongside Rectory Field as "dangerous" – it is submitted that this type of walking is not recreational, but of the nature of highway use, and only over a small proportion of the field, neither of which represent qualifying use". This is not an accurate summary of the evidence submitted by the Diocese in that they have never represented that any walking is "of the nature of highway use" and this should be deleted from the summary at Appendix 2.

Please confirm the Committee will be provided with copies of all evidence and statements submitted by the Diocese. It is the Diocese's position that this should be the case.

Application for a Map Modification Order – CR/1112

The Diocese does not accept the findings of the draft report, and objects to the Definitive Map Modification Orders being made as recommended by the draft report.

DM5/80628270.1

The Diocese's position in relation to the findings of the Council are strictly reserved in their entirety.

It is a matter of law that a lessee cannot dedicate land as a highway without the consent of the owner of the freehold as during the term of the lease, the freehold is not entitled to possession and cannot interfere with persons permitted by the tenant to cross the land. We attach a legal note on this point for circulation to the Committee with the reports.

The Council have come to the conclusion that there is no evidence that consent was not given to Mr Ellis to dedicate the land as highway land. However, the Diocese respectively object to this and submit that the correct test should be that the Committee are satisfied that there is evidence of consent actually being given. It is not unusual for agricultural tenancies (especially granted at this time) to not be recorded in writing and it is the Diocese's position that it has not consented to the land being dedicated as a public highway.

Further, it is noted that the Council have taken the view that routes A to B and D to B came into existence in 1999. The Diocesan Board reserve the position in relation to the conclusion that a length of time of 12 years use is long enough to justify registration if indeed that is a conclusion supported by the evidence (which the Diocese does not accept). Further, in relation to route A to B, the aerial photographs appended to the draft report do not show evidence of its existence until 2005.

As above, the Diocese have not been able to properly test the evidence submitted by the Applicants as they have only been provided with anonymised tables summarising use.

Please confirm that all evidence submitted by the Diocese will be provided to the Committee. It is the Diocese's position that this should be the case and at least all exhibits, including photographs, should be included with the report.

Please also note that the Diocese will be represented at the Hearing of the above applications by Counsel, where it will make further and more detailed submissions to the Committee.

Yours faithfully



Charles Russell Speechlys LLP