

Planning, Taxi Licensing & Rights of Way Committee

Meeting Venue
**Trefeglwys Village Hall, Trefeglwys,
Caersws, Powys SY17 5PH**

Meeting Date
Wednesday, 10 October 2018

Meeting Time
11.00 am

For further information please contact
Carol Johnson
01597826206
carol.johnson@powys.gov.uk



County Hall
Llandrindod Wells
Powys
LD1 5LG

3 October, 2018

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

AGENDA

NOTE: the Committee will meet at 9.30 a.m. to receive a briefing and then undertake a site visit

1.	APOLOGIES
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To receive apologies for absence.

Rights of Way

2.	COMMONS REGISTRATION ACT 1965 / COMMONS ACT 2006 - APPLICATION 16-001VG TO REGISTER A NEW TOWN OR VILLAGE GREEN
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To consider Application 16-001VG to register a new Town or Village Green on land at Hillcrest, Aberhafesp (Community of Aberhafesp).

2.1. Welcome, fire arrangements and introductions

2.2. **Declarations of interest**
To receive any declarations of interest.

2.3. **Timetable for the hearing**
The Hearing will follow the attached timetable.
(Pages 5 - 6)

2.4. **Officer's report**
(Pages 7 - 12)

2.5. **Documentation**
The documentation is attached.
(Pages 13 - 192)

Hearing to adjourn for the day at 4.30 p.m.

NOTE: On 11 October, 2018 the Committee will arrive at 9.30 a.m.

Hearing to reconvene at 10.00 a.m.

3. WELCOME, FIRE ARRANGEMENTS AND INTRODUCTIONS

3.1. **Timetable for the Hearing**
The Hearing will follow the attached timetable.
(Pages 193 - 194)

3.2. **Public Hearing closes at 11.00 p.m.**

4. CLOSED SESSION FOR THE COMMITTEE TO DEBATE EVIDENCE

2.3

Timetable – Village Green hearing, 10th & 11th October 16-001VG

Time	What
Wednesday 10th October:	
11:00	Hearing opens – Welcome, fire arrangements, introduction
11:10	Receive declarations of interest
11:15	Applicant opening statement
11:30	Landowner opening statement
11:45	Applicant (Witness 1) – Statement and cross examination
12:00	Applicant witness 2 – Statement and cross examination
12:15	Applicant witness 3 – Statement and cross examination
12:30	Applicant witness 4 – Statement and cross examination
12:45	Applicant witness 5 – Statement and cross examination
13:00	Lunch break
13:45	Applicant witness 6 – Statement and cross examination
14:00	Applicant witness 7 – Statement and cross examination
14:15	Applicant witness 8 – Statement and cross examination
14:30	Applicant witness 9 – Statement and cross examination
14:45	Applicant witness 10 – Statement and cross examination
15:00	Break
15:15	Applicant witness 11 – Statement and cross examination
15:30	Applicant witness 12 – Statement and cross examination
15:45	Applicant witness 13 – Statement and cross examination
16:00	Applicant witness 14 – Statement and cross examination
16:30	Hearing adjourned for the day

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2.4

CYNGOR SIR POWYS COUNTY COUNCIL

PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE 10th and 11th October 2018

REPORT BY: HEAD OF LEISURE AND RECREATION

**SUBJECT: Commons Registration Act 1965 / Commons Act 2006
Application 16-001VG to Register a new Town or
Village Green**

REPORT FOR: INFORMATION

Application 16-001VG to register a new Town or Village Green on land at Hillcrest, Aberhafesp (Community of Aberhafesp.)

The application:

1. Application 16-001VG was made by Mr Richard Amy and is dated 1st November 2016.
2. The land subject of the application is a parcel of land surrounded by the housing estate known as 'Hillcrest', Aberhafesp. It extends to an area of approximately 0.15 hectares (0.32 acres) and is located within the estate, to the east of the B4558 and to the west of Aberhafesp Hall, Aberhafesp, Powys. The land is shown edged in red on the location plan at appendix A.
3. The application was made on form 44, as required by The Commons (Registration of Town or Village Greens) (Interim Arrangements) (Wales) Regulations 2007. It was received by the Registration Authority on 2nd November 2016.
4. The application was numbered 16-001VG and stamped as duly made on 16th November 2016, following a check by officers of Commons Registration and Legal Services.
5. The application was accompanied by four exhibits, as follows:
 - a. Exhibit A: A plan of the land that the applicant is seeking to register and the locality or neighbourhood to which the alleged green relates;
 - b. Exhibit B: Two photographs;
 - c. Exhibit C: A single photograph;
 - d. Exhibit D: User witness evidence, in the form of 17 letters.
6. Notice of the application was advertised in the County Times on 20th January 2017. Notices were displayed on site and served on the applicant and landowner(s), as required by the Regulations; the Community Council was also notified of the application.

7. A period of 6 weeks from the date of advertising was allowed for receipt of any objections or representations, with the deadline being 3rd March 2017.
8. An objection was received, from the owners of the land affected, Mr F Davies and Mr P Davies. It should be noted that responsibility for representing the case for the landowners now rests solely with Mr F Davies.
9. The objection was in the form of:
 - a. A letter from Wace Morgan solicitors, setting out the legal basis for the objection from their clients, Messrs Davies;
 - b. A letter from Messrs Davies and three pieces of correspondence between other parties.
10. Aberhafesp Community Council submitted an email expressing support for the application, although this was received after the deadline of 3rd March.
11. The applicant was provided with a copy of the objection and given opportunity to comment on it; his comments were forwarded to the objector. Further to that, the applicant and objector have been given opportunity to submit any further witness statements, together with case summaries and legal arguments. These have been provided to the other party for review.
12. The applicant has now submitted user witness evidence from a total of 26 individuals, including himself. His responses to the objection (which include some witness evidence, further photographs and correspondence about planning proposals) are part of the papers for the hearing. He has also submitted further photographs with his witness statements.
13. The objector has submitted his own witness statement, in the form of a letter. He has also submitted a legal submission for the hearing, prepared by Manby Bowdler solicitors on his behalf.

The Statutory Requirements:

14. This application has been made under section 15(2) of the Commons Act 2006. The provisions of Section 15(2) apply in circumstances where:
 - (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.
15. The burden of proof is the normal, civil standard, namely, the balance of probabilities.

Locality and Neighbourhood

16. A 'Locality' must be an area recognised in law; it cannot be created by drawing a line on a map. A 'Neighbourhood' need not be a recognised administrative unit but the area chosen must have a degree of cohesiveness.

17. The application is based on long use of the application land by the inhabitants of the area marked in blue on the plan at exhibit A. The applicant has not stated whether the area identified is a neighbourhood or locality.

The relevant 20-year period

18. Section 15 (2) of the 2006 Act applies where there has been use of the land as of right for a period of 20 years and that use was continuing at the time of the application.

19. Use must be continuous in the sense that it has not been interrupted for any significant period of time. However, any periods of statutory closure can be disregarded.

20. The application was signed and dated on the 1st November 2016 and was received by the Registration Authority on the 16th November 2016. The relevant 20-year period of use by the inhabitants of the locality would therefore run from November 1996 to November 2016.

Use of the land for lawful sports and pastimes

21. The Defra Guidance to pioneer authorities advises that:

“It was established in the *Sunningwell* case that lawful sports and pastimes is a composite class which includes any activity that can properly be called a sport or a pastime. There is no necessity for any organised sports or communal activities to have taken place. Solitary and informal kinds of recreation, such as dog walking and children playing (by themselves or with adults), will satisfy the criterion.”

22. The activities need to have taken place on the land subject of the application.

23. Courts have interpreted ‘lawful’ as excluding all activities which would be illegal in the sense of amounting to criminal offences (whether or not they caused damage to the owner’s property.)

Use ‘as of right’

24. Use ‘as of right’ has a particular legal meaning and means that use is made openly – i.e. without force, without secrecy and without permission.

25. The use should be shown to have been of such a character, degree and frequency as to indicate an assertion by the claimant of a continuous right, and of a right of the measure of the right claimed.

26. Use is not ‘as of right’ if users already have a statutory or other legal right to use the land. Use is then ‘by right’ or ‘of right’.

Use by a significant number of inhabitants of the locality

27. ‘Significant’ does not mean considerable or substantial. What matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the

local community for informal recreation, rather than occasional use by individuals as trespassers. *McAlpine Homes [2002]*

28. 'Significant' implies a number of users relative to the size of the population of the relevant locality or neighbourhood.

CONCLUSIONS:

Following the Hearing, having had the opportunity to examine the written evidence provided, hear the oral evidence presented and seek further legal advice if needed, the Committee is required to reach one of the following conclusions:

(1) On the basis that, the land in question satisfies ALL the statutory requirements for registration as a village green:

That the application to register the parcel of land at Hillcrest, Aberhafesp as shown edged red on Notice Plan 16-001VG, be accepted and the land registered as a 'new' town or village green;

OR:

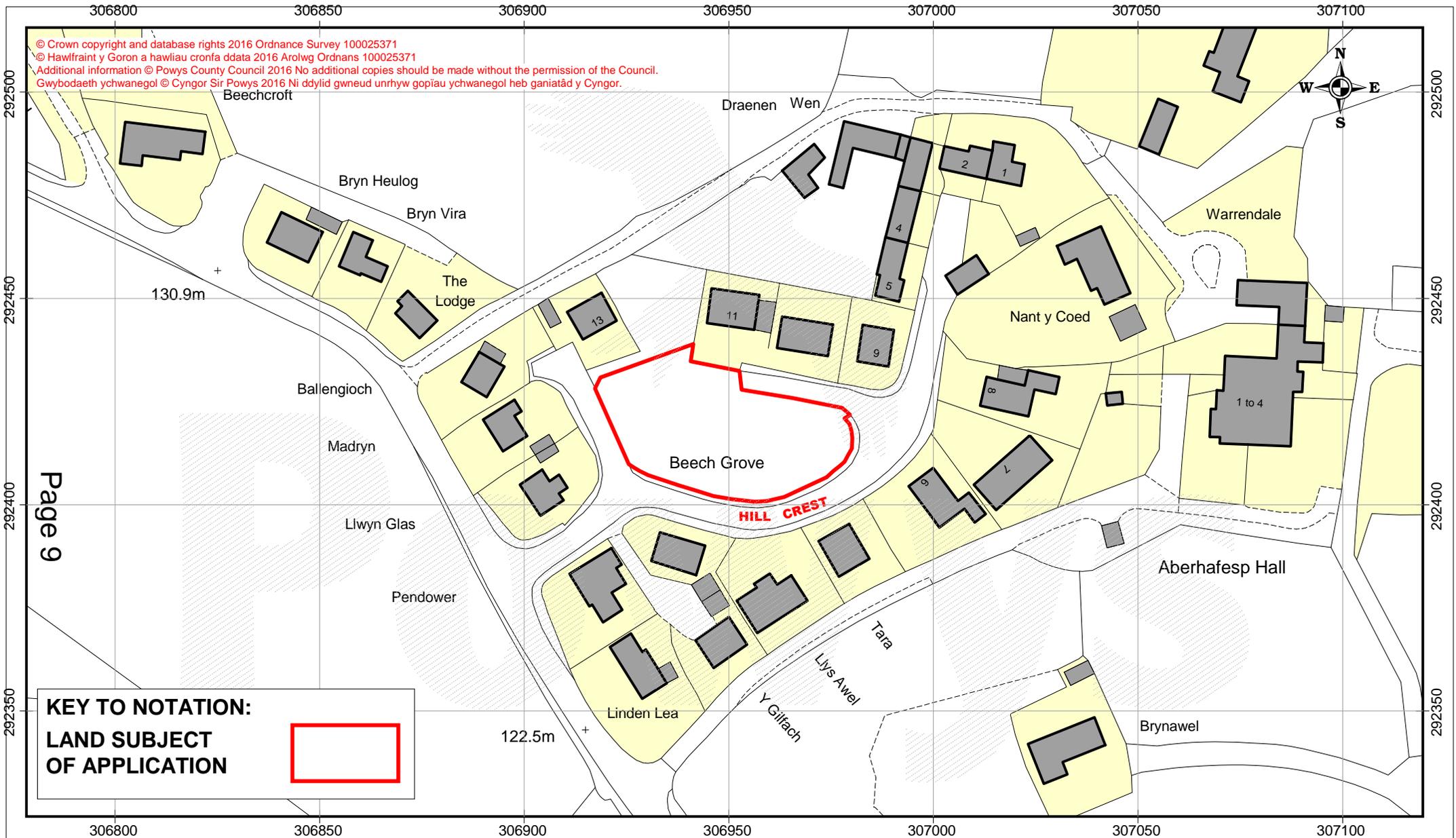
(2) On the basis that only part of the land in question satisfies all the statutory requirements for registration as a village green:

That the application to register the parcel of land at Hillcrest, Aberhafesp as shown edged red on Notice Plan 16-001VG, be accepted in part.

OR:

(3) On the basis that the land in question fails to satisfy one or more of the statutory requirements for registration as a village green:

That the application to register the parcel of land at Hillcrest, Aberhafesp as shown edged red on Notice Plan 16-001VG, be rejected.



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Form 44

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

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 to 6 and 10 and 11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7 and 8 as appropriate. 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 the voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

Note 1
Insert name of
registration
authority.

To the

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 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: Post code

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.

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 that of a community or town council, 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.

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

Name by which usually known

THE GREEN

Location

HILLCREST, ABERHAFESP, SY16 3HL
306950E 292420N OS REF SD 0695092420

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

Tick here if map attached

SEE MAP "EXHIBIT A"

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).

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

THE GREEN AT HILLCREST HAS BEEN USED "AS OF RIGHT" BY THE RESIDENTS OF HILLCREST FOR IN EXCESS OF 28 YEARS.

IT HAS BEEN USED PRIMARILY AS A SPORT AND RECREATION AREA BY THE CHILDREN LIVING ON THE ESTATE. IT IS ALSO USED FOR SOCIAL GATHERINGS AND RESIDENTS ASSOCIATION MEETINGS BY THE RESIDENTS.

IT HAS BEEN USED IN THIS WAY FOR ALL OF THE 28 YEARS I HAVE BEEN A RESIDENT.

UNTIL RECENTLY THE GREEN WAS MAINTAINED SOLELY BY THE RESIDENTS.

THERE HAVE NEVER BEEN FENCES AROUND THE GREEN TO PREVENT ACCESS.

THERE HAVE NEVER BEEN SIGNS FORBIDDING USE OF THE GREEN.

Note 8

Please use a separate sheet if necessary.

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

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

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

Note 9

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

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

Note 10

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

Please use a separate sheet if necessary.

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

MR. GPP & MR. F. DAVIES
NEW MILLS
NEWTOWN
POWYS
SY16 3NQ

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

10. Supporting documentation

EVIDENCE QUESTIONNAIRE
FULLER SUMMARY
EXHIBIT A - OS MAP OF AREA
EXHIBIT B - PHOTOGRAPHS
EXHIBIT C - PHOTOGRAPH
EXHIBIT D - LETTERS FROM 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.

11. Any other information relating to the application

Note 12

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

Date:

1st November 2016

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 the applicant's or applicants' solicitor, or, if the applicant is a body corporate or unincorporated, by its solicitor, or by the person who signed the application.

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

I RICHARDO AMY,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/

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.

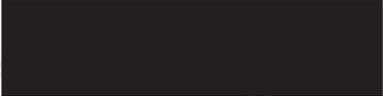
Declared by the said)
)
)
at Old Bank Chambers,)
High Street Newtown)
this 10th day of November 2016)



Signature of Declarant

Before me*

Signature



JONATHAN DAVID CRUICK

Address: OLD BANK CHAMBERS
HIGH STREET
NEWTOWN POWIS

Qualification: SOLICITOR

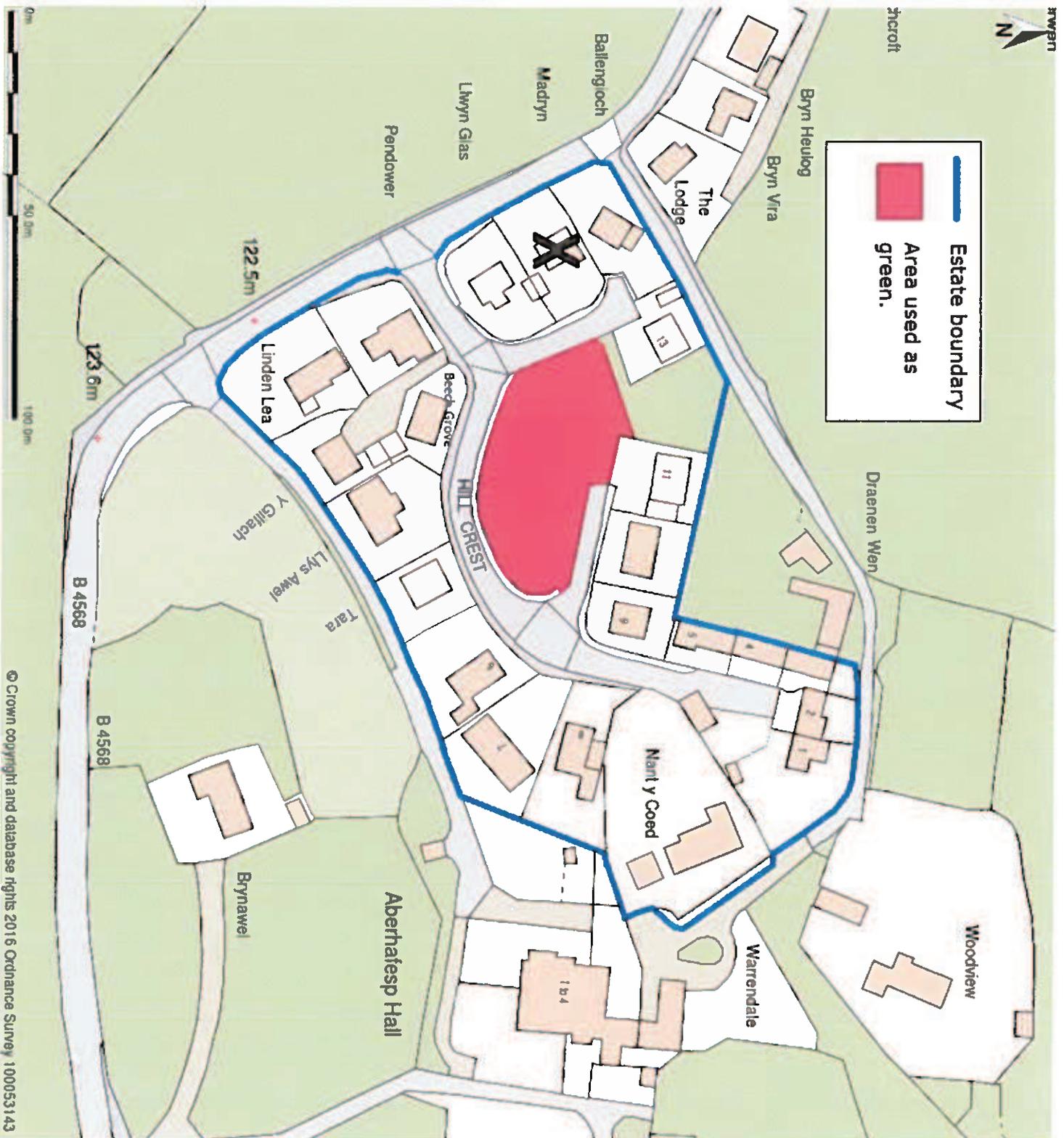
* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

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

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© Crown copyright and database rights 2016 Ordnance Survey 100053143

This is exhibit 'A' exhibited to the statutory declaration of Richard Gray dated 1st November 2016 before me,

[Redacted signature]

Page 21
(Jonathan Crosskey - signature redacted)

JONICITON

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EXHIBIT B



Before 2008 (Winter use)



16th October 2016

This exhibit 'B' exhibited to the
Statutory declaration of Richard Army
dated the 1st November 2016

Before me,

A black rectangular box redacting the signature of Jonathan Crosskey.

(Jonathan Crosskey - signature redacted)

JOLICITON.



EXHIBIT C

This is exhibit 'c' exhibited to the
summary declaration of Richard May
dated the 1st November 2016

Before me,



Solicitor

(Jonathan Crosskey - signature
redacted)

Exhibit D

16 letters from existing residents in properties:

Llwyn Glas
Pendower
Linden Lea
Y Gilfach
Beech Grove
Tara
Colonsay
Briarlea
Nant-y-Coed
Haulfryn
Draenen Wen
No. 9
No. 11
Pen-y-Ffordd
Ballengeoch
Madryn

1 letter from past resident whose parents are still residents:
Eluned Jones

This is exhibit 'D' exhibited to the Statutory
declaration of Richard Jones dated the
11th November 2016

Before me,



(Signature redacted - Jonathan Crosskey)

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Exhibit D

16 letters from existing residents in properties:

Llwyn Glas
Pendower
Linden Lea
Y Giffach
Beech Grove
Tara
Colonsay
Briarlea
Nant-y-Coed
Haulfryn
Draenen Wen
No. 9
No. 11
Pen-y-Ffordd
Ballengeoch
Madryn

1 letter from past resident whose parents are still residents:

Eluned Jones

My family moved to Hillcrest 40 years ago when my first child was a few months old. Since then she and her 2 sisters have regularly played on the green with their friends. The area was a safe space where they could run around, put up tents, make dens, have a BMX track and sledge within view. Now, their children, my grandchildren, also enjoy playing there when they visit. I often see neighbours' children and grandchildren playing football and enjoying running around in safety.

We have had many community gatherings over the years on the green, most memorable on Bonfire nights where adults and children could meet up, share food and enjoy catching up with their neighbours. It has also been used for gatherings to commemorate special occasions.

The green is now an attractive well-kept area that is valued by the residents as the only safe communal space for children to play on the estate and it would be very desirable for it to be kept as such.

Elizabeth Davies

Llwyn Glas

Hillcrest

Aberhafesp

15/10/2016



(Signature redacted)

Gregorio García-Ocaña & Melanie Humphreys
Pendower
Hillcrest
Aberhafesp
SY16 3HL

15th October 2016

Dear Sir / Madame,

With regards to Planning Application with reference number P/2016/0131, we would like to raise our concern about the impact the erection of the proposed dwellings will have on our community.

The green on which 3 out of the 4 houses covered by the application are planned to be built has been a focal point for the community, especially children of all ages. Since we moved into our home in Hillcrest 2 years ago, that piece of land has provided the only safe area for our boy and girl to play in the village. The main reason why they have been able to make friends with neighbours is because of having that area to play. Our boy has had the opportunity to play rugby there, and our daughter has practiced gymnastics with a girl from next door. I have seen other children playing football and riding their bikes there, away from dangers ie cars. In summary, it allows children to play outdoors and exercise, which is something the council should be encouraging due to the benefits on their physical and mental health. A very simple and cost effective solution to the increasing overweight issue in this country.

Once the community loses this ground our children will have nowhere to play together. As you know, our village is very disjointed, and for children from Hillcrest to go anywhere else to play they would be forced to walk on a very busy and very narrow road with no pavement or footpath whatsoever, and where very few cars respect the 30 mph limit.

In addition to the positive effect that the green has on our younger community, the green has also provided us with a place where all families can get together. In our time here, at least one event per year has been organized with high attendance (including a Jubilee celebration). The village lacks other amenities or venues where young children or older residents can just walk to without the risk of being run over.

We strongly support the application for the green to be registered as a Village Green so that the community can continue making the same use of it for years to come, and we hope that the benefits it provides to the wider community will prevail over the economic interests of a few.

Yours Faithfully,



(Signatures redacted)

Linden Lea,
Hillcrest,
Aberhafesp,
Newtown,
Powys.
SY16 3HL

To whom it may concern,

We have been resident at Hillcrest for forty two years and can verify the fact that over the years local children, including our own daughter, used and continue to use the central area of the Hillcrest estate for safe play.

In fact, this area has always been regarded as a 'village green' and has been used by the local population for a number of social events.

In view of the fact that there are limited recreational facilities in Aberhafesp, and on the Hillcrest estate in particular, we feel it makes sense to include an area of green space in the overall planning. We understand that if land has been used to this effect over a number of years that we are entitled to such a provision.

We fully support any attempts to make a partial area of land in the middle of this estate a safe haven and recreational facility for the good of the community and that any planning should take this into account.

It is unfortunate that the local community centre lies some considerable distance away from Hillcrest and increased traffic on the B makes it very hazardous for young children in particular.

If it is possible that an area of land can be registered as a 'village green' then we fully endorse any project to this effect.

Yours faithfully,

(Signatures redacted - G and PE Fleming)

Bob Hill

X GILFACH

HILLCREST

I have lived here for 33yrs.

In this period I have seen several families with children live on the estate. Many have had a number of children & they have all used the green in the centre of the estate. They have played ball games, built 'caves', had parties & generally used it as a safe area, away from traffic. The alternative would have been, play in the road, play in the fields with livestock and excrement, or up in the wood away from eyesight of their parents. The green was the best option for children & their parents. It would be a great loss to lose this area of grassland.

I will list the families I can remember being here over 33yrs.

Humphrey Davies x 3 children

Brandon + Ruth Lane x 3

Rich Amy x 2

Jenny Rutter x 3

Brian Poole x 3

Charlie x 2

Flemings x 1

Marg + Robin x 1

Carole + Helen Owen x 2

Sharon + Jason Bright x 3

Tony Orme x 3

Donaways x 2

Peggy Bound x 2

Andy McDonald x 2

Marie + Keith x 3

We have had many community get-togethers over 33yrs that I have witnessed or attended

Page 33

(Signature redacted)

October 17th 2016

MR + MRS RAWSTHORNE,
BEECH GROVE,
HILLCREST
ABERHAESP
SY16 3TR
14/10/2016

DEAR

RICHARD AMY,

I AM WRITTING TO YOU REGARDING
THE PLANNING PERMISSION TO
BUILD ON THE GREEN OF HILLCREST.
Page 34
MY VIEWS ON THIS ARE VERY
CLOSE TO YOUR OWN.

WE HAVE ONLY BEEN LIVING
HERE FOR A SHORT PERIOD OF
TIME, 8 MONTHS, DURING THIS TIME

I HAVE WITNESSED COMMUNITY
GET TOGETHERS, BUT ONE OF
THE REASONS TO MOVING TO
HILLCREST WAS THE GREEN ITSELF
A PLACE THAT MY 5 YEAR OLD

DAUGHTER WOULD BE ABLE TO
PLAY SAFELY, OFF THE ROAD AND
BE IN FULL VIEW OF US.

IF THE BUILDINGS GO AHEAD,
IT WOULD NOT BE SAFE FOR OUR
CHILDREN OF HILLCREST TO BE
PLAYING ON THE ROAD OF THE
ESTATE, I AND BOTH MY HUSBAND
AND 5 YEAR OLD DAUGHTER
WOULD BE VERY DISHEARTENED IF
THIS 'FREEDOM' TO PLAY OUTSIDE
WITH OTHER CHILDREN OF THE
COMMUNITY WAS TAKEN AWAY
FROM US.

MANY THANK

MR + MRS RAWSTHORNE.

+

(Signatures redacted)

TARA
HILLCREST
ABERWATFESP

25.10.2016.

DEAR SIR / MADAM

WE ARE WRITING TO
VOICE OUR CONCERNS ABOUT THE GO
AHEAD FOR DEVELOPMENT ON THE
ESTATE WE HAVE BEEN RESIDENTS FOR
OVER 22 YEARS. THE AREA IN QUESTIO
HAS ALWAYS BEEN USED AS A PLAY
AREA FOR AS LONG AS WE CAN
REMEMBER AND IS STILL USED BY OUR
OWN CHILDREN AND OTHERS TODAY.
WE HAVE ALSO USED THE GREEN
FOR MANY GET TOGETHERS FOR THE
WHOLE ESTATE. IT WOULD BE
DEVASTATING FOR OUR FAMILY AND
MANY OTHERS IF THIS DEVELOPMENT
GOES AHEAD.

THANKING YOU

(Signature redacted)

K. PUGH

Marie Turner

Colonsay

Hillcrest

Aberhaysop

Newtown

Pawys

PH 16 3JR

19th October 2016

To Whom It May Concern

I have been a resident of Hillcrest for 34 years.

I have seen children using the green for recreation as well as my own children during that time.

My children used the green for play during their childhood.

I have attended barbeque parties as well as barbeques on the green.



(Signature redacted)

Mrs P Bound
Briarlea
Hillcrest
Aberhafesp
Powys SY16 3JR

I would like to make the following points:

- 1) I have lived on Hillcrest since 1980
- 2) During that time the Davies Bros have hardly been seen on the Estate and have only shown an interest in the centre grassland since we went on to main sewerage.
- 3) When I first moved here the grass was so long as it was never cut by the Davies Bros.
- 4) In fact at a later date, two of the residents actually paid somebody to come and cut it regularly with no reimbursement from the owners.
- 5) My children played in the centre from 1980 together with about 12 other children then living on the estate.
- 6) My grandchildren now play there when they visit me.
- 7) Over the years, estate events have been held in the centre including BBQs etc.
- 8) This grassland is like a village green and part of the reason that I moved here.
- 9) I do not wish to have children playing football on the road (which will be outside of my property) to have my plants ruined in the front garden and my car dented.
- 10) This grassland has never been of interest to the Davies Bros before and I feel very strongly that it should remain as a place for children to play and events to be held.



(Signature redacted)

Nant-y-Coed
Hillcrest
Aberhafesp
Powys
SY16 3HL

We have lived in Hillcrest for seven years and one of the first things that drew us to our property was the open space at the centre of the development.

Although we have only lived here for a relatively short time the green has always been used by the children on the development for play, including football, cricket and rugby, with it being maintained by one of the residents cutting the grass on a regular basis. We have also attended two "get togethers" of the residents over the last couple of years, held around the green during the summer. These have been really good for the community, getting to know each other and make friendships, and we had hoped these would become a regular event.

John and Diane Law
15 October 2016



(Signatures redacted)

Margaret and Robert Jones

Draenen Wien

3 Hillcrest

Abernethy ST16 3JR.

We moved to live at Draenen Wien on 31st March 1985. At that time our children were 11 years old and 7 years old. As our garden was not considered child-friendly nor large enough, our Daughter and Son played with their friends on the green.

Throughout the 30 years we have witnessed children of all ages playing football, cricket, den making, kite flying and frisbee throwing on the green in the centre of Hillcrest. It has always been a meeting-place for the Hillcrest children which is wonderful to see. When our Grandchildren visit, they also play on the green.

We have attended community get-togethers on the green, where we have enjoyed barbecues, fireworks parties and afternoon teas such as the one to celebrate the Queen's birthday during the summer.

We have witnessed Mr Michael and Mr Lynn Jones mowing the grass on the green for many, many years, keeping it so tidy for the children to play on, and for it to be respectable for the community.

19th October 2016.

[Redacted signature area]

(Signatures redacted)

[Redacted signature area]

9 Hillcrest

Aberhafesp

Dear Ian,

I have lived here
for nearly 6 years. From my
Kitchen window I overlook
the green. How wonderful it
is to see the local children
having fun there. Also the
whole community use it to
have a neighbourhood get
together. What a wonderful
thing that is to happen
this day ^{& age} yours faithfully

(Signature redacted - D.R. Jones)

Now that plans are progressing towards the building of more properties on Hill Crest, I feel I must comment on the fact that the children of the estate seem to be losing their only play area. Not only is it good to see them outside enjoying themselves and getting some exercise, but while they play on the grass there isn't the danger of them getting run over on the road and the balls aren't damaging people's gardens or cars.

We have lived on Hill Crest for approaching 29 years and a succession of children of all ages, from many families, have played on the "pitch" as we have always referred to it, over all of those years.

We grown ups have also made use of this area with the occasional barbeque, ball game or Queen's birthday tea.

On one occasion when a neighbour was taken ill, the air ambulance landed here, "our" pitch being safer for this than neighbouring fields with their criss-crossing wires.

Is there an obligation for developers to provide at least space, for children to play?

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Symon & Barbara Jones No 11

Signature

(Signatures redacted)

Mrs M Price
Pen-y-Ffordd
Hillcrest

Ref: Green at Hillcrest

This has been brought to my attention about the Green, and I agree with the rest of the residents of Hillcrest, that the building properties on the green, where we residents use for activities and also

Get-together. All though I have no children the presence of neighbour's children is indeed a pleasure to hear.

And knowing that there is a safe place to play.

I have been living at Hillcrest for 14 years .

I hope our request is noted

A black rectangular box redacting the signature of Mrs M Price.

(Signature redacted)

'Ballengeoch',
Hillcrest,
Aberhafesp,
Newtown,
Powys,
SY16 3HL
14th October, 2016.

Dear Sir/Madam,

I wish to add my support to that of Richard Amy in his desire to register the 'Green Area' in the centre of Hillcrest, Aberhafesp as a 'Village Green'.

I have lived in Hillcrest for twenty eight years and during this time, although I have no children of my own, I have enjoyed watching the children of this area having fun on the green in relative safety. The area is regularly used by children of all ages, from toddlers to teens, for a variety of age appropriate games and activities. They, and their parents, have seen this as their right to do so as it has been a lovely green area in the centre of all the houses. The children do not have to go far to use the area and can, in many instances, be 'kept an eye on' by their parents/guardians without them realising this; thus being given supervised independence which is essential for their good social development.

The grass has been lovingly mowed and looked after for years by Lynn, a Hillcrest resident. His care of the green area has made it an inviting and cared for place, which as been valued by the other residents and ideal for ball and other types of games.

Older residents of Hillcrest have also made use of the green for Hillside Association meetings and social activities. It is nice to be able to have an area like this where everyone can meet together at one time, chat and really get to know each other and it would be a great shame if this area were to be lost for such purposes if it were to be built on.

To conclude, if the residents of Hillcrest lose the use of the 'Green' the whole community would be the worse for it. You never realise how much something is really valued until it is about to be taken from you.

Shirley Blanchard.

A large black rectangular redaction box covering the signature area.

(Signature redacted)

Oliver Amy,
Madryn,
Hillcrest,
Aberhafesp,
Newtown,
Powys.
SY16 3HL

25th October 2016

Dear Sir/Madam,

I am a 31 years old and have lived in Aberhafesp since the age of 3, spending the entirety of my childhood here. I am thankful that I was afforded a communal space in the centre of the community whilst growing up. The impact it has had on my quality of life here is immeasurable and I'm reassured to see subsequent generations of parents and children enjoying the same on a daily basis 25 years later.

The green benefits all members of the community on Hillcrest. Children are able to enjoy a safe open space that is away from traffic and private property but easily watched over by parents. The village green fosters a sense of community and encourages people to get to know each other better. As an adult I spend less time there, but I still enjoy community meet ups for barbeques and will often chat with neighbours who are out playing with their children.

I can confirm that the village green has been regularly used by children and adults for well over 20 years. To this day it is used daily by children for ball games and cycling whilst social gatherings are arranged by members of the community for all ages to enjoy.

Removal of the green for development will have a major negative impact on everyone living here. Traffic will increase and housing density will increase dramatically. Privacy in residential gardens will be diminished and children will be forced to undertake recreation alongside people's property on the road. Elderly residents will become isolated physically and socially as the communal green is no longer available for gatherings and meetings. Hillcrest will become a lot less welcoming and appealing to live at which will have adverse economic implications on homeowners.

Kind Regards,



(Signature redacted)

Oliver Amy

I have lived at hillcrest from birth until I left for university at the age of 19. During that time my sisters and I regularly used the green in the middle of the estate for playing and exploring, it was a crucial area for children to play safely, off the road and away from the houses that surround it. We would regularly ride our bikes on it, play football, and I particularly remember the social barbecues we had during the summer holidays.

My parents still live on the estate and I regularly visit with my 3 small children and it's lovely to see them playing on it as we once did and with the increasing number of cars that goes through the estate, that area is now even more crucial. Living outside town and having nothing else to do locally I feel having an area for children to run around and play stops them from venturing further afield along potentially dangerous roads.

This estate has always had a presence of children and if more houses are built on the green I feel families would be discouraged from moving to the area which would be a massive loss.

E Jones



(Signature redacted - E. Jones)

NOTE FROM RICHARD AMY:

ELUNED JONES IS A DAUGHTER OF HUMPHREY & ELIZABETH DAVIES, WHO STILL LIVE ON HILLCREST IN LLWYN GLASS



(Signature redacted - R.Amy)

[REDACTED]

CAROLINE Davies
Haulfryn
1, Hillcrest
Aberhafesp.
Newton
SY16 3HL

I purchased the above property in May 1997, being an ideal community to bring up my youngest son [REDACTED]. He along with [REDACTED] a neighbour's son, and a few others, regularly played football on the communal area.

I cannot recall any mention about planning consent or plans made available to me on purchase of the above property.

In the past few years the community have conducted

Various meetings on the Communal Area, to discuss the proposed Sewerage Take over Requirements made by Severn Trent, other events have been organised by both Margaret and Robin Jones in aid of community projects.

To this end I would wholeheartedly support that this Communal Area be registered as a Village Green.



(Signature redacted - C.S. Davies)

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Application for registration of land as a Village Green - Fuller Summary

This application relates to a parcel of land measuring approximately 0.141 Hectares in the middle of the Hillcrest Estate in Aberhafesp, Powys. Postcode SY16 3HL.

Hillcrest is an enclosed estate of 22 properties a short distance from St. Gwynog's Church and adjacent to Aberhafesp Hall. The estate has a single entrance from the B4568, the rest of the estate is surrounded by private property and agricultural land.

The properties do not have gardens large enough for an active child and his/her friends to ride their bicycles or play ball games in. There are only two areas available for communal recreation in this location, the estate road and the central green. In my 28 years here the central green has always been available to the residents, it has never been fenced-off, and has never had any signs up to say that it should not be used by the residents.

The access to the estate is its junction with the B4568 which can be a busy with a lot of agricultural traffic. Apart from a few metres either side of the estate entrance, there is no verge or pavement either side of the B4568 in this area so there is no safe route off of the estate for children. Even if the children could safely access the B4568 there is nowhere for them to go.

As a consequence the green has always been the recreation area for the children living here. The furthest property is only 70 metres from the green, with 50% of the properties 10 metres or less from the green. It would be absurd to suggest that children would not use the central green given its location and the complete absence of alternatives. Parents on the estate have encouraged their children to play on the green because it is safe and also overlooked by many of the properties, so the children generally have someone discretely watching over them. Many parents, myself included, have regularly played ball games on the green with their children.

The green has been the location for social gatherings of the adult residents, and also for Residents Association meetings, once again because it is the obvious location. It has also been used by some residents for exercising small dogs but not for the entire 20 year qualification period. It has been used as a landing site by the Air Ambulance. I acknowledge that the use of the green by the adult residents for social gatherings where food and drink are consumed are infrequent being restricted to the summer months only (apart from November 5th), but this application for registration is primarily based on its regular use as a recreation area by the children.

Clearly I am also not claiming that the green is in continuous daily use, there are periods in the autumn and winter when very wet or cold weather prevents anyone from wanting to be outdoors, except for making snowmen or throwing snowballs at each other. I imagine that this is true of other Village Greens.

I moved here in October 1988 and have lived here continuously since then, a period of 28 years. At the time of the move here my sons were 1 year old and 3 years old. At that time there were older children from other resident families already using the green for recreation and sport. My children used the green with my wife or myself at first, and were certainly both using the green regularly unsupervised 25 years ago.

Since I moved here there have always been children using the green for sport and other recreational activities when the weather permits. The landowners did not maintain the green for most of the 28 years that I have lived here, they only started cutting the grass this year since their Planning Application. In the decades before the Planning Application was submitted the only time I recall seeing the landowners was when they were delivering their annual sewage charge bills. For the previous decades the green has been voluntarily maintained by the residents, primarily and admirably by Lynn Jones (No. 11 Hillcrest) and to a lesser but significant extent by Michael Jones (No. 2 Hillcrest) when he and his family lived here.

Over the years many families have come and gone but their children have always used the green to play and socialise with the other children. A few families have remained after their children have departed for the wider world but even they still use the green when they are taking care of their grandchildren.

I have not kept a log of the usage of the green over the last two decades, nor did I take photographs to prove its usage. I have therefore requested the current families who live here to give me written testimonies of its useage from their perspective to support this application. These will show that the green has been used for recreation by children and adults "as of right" for far longer than the 28 years I have personally witnessed.

Whilst I accept that this is a small community it is a tight-knit one. Also the area I am asking to be registered as a Village Green is a small area and in proportion to the size of the community, not a vast expanse of land.

I am not asking for the area between No.11 and No.13 to be included in the Village Green parcel. Whilst many children have played in that area, and continue to do so, it was not used as frequently or consistently as the main green. It was not maintained by the residents and therefore became overgrown and not child-friendly. For this reason it has never been used for adult social gatherings or meetings either so there is no justification to include it as part of the green.

This leaves the landowners, Mr. GPP and Mr. F Davies free to build on that plot, identified as Plot 12 on the Application for Outline Planning Permission P/2016/0131. I also realise that vehicular access would be required to make Plot 12 viable so have not taken the parcel applied for all the way to No.13, only as far as the existing kerb edging at this part of the green.

I have attached letters from existing residents to reinforce my assertion that this qualifies as a village green, and one letter from a resident's daughter who grew up here. Please read them to see how important the green is to our community.

One of the letters (from Bob Hill who lives in Y Gilfach) lists the families with children that he can remember living here, he lists them as

Humphrey Davies - 3 children
Rich Amy - 2 children
Brian Poole - 3 children
Flemings - 1 child
Gareth & Helen Owen - 2 children
Tony Orme - 3 children
Peggy Bound - 2 children
Marie & Keith - 3 children
Brandon & Ruth Lane - 3 children
Jimmy Rutter - 3 children
Charlie - 3 children
Marg & Robin - 1 child
Sharon & Jason Bright - 3 children
Donaways - 2 children
Andy McDonald - 2 children

Additionally I can remember...

Davis - 3 children ([REDACTED])
Barfoot - 2 children ([REDACTED])
Burrows - 2 children ([REDACTED])
Marks - 2 children ([REDACTED])

I have attached an OS map of the estate "A" with the Hillcrest estate envelope marked and the Village Green parcel marked.

I have attached a sheet with two photographs "B". These are the only pictures I have of the green. I can't date the first photograph, but my dog in the photograph died in 2008 so it was some time before that (circa 2000 I believe judging by my car). I included it as it shows a blown-over football goal on the green half-buried in the snow, showing that the use of the green for sport activity was not just during the summer months. The second photograph was taken by me on the 16th October 2016. You have my word that this was not a photograph I staged. It shows typical activities with current residents George and Brett playing football, watched by Renee, all children from different families.

Photograph "C" is just a close-up from the first photograph on sheet "B" so that the goal can be more clearly seen.

Richard Amy 

01/11/2016

(Signature redacted)

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Commons & Greens

Association of Commons Registration Authorities

EVIDENCE QUESTIONNAIRE IN SUPPORT OF REGISTRATION OF LAND AS A NEW GREEN

Please complete in block capitals:

Name: (Mr/Mrs/Miss/Ms)	RICHARD AMY
Address:	MADRYN, HILLCREST, ABERHAFESP, NEWTOWN, POWYS
Post code:	SY16 3HL
Telephone No:	[REDACTED]
Mobile No:	[REDACTED]

Please attach a map showing the claimed land.

Guidance Notes on the completion of Evidence Questionnaire Form.

1. The references in this form to land mean the land claimed to be a green, and 'green' means either a village green or town green.
2. As far as possible **ONLY** the witness should complete the form, preferably in black ink. If anyone else completes the form on the witness's behalf he or she should indicate this at the end of the form.
3. The witness should answer all questions fully with as much detail as possible.
4. The area of land claimed to be a green should be clearly shown on a map. The map of the claimed green should be attached to this form and the witness should initial the map on the rear. The area of land believed to be the neighbourhood or locality, whose inhabitants use the land as a green, should also be clearly defined. A copy of the application map may suffice, or may need to be altered, depending on individual circumstances.
5. The witness should indicate whether he or she is prepared to give evidence at a public inquiry. (The evidential value of a statement is reduced if it cannot be subject to cross-examination).
6. If a witness would be unable to give evidence at a hearing because of ill health, work commitments, etc, it would be helpful if he or she could provide a written statement giving further details; alternatively, the person obtaining the statement should confirm the circumstances on the back of the form.
7. The witness may also provide further information on a separate sheet if he or she so wishes, which would be useful in assisting determination of the matter.
8. Please note: Information that you supply may be disclosed to any person making the appropriate request. (Environmental Information Regulations 2004)

Please take time to answer the questions carefully and in full

Questions 1 to 7 are designed to help the determining authority establish whether the 'locality or neighbourhood within a locality' requirement of the legislation has been satisfied.

1. Is there a map attached to this form showing the area of land you support being claimed as a green?	<input checked="" type="radio"/> YES / NO
2. Is there a map attached to this form showing the area of land which you believe comprises the neighbourhood or locality?	<input checked="" type="radio"/> YES / NO
3. Have you signed the reverse of the attached map confirming it relates to the evidence submitted by you?	<input checked="" type="radio"/> YES / NO
4. Please mark the location of your house with an X on the attached map.	
5. Does the neighbourhood or locality have an identifiable name? (This may for example be the administrative area, a geographical area or a name known to define an area locally)	<input checked="" type="radio"/> YES . . HILLCREST NO
6. Do you consider yourself to be a local inhabitant in respect of the land? If YES why?	<input checked="" type="radio"/> YES / NO I HAVE LIVED ON HILLCREST FOR 28 YEARS
7. Where do the people who use this land come from?	THE PROPERTIES ON HILLCREST

Questions 8 to 17 are designed to help the determining authority establish whether claimed use is 'as of right'.

Please note: 'As of right' has a particular legal meaning. For use to be as of right, the use must be without force (i.e. not breaking in, nor ignoring requests from the landowner to leave), without secrecy (use should be open so the landowner is aware of its use) and without permission.

8. Are there any Public Rights of Way crossing the land? If so please mark the route(s) on the attached map.	YES / <input checked="" type="radio"/> NO If yes, its designation (if known)...
9. Has the owner/occupier or an employee or representative of the owner/ occupier ever seen you on the land?	YES / NO If yes, what did they say?... I DON'T KNOW IF THEY HAVE SEEN ME ON THE LAND
10. Were you ever told by any owner occupier, or their representative, that the land was private land?	YES / <input checked="" type="radio"/> NO If Yes,

<p>If YES, (a) who told you? (b) When were you told? (c) What were you told?</p>	<p>10.a 10.b 10.c</p>
<p>11. Have you ever been given permission to use the land for any activities? (Whether or not you asked for it)</p> <p>If YES</p> <p>(a) Who gave you permission? (b) When were you given permission? (c) For what purpose were you given permission to use the land?</p>	<p>YES // <input checked="" type="radio"/> NO</p> <p>11a 11b 11c</p>
<p>12. Have you ever asked permission to use the land for any activities?</p> <p>If YES,</p> <p>(a) Whom did you ask? (b) Were you then given permission? If he or she gave you permission (c)(i) When were you given permission? (c)(ii) For what purpose/activity did you request permission, or (if different) for what purpose/activity were you given permission to use the land?</p>	<p>YES // <input checked="" type="radio"/> NO</p> <p>12a 12b 12c i 12c ii</p>
<p>13. Has your use of the land ever been restricted or prevented in any way?</p> <p>If YES (a) by whom or what? (b) When was this? (c) Was any reason given for this? (d) Have you continued to use the land despite this? (e) If yes to (d) how did you do this? (f) Is the hindrance or obstruction still in existence?</p>	<p>YES // <input checked="" type="radio"/> NO</p> <p>If yes,</p> <p>13.a 13.b 13.c 13.d 13.e 13.f</p>
<p>14. Do you know, or have you heard of, anyone else having been hindered or prevented from using the land?</p>	<p><input checked="" type="radio"/> NO / YES (please give dates):</p>
<p>15. Have you ever seen any notices, such as "Private", "No Public Access", "No Thoroughfare" or "Trespassers will be Prosecuted", on or near the land?</p> <p>(a) If YES, please state what the notices said and show their approximate position on the</p>	<p>YES // <input checked="" type="radio"/> NO</p> <p>If yes,</p> <p>15.a</p>

attached plan. (b) When were these notices erected? (c) By whom were these notices erected? (d) Did you consider these notices to be designed to prevent your use of the land? (e) Did you consider these notices were intended to discourage or prevent use by the local inhabitants?	15.b 15.c 15.d 15.e
16. Has any attempt ever been made by fencing, obstruction or by any other means to prevent or discourage use of the land?	YES / <input checked="" type="radio"/> NO If yes, please give details...dates...
17. Do you have any documentary evidence about the land? If YES, (a) in what form is this? (i.e. maps, photos, etc please attach a copy if possible) (b) Would you be willing to make the original document available if necessary?	<input checked="" type="radio"/> YES / NO If yes, 17.a PHOTO, LETTERS FROM CURRENT RESIDENTS 17.b YES

Questions 18 to 27 are designed to help the determining authority establish whether the 'lawful sports and pastimes' requirement of the legislation has been satisfied.

18. For what purpose have you gone onto the land?	TO PLAY BALL GAMES WITH MY CHILDREN FIREWORK DISPLAYS, SOCIAL GATHERINGS MAKE SNOWMEN, RESIDENTS ASSOCIATION MEETINGS
19. What activities did you take part in when using the land?	SEE 18 (ABOVE)
20. What activities do you take part in when using the land now?	SOCIAL GATHERINGS, RESIDENTS ASSOCIATION MEETINGS.
21. Have your family used the land in the past? (a) If Yes, which members? (b) What did they use the land for? (c) Do they still use it? (d) What do they use the land for? (e) If No to (c), why and when did they stop using the land?	<input checked="" type="radio"/> YES / NO If yes, 21.a ALL OF US (2 ADULTS, 2 CHILDREN) 21.b CHILDREN FOR SPORT & RECREATION. ME FOR RECREATION 21.c NOT MY CHILDREN, BUT MY WIFE AND I. 21.d WIFE AND I FOR SOCIAL GATHERINGS 21.e AND MEETINGS CHILDREN GOT TOO OLD TO PLAY
22. When using the land did you ever see	<input checked="" type="radio"/> YES / NO

<p>any other person(s) using the land? If YES,</p> <p>(a) how often (e.g. daily, weekly)</p> <p>(b) What were these person(s) using the land for?</p> <p>(c) Were they accompanying you? If so, please give details. (i.e. companions, club, association, group, family, etc)?</p> <p>(d) If they were not accompanying you, were they known to you?</p> <p>(e) Were these person(s) from the locality or neighbourhood?</p>	<p>If yes,</p> <p>22.a DAILY</p> <p>22.b CHILDREN - SPORT ADULTS - SOCIAL GATHERINGS</p> <p>22.c CHILDREN - PLAYING BALL GAMES WITH OTHER RESIDENT CHILDREN ADULTS - EATING, DRINKING, CHATTING</p> <p>22.d YES</p> <p>22.e ALL FROM THIS ESTATE</p>
<p>23. Do you know of any community activities that take place or have taken place on the land? If so,</p> <p>(a) What are these activities?</p> <p>(b) How long have these activities been taking place?</p> <p>(c) Do these activities been take place on a regular basis?</p> <p>(d) If YES how often do they take place?</p>	<p><input checked="" type="radio"/> YES / <input type="radio"/> NO</p> <p>If yes,</p> <p>23.a CHILDREN PLAYING BALL GAMES AND CYCLING . SOCIAL GATHERINGS</p> <p>23.b AT LEAST 28 YEARS</p> <p>23.c CHILDREN PLAYING ALL YEAR AROUND AND ADULT GATHERINGS OCCASIONAL</p> <p>23.d CHILDREN PLAYING VERY OFTEN ADULT GATHERINGS OCCASIONAL</p>
<p>24. Have you taken part in any community activities that have taken place on the land?</p>	<p><input checked="" type="radio"/> YES / <input type="radio"/> NO</p> <p>If yes, which activities (and dates): SOCIAL GATHERINGS, RESIDENT ASSOCIATION MEETINGS, PLAYING WITH MY CHILDREN</p>
<p>25. Do any organisations or groups (local or national) use the land for sports or pastimes of any kind?</p> <p>(a) If YES what are the names of the organisations or groups?</p> <p>(b) What were these sports or pastimes?</p>	<p><input checked="" type="radio"/> YES / <input type="radio"/> NO</p> <p>If yes,</p> <p>25.a CHILDREN OF HILLCREST</p> <p>25.b FOOTBALL, RUGBY, CRICKET, FRISBEE THROWING, CYCLING, KITE FLYING, MAKING CAMPS ETC..</p>
<p>26. Do any seasonal activities take place on the land (i.e. activities which tend to take place only at particular times each year? If yes,</p> <p>(a) What are these?</p> <p>(b) When do these take place?</p> <p>(c) How often do these occur?</p> <p>(d) How long has this been occurring for?</p>	<p><input checked="" type="radio"/> YES / <input type="radio"/> NO</p> <p>If yes,</p> <p>26.a FIREWORKS</p> <p>26.b AROUND NOV. 5th</p> <p>26.c MOST BUT NOT ALL YEARS</p> <p>26.d 28 YEARS</p>
<p>27. What activities have you seen taking</p>	

place on the land?	CHILDREN PLAYING DIFFERENT SPORTS AND CYCLING. CHILDREN SOCIALISING. ADULTS PLAYING BALL GAMES WITH THEIR CHILDREN. ALSO ADULT SOCIAL (EATING & DRINKING) GATHERINGS. MEETINGS, FIREWORKS, WALKING DOGS
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Questions 28 to 34 are designed to help the determining authority establish whether the 'on the land' requirement of the legislation has been satisfied.

28. Does the claimed land have a popular name?	THE GREEN
29. Has the land ever to your knowledge been known by any other name? If so please specify.	SOMETIMES ALSO REFERRED TO AS "THE MIDDLE"
30. When using the land where did you live? (a) If at different places please provide details and years.	IN MY PROPERTY 7metres FROM THE GREEN
31. When at this (these) previous address('s), did you know the land was being used by the local inhabitants?	YES / NO
32. How many years have you known of this area of land? (Not just years of use)	From: OCTOBER 1988 To: PRESENT DAY 28 YEARS
33. Did you only use part of the land? If Yes, (a) Which area? (Please clearly mark on attached map) (b) Why did you only use part of the land?	<input checked="" type="radio"/> YES / NO If Yes, 34.a AREA IN RED 34.b SPACE BETWEEN No.11 & No. 13 TOO OVERGROWN FOR ME BUT CHILDREN USE IT.
34. Do you still use the land? (a) If not why not, and when?	<input checked="" type="radio"/> YES / NO

Questions 35 to 38 are designed to help the determining authority establish whether the 'for a period of at least twenty years' requirement of the legislation has been satisfied.

35. During which years have you actually used the land?	From: OCTOBER 1988 To: PRESENT DAY Then from: To:
36. How often did you use the land (apart from any public routes)?	FREQUENTLY WHEN MY CHILDREN WERE YOUNG, NOWADAYS A FEW TIMES PER YEAR

(e.g. daily, weekly, seasonal)	HOWEVER THE CHILDREN OF CURRENT RESIDENTS USE THE GREEN DAILY WHEN WEATHER PERMITS.
37. How often do you use the land now?	A FEW TIMES PER YEAR, BUT OTHERS USE IT FREQUENTLY
38. Do you consider the claimed green to be historical in nature, (e.g. due to an Inclosure Award)? (a) If YES are you aware of any evidence/documents to support this? (b) If YES please give details of this evidence or documents	YES <input checked="" type="radio"/> NO

Questions 39 to 41 are designed to help the determining authority establish whether the 'and continue to do so at the date of the application, or where the use ended no more than two years ago, or no more than five years since before 6 April 2007 in England, or 1 October 2007 in Wales' requirement of the legislation has been satisfied.

39. Is the land enclosed? (a) If YES how and when?	YES <input checked="" type="radio"/> NO
40. How have you gained access to the land? (Please mark on the attached map any entrances you may have used)	WALKED 7 METRES FROM MY PROPERTY ENTRANCE.
41. Have there, to your knowledge, ever been any stiles and/or gates on the land? If Yes (a) Please mark on the attached map the location of the stiles or gates. (b) When were the gates or stiles erected and/or removed? (c) If any gates on the land were ever locked please state, how often, and if known, by whom?	YES <input checked="" type="radio"/> NO If yes, which? 41a 41b erected; 41b removed: 41c

Questions 42 to 46 are designed to help the determining authority establish whether there is any connection between you and the owner/occupier of the land.

42. Were you ever an owner or tenant of the land, or related to the owner or tenant? (a) If YES, please give dates and relationship to relative.	YES <input checked="" type="radio"/> NO
43. Have you, or any relative worked for any owner or tenant of the land? (a) If YES what was your/their employment? (b) Between what years were you/ they	YES - me / YES - relative <input checked="" type="radio"/> NO 43.a

employed? (c) If a relative, please confirm their relationship to you.	From: To:
44. If you were employed by the owner/tenant (a) Did you receive any instructions from the owner/tenant as to the use of the land by the public? (b) If YES, please provide dates and what were your instructions?	YES / NO
45. Do you know who owns or occupies the land? (a) If YES please can you provide names and contact details	<input checked="" type="radio"/> YES / <input type="radio"/> NO Mr. G.P.P. DAVIES & Mr. F. DAVIES NEW MILLS, NEWTOWN POWYS SY16 3NQ
46. Do you know of any previous landowners? If so, please provide dates, names and contact details.	YES / <input checked="" type="radio"/> NO

Questions 47 to 48 are designed to help the determining authority help determine the application, of which this evidence questionnaire is a part.

47. Would you be prepared to give evidence of your use of the land at a public inquiry if necessary?	<input checked="" type="radio"/> YES / <input type="radio"/> NO
48. Have you made a separate written statement?	<input checked="" type="radio"/> YES / <input type="radio"/> NO

Please note that this form may be available to members of the public including affected owners or occupiers of the land.

I certify that, to the best of my knowledge and belief, the information I have given in this statement is true.

Signed:



Date: 15 NOVEMBER 2016

Person taking this statement (if applicable)

Dear Richard,

①

Sorry it's taken so long for me to put pen to paper. Life events! you know.

I did read the planning application on line when Lyn mentioned it some weeks/months ago and I raised objections to the proposed development - signing my name etc.

I pointed out that ① the plans were not accurately ^{drawn} formed } giving the impression there were paths all the ~~the~~ way around the estate. (e.g. outside Biddy's Bungalow was shown as having a path) This gives the impression of a full width road and pavements. The road is not all full width and the pavements that would be needed would make it smaller.

② The Green area had been maintained by Lyn Jones and this has been continuous ^{from at least 2000} - personally witnessed by myself and - - - - and - - - - In fact sometimes

Bid and I had paid a local tractor driver to cut the grass! Lyn organised this and then took on the maintenance himself.

This surely put it ^{the green} onto/under the legal area of being "owned" by those who had maintained it for over 7 years - that is the Aberhafesp residents.

(3) New developments I am informed usually are asked to provide play areas for the use of local residents - No such play area or vacant land has been included. There are children who need this in the close. Where will they play? They use the green at present.

(4) It is stated that there is a ^{are} regular bus service(s) but there is not and unless people use a car the road to steps etc and the church is too dangerous to walk. Therefore communication/transport routes are not in place.

Finally I stated that as my house had been on the market until recently

was aware that (3) properties were not selling, due to national and local 'recession' I was therefore concerned there would not be a market - or that the nature of the close would change - Hope this explains my feelings and support (4) for your letter,

Thanks

[Redacted signature]

(8)

(Teresa Burrows -
signature redacted)

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IMGA0106.JPG

Hillcrest children playing on the Green 11th December 2016 to show usage even in the colder and damper months.

IMGA0145.JPG

Hillcrest children playing on the Green 18th December 2016 to show usage even in the colder and damper months.

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Mrs S Jones

P/SJ/M18439/MW

18th January 1995

Dear Mr Davies

UNDEVELOPED PLOTS, HILLCREST, ABERHAFESP

I refer to our previous telephone conversations and to our meeting on Monday, 16th January with Mr R McWhinnie regarding development at Hillcrest, Aberhafesp.

Plot 16 had benefit of full planning consent ref. M18439, but unfortunately this expired on 13th September 1994, as there has been no commencement of development.

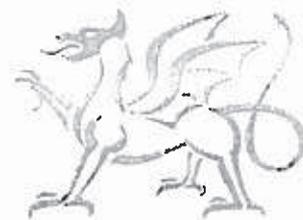
The other 2 plots (14 & 15) did not have the benefit of planning consent as no detailed plans had been submitted and approved on the initial outline consent.

As explained at the meeting, there is a serious drainage effluent problem in Aberhafesp and until this has been resolved (possibly only by the development of a new treatment plant), all new development will be recommended for refusal. Planning permission for the development of the remaining plots in Aberhafesp will therefore only be granted if the Council is satisfied that there is adequate foul drainage.

Yours sincerely

S G Jones
Principal Planning Officer

Mr F Davies
Swn-y-Nant
Maes Trannon
Trefeglwys
Montgomeryshire



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Mr P Davies
Chimneys
New Mills
Newtown
POWYS
SY16 3NQ

Eich cyf . Your ref
Ein cyf . Our ref AT/03121/02

11 June 2002

Dear Mr Davies

Thank you for your letter dated 29 April 2002 regarding development in Newtown. Given Ms Sue Essex AM's responsibility for Planning in Wales, I have been asked to respond.

The day-to-day responsibility for local planning control has been entrusted by Parliament to local planning authorities. Given that the matter is currently the responsibility of Powys County Council, it would not be appropriate for the Assembly to comment on the specific concerns you have raised.

I have contacted colleagues in the housing and local government finance divisions of the Assembly, who inform me that unfortunately there are no grants direct from the Assembly for sewage workings available at this time. I am sorry I cannot be more helpful.

Yours sincerely

[Redacted signature]

K Hawkins
Planning 6

Parc Cathays
Caerdydd
CF10 3NQ

Cathays Park
Cardiff
CF10 3NQ



BUDDSODDWR MEWN POBL

DF Davies
Ty Sgwyfla
Aberhafesp
Newtown
SY16 3JH

GPP Davies
Chimneys
New Mills
Newtown
SY16 3NQ

Trading as Davies bros – est 1973

Re: four undeveloped plots Hillcrest

Main sewer connected 01/04/14

Outline planning now obtained

P.Humphreys architect is now applying for full planning on all four plots, all plots are connected to ST water and sewer.

Dear Sir/Madam

We are objecting to Mr Amey planning application for a village green at Hillcrest. There is a play area and field at the village hall at Glanrhyd, Caersws also has a play area opposite the buck hotel (2 miles). Newtown also has a large field and park on the Aberhafesp road (dolerew).

Residents from Hillcrest have thrown rubbish the sewer plant for the past twenty five years they then burn and complain to the PCC. We then have to pay to have it removed. A local farmer complained about plastic blown onto our shared fence as this was a danger to his livestock.

We feel Mr Amey would continue to use these plots in the same way. We have never allowed anyone to use any of these plots, the grass was cut once a year until 2007. Since then we cut the grass with tractor mower every two weeks.

We started to develop in 1965, and were told by planning officer Mike Backhouse that all the field must built on. He was not going to allow only roadside development.

GPP & DF Davies moved to Aberhafesp in 1951, DF Davies still lives there. A building business was started in 1961 by an older brother, we bought him out in 1973. Employed people and trained dozens of apprentices. We have paid business rates since 1961 on our workshop.

In 1994 we sold plot 16 with a bungalow but Environmental health stepped in and stopped us, we had also sold plot 15 and we had to stop both of these projects. In the past we have had help from Emlyn Hooson, Lembic Opec regarding this development which has been on hold for twenty three years. No wonder the country needs two million homes.

Yours Faithfully



(Signatures redacted - GPP Davies & DF Davies)



Steve Holdaway, B.Sc., D.M.S., C.Eng., M.I.C.E., M.C.M.I
Pennaeth Gwasanaethau Lleol ac Amgylcheddol/
Head of Local & Environmental Services

Gwasanaethau Lleol ac Amgylcheddol/
Local & Environmental Services
Cyngor Sir Powys County Council
Neuadd Maldwyn
Y Trallwng / Welshpool
Powys
SY21 7AS

Mr F Davies
Ty-Sgwylfa
Aberhafesp
Newtown
Powys
SY16 3JH

Ffôn / Tel :

Ffacs / Fax :

E-bost / E-mail :

Eich cyf / Your ref :

Ein cyf / Our ref :

DRS/JAN

WK/201310730

13 August 2013

Dyddiad / Date :

Os yn galw gofynnwch am /

If calling please ask for : Daniel Stykuc

Dear Mr Davies

ENVIRONMENTAL PROTECTION ACT 1990
ALLEGED SMOKE NUISANCE ARISING AT: Land at sewage treatment plant serving Hillcrest, Aberhafesp

The Council has received a complaint about an alleged smoke nuisance at the above premises caused by bonfires.

At this stage I have not determined whether further action is needed. However, if you feel that the complaint is justified, please make sure that bonfires at your property does not disturb or affect people in your neighbourhood.

If the problem continues a Council officer may need to monitor the situation.

If the problem is considered to be a statutory nuisance, an Abatement Notice will be served on you under section 80 of the Environmental Protection Act 1990. If you breach an Abatement Notice the maximum fine is £ [REDACTED]

You may wish to consider using the services of Powys Mediation who offer an independent professional service to help resolve disputes between people.

Powys Mediation can be contacted at;

Powys Mediation, Lindslade House, Middleton Street, Llandrindod Wells, Powys.LD1 5ET

Telephone: [REDACTED]

E-mail: [REDACTED]

website; <http://www.pco.powys.org.uk/powysmediation>

Office hours: 9.00am - 12.30pm Monday to Friday

Continued...

Gwasanaethau effeithiol ar gyfer calon werdd Cymru
Efficient services for the green heart of Wales

Page 74
www.powys.gov.uk



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EM 22250

The person who has complained has also been informed that mediation is available to try resolve this matter informally.

If you wish to discuss the contents of this letter then please contact me.

Yours sincerely

A solid black rectangular box used to redact the signature of Daniel Stykuc.

Daniel Stykuc
Technical Officer - Environmental Protection

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Registered Office:
21 St Mary's Street
Shrewsbury SY1 1ED

Tel: [REDACTED]
Fax: [REDACTED]
DX [REDACTED]
E-mail: [REDACTED]
www.wacemorgan.co.uk

Our Ref: [REDACTED]
Your Ref: 28 June 2017
Date:

FAO Sian Barnes
Powys County Council
The Gwalia
Llandrindod Wells
Powys LD1 6AA

BY POST AND EMAIL:
sian.barnes@powys.gov.uk

Dear Sirs,

Form 44 Application for Land as a Town or Village Green: Land at Hillcrest Aberhafesp

We act on behalf of Gilbert Philip Pryce Davies of Chimneys Newmills Newtown Powys SY16 3NQ and David Frank Davies of Ty Sgwylfa Aberhafesp Newtown Powys SY16 3JH in relation to their land at Hillcrest Aberhafesp which is currently registered with H M Land Registry under title number WA450413.

We understand that an application has been made by Mr Richard Amy of Madryn Hillcrest Aberhafesp for a parcel of land forming part of our clients' registered title to be designated as a Village Green for the purposes of the Commons Registration Act 1965 and the Commons Act 2006.

As you are of course aware, when an individual applies for land to be registered as a village green there are certain requirements they need to meet in order for the application to be successful. Essentially, the requirements are that the land in question has been used for recreation by a significant number of inhabitants of any locality or neighbourhood as of right. The recreational use of the land has to have been for a period of at least 20 years and to continue up to the date on which the application was made or the application needs to have been made within 2 years from the date when that recreational use came to an end.

Mr Amy's application for the land to be designated as a village green suggests that the land in question has been used by the children of Hillcrest for sports and play and indeed by the adults of Hillcrest for the purpose of committee meetings, picnics and other social gatherings. Mr Amy appears to indicate that this use is continued for approximately 28 years.

The first requirement here is for a "significant number of inhabitants of any locality" to have used the land as of right. The application in question appears to have been made on the basis of the Hill Crest residents only and not the inhabitants of the locality as whole which our clients consider insufficient for the purposes of the criteria to be satisfied in such an application. Aberhafesp is a small community albeit with a number of residences whom have not been mentioned nor have they commented on this application. Neither is there references to the residents of the locality as a whole using the land which is the subject to the application. Our clients therefore believe that Aberhafesp should be considered as the "locality" not merely the Hillcrest residents.

In Mr Amy's letter of 16 March 2017 he quotes various owners on the estate confirming that one of the



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SRA number 623618

residents has in fact maintained the area of land at Hillcrest. The statement provided by Theresa Burrows of 8 Hillcrest indicates that the land had been maintained by another resident from at least 2000. This does not give them the requisite period of over 20 years of use and grass cutting is not a recreational activity. It is maintenance of the land and therefore irrelevant.

Our clients consider the "tick box sheets" from 17 residents of Hillcrest irrelevant; grass cutting does not constitute a recreational purpose and in any event our clients believe that a wider group than merely the Hillcrest residents should be considered.

If you were minded to be persuaded that grass cutting is to be a recreational purpose, Mr Lynn Jones whom other residents state maintains the land confirms in his own letter of 13th March 2017 that he contacted Mr F Davies in June 2014 and since that time Mr F Davies and his son have maintained the area. Prior to that time, Lynn Jones' drainage invoice was reduced by way of payment for him cutting the grass. This would therefore mean that the residents have not maintained this area for the 2 years immediately before their application. In turn, if the grass cutting is the only recreational use established, the application falls short of the requirements as it was not made within 2 years of that recreational event having come to an end.

Our clients contend that the land in question was inaccessible until approximately 2003 as it was covered in weeds and briars. Our clients further contend that from 2003 onwards, a local farmer was engaged to cut the grass once a year following receipt of the annual letter from Powys Council requesting the undeveloped plots be maintained. As the land in question was inaccessible until 2003, there could not have been recreational use of the land before this time and so the 20 years requirement cannot possibly be met.

The photograph enclosed with Mr Amy's letter showing the children playing on the area concerned was taken very recently (a few days before the date of his letter) and does not illustrate a historic use of the land for recreational purposes.

The application made by Mr Amy refers to committee picnics and other social gatherings although no evidence of these has been provided. There are no photographs of such gatherings and one may expect to see photographs of occasions of that nature. None of the other residents who have commented in this matter have referred to committee meetings, picnics or similar gatherings by the adults on the land in question either. One may therefore argue that there is no evidence of recreational use of this land simply a letter from Mr Amy purporting that there have been events. Our clients confirm that there have never been aware of any such events, nor have they seen leaflets or flyers advertising this within the locality. Mr F Davies of course is a member of the locality of Aberhafesp.

The letters enclosed with Mr Amy's letter of 16 March 2017 do not support his claim that there has been recreational use of the land in question. They refer to the maintenance of that land but do not go any further. As previously stated, an application for a village green does depend on the land having been used as a right for recreational purposes by the majority of the locality for a period in excess of 20 years and we would submit that the maintenance of an area will be insufficient to constitute a recreational purpose.

It will of course be the case that some of the residents of Hillcrest will not have lived there for 20 years and so their evidence of knowledge will be limited and cannot possibly establish the 20 years minimum requirement. Mrs Burrows dated 11th March 2017 for example confirms in her letter that she has only been there since 2000.

My Amy's reference to planning permission granted on land belonging to a third party should be disregarded as the land is not within our clients' ownership nor are the permissions linked in any way.

It is our clients' submission that the application to register the land as a village green should be rejected. The application has failed to satisfy the criteria; maintaining an area is not a recreational activity and in any event such maintenance has not been ongoing for 20 years. Our clients would therefore be grateful if the above information is taken into consideration when deciding upon the application made.

Yours faithfully,

[Redacted signature]

(Signature redacted - Rachel Wierzbinski)

Wace Morgan Solicitors

[Redacted line]

Direct dial: [Redacted]

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Subj: Fwd: Court action threat for 84 year old !
Date: 22/05/2005 11:54:47 GMT Daylight Time
From: [REDACTED]
To: [REDACTED]

Copy as promised

Forwarded Message:

Subj: Court action threat for 84 year old !
Date: 22/05/2005 11:53:40 GMT Daylight Time
From: [REDACTED]
To: [REDACTED]

Dear Sir,

I am writing this on behalf of my mother who is 84 years old and lives in [REDACTED] Hillcrest, Aberhafesp. Over the past few years herself and some of her neighbours have been receiving letters that demand money from the builder who built the houses on the estate, for so called sewerage charges. The builder Mr Frank Davies, Ty Sgwyfa, Aberhafesp SY16 3JH Tel: [REDACTED]

When the house was purchased over 17 years ago there were no mentions of payments to private sewerage or any such things. The deeds show only of a septic tank.

Mr Davies is threatening to take my 84 year old mother to court for something she does not feel she owes.

Please could you look into this matter for us as we live in Bridgend Mid Glam
We would appreciate any help you could offer in this matter as mum [REDACTED] is feeling harassed and shaken by Mr Davies's manner and approach.

Please could you phone [REDACTED] or email any progress in this matter.

Many thanks
regards

Peter Blanchard

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Mr. Richard Amy
Madryn, Hillcrest,
Aberhafesp,
Newtown,
Powys SY16 3HL

16th March 2017

Ref: Village Green Application 16-001VG

Dear Sir/Madam,

I have read DF and GPP Davies objections to the application for a Village Green at Hillcrest. I would like to reply in two parts because their objections seem to largely consist of matters unconnected with the central green at Hillcrest and Section 15 of the Commons Act 2006, and are therefore irrelevant to the application. I am certainly not a legal expert but I believe this application is about whether a significant number of people have used the central green at Hillcrest for legitimate sports and pastimes "as of right" for a period exceeding 20 years, and nothing else.

I will however also respond to their irrelevant objections in the second part of my reply out of courtesy, and just in case a hearing gives them any consideration or weight in this matter.

I have also included a letter from Hillcrest residents Teresa Burrows and her mother Patricia Brabin, as they invited me to send it along with my own reply.

I have included a letter from Lynn Jones, the Hillcrest resident who actually maintained the green for years.

Where my statements conflict with the claims made by the Davies Bros. I have asked other Hillcrest residents to complete a simple form to corroborate or contradict my claims, and sign them. I have included their signed statements (17 households).

I have included documents relating to a different Planning Application in Aberhafesp as I believe they could have some relevance to this matter.

I have included a print of an email sent from Peter Blanchard to Lembit Opik in May 2005

As far as the Davies Bros. objections to the application are concerned, the only relevant part of their response was:

"We have never allowed anyone to use any of these plots, the grass was cut once a year until 2007. Since then we cut the grass with a tractor mower every two weeks".

None of this is true. The Davies Bros. have not prevented residents from using the central green, they have not fenced the green off, erected signs to advise residents not to use the green, or told residents not to use the green. This is a photograph taken from my house on the 15th March 2017 showing Frank Davies personally cutting the grass whilst residents Brett and George play football on it.



The claim that they have cut the grass on the green once a fortnight since 2007 is not true. Please refer to Lynn Jones' letter about maintaining the green, and also the Statements from Hillcrest residents included with this response. Also the following are quotes taken from the Residents' letters I included with the original application, written before the Davies Bros. made this claim about fortnightly mowing since 2007:

Briarlea - Peggy Bound

I have lived on Hillcrest since 1980

During that time the Davies Bros have hardly been seen on the estate.

When I first moved here the grass was so long as it was never cut by the Davies Bros.

In fact at a later date, two of the residents actually paid somebody to come and cut it regularly with no reimbursement from the owners.

Ballengeoch - Shirley Blanchard

The grass has been lovingly mowed and looked after for years by Lynn, a Hillcrest resident.

Draenen Wen - Margaret & Robin Jones

We have witnessed Mr. Michael and Mr. Lyn Jones mowing the grass on the green many, many years keeping the area tidy for the children to play and for it to be respectable for the community.

Nant-y-Coed - John and Diane Law

...with it being maintained by one of the residents cutting the grass on a regular basis.

No. 8 - Teresa Burrows

The Green area had been maintained by Lyn Jones, and this has been continuous from at least 2000.

Bid and I had paid a local tractor driver to cut the grass. Lyn organised this and then took on the maintenance himself.

Madryn - Richard Amy

The landowners did not maintain the green for most of the 28 years that I have lived here, they only started cutting the grass this year since their Planning Application. In the decades before the Planning Application was submitted the only time we saw the landowners was when they were delivering their annual sewage charge bills. For the previous decades the green has been voluntarily maintained by the residents, primarily and admirably by Lynn Jones (No. 11 Hillcrest) and to a lesser but significant extent by Michael Jones (No. 2 Hillcrest) when he and his family lived here.

Similar comments can be found in the various comments/objections to planning application P/2016/0131 which pre-date the Village Green application.

Summary

The fact is that the central green at Hillcrest has been used by residents "as of right" for all of the 28 years I have lived here, and even before then. The green was never built on and was maintained by some of the residents. The planning consent for the plots on the green had lapsed by 1994 because of the Davies Bros. failure to deal with the serious shortcomings of the sewage system they had installed to serve the estate. This system polluted the adjacent farmland with pools of surface effluent (see supplied photos in next section) which is why further development was forbidden. So from 1994 up to June 2016 this green was not even land with Outline Planning Consent, just land that could not be developed. If they had addressed the sewage problems then perhaps the green would not have reached the necessary

20 year qualification period for use "as of right", but they failed to do so with the result that the green HAS been used "as of right" by the residents for far in excess of the 20 year qualification period.

I understand the Davies Bros. resistance to the loss of revenue that a successful Village Green application would mean, but they would still have Plot 12 to build on. A further possibility for some compensation for them could perhaps be from an adjacent planning application P/2016/0567 "Land to the rear of Beechcroft, Aberhafesp, Newtown SY16 3HL" which has outline permission and which seems very likely to proceed. This application is now granted subject to S106, which obliges the developer to provide a pedestrian link to Hillcrest.

From that document are these two sections:

- 8. Prior to any works on site detailed engineering drawings for the footway to be constructed along the B4568 between the new development and Hill-Crest development along the improved forward visibility shall be submitted to and approved in writing by the Local Planning Authority.*
- 9. Prior to the occupation of any dwelling the new footway along the B4568 shall be fully completed and operational.*

So the new estate will have a safe pedestrian connection to Hillcrest, but despite consisting of 10 properties contains no childrens play area of its own. Please refer to the attached letter from Stephen Gealy (CSP - Outdoor Recreation) concerning this situation for that application.

It would seem logical that as a pedestrian footway is a compulsory part of this new development, it would make sense for the central green at Hillcrest to serve as a shared play area for children of Hillcrest and the new estate. If the Village Green application is granted this will clearly happen anyway as the children will naturally migrate from the new estate which lacks a recreation area, to the nearest available space. Perhaps the developers of the new estate could make compensatory payments to the Davies Bros. as a way of satisfying their own responsibilities for providing play space.

It is clear that the central green at Hillcrest has been functioning as a Village Green for many decades and is highly valued by the residents. In a small town the children can always use pavements to safely travel to other areas to see friends and play. On Hillcrest that is not possible so the central green has become an important part of this community particularly for children, but also for adults. I am therefore hoping that the message at the bottom of communications to me from Powys County Council "**Strong communities in the green heart of Wales**" proves to be a genuine Council philosophy and not just a slogan.

Recent pictures of the green in use.





Signed:



Richard Amy

Date:

16/03/2017

Part 2: Addressing the parts of the Davies Bros. objections to the Village Green application which would appear to be unconnected with the application, by paragraph.

Paragraph 1.

We are objecting to Mr. Amey planning application for a village green at Hillcrest. There is a play area and field at the village hall at Glanrhyd, Caersws also has a play area opposite the buck hotel (2 miles). Newtown also has a large field and park on the Aberhafesp road (dolerew).

Irrelevant since this application is based on the fact that the Hillcrest Green has been used by the residents and their children for well in excess of 20 years "as of right" which is the reason that this application is valid.

For the record there is no play area at Glanrhyd as the old School next to the Community Centre has been sold and is private property. Even if this was available it is 1.1 miles from Hillcrest most of it along the B4568, not a road for young children to use. The B4568 between Newtown and Caersws is not blessed with a pedestrian footway and has long stretches with no verges. It often carries agricultural traffic and heavy goods vehicles. There are indeed parks at Caersws and Newtown, but these are both at least 3 miles from Hillcrest (not 2 miles as claimed) along the B4568.

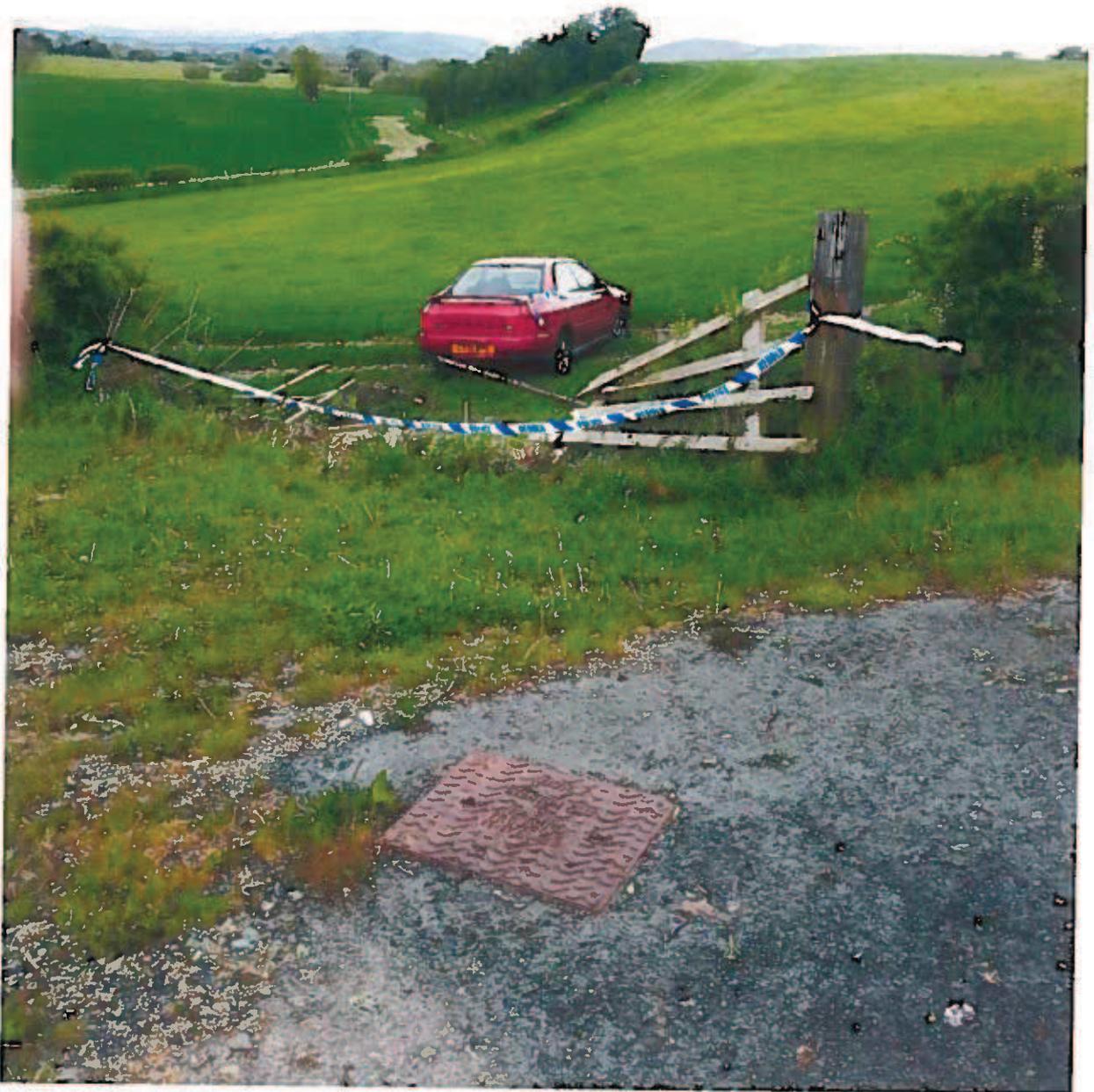
It is ridiculous to propose that parents would encourage their young children to travel up to 3 miles along a dangerous road without any pavement after school to kick a ball about while their tea is being prepared at home. In all the time I've lived here I've never known ANY parent encourage their child to travel along the B4568 by foot or bicycle to Glanrhyd, Caersws, or Newtown to play in preference to walking a few metres from their home to a safe and overlooked play area.

Pictures on the next page show the traffic dangers on this section of the B4568

The following photograph shows where an out-of-control vehicle broke through the hedge bordering the Davies Bros. sewer plant in May 2015.



The vehicle came to rest on the other side of the sewer plant.



Another vehicle left the road just a few metres to the east of the same corner in January 2017 leaving this damage.



Part of the traffic tailback caused by that accident, showing the traffic volume through the village.



Paragraph 2.

Residents from Hillcrest have thrown rubbish the sewer plant for the past twenty five years they then burn and complain to the PCC. We then have to pay to have it removed. A local farmer complained about plastic blown onto our shared fence as this was a danger to his livestock.

Irrelevant since no-one is applying for the sewer plant to become a Village Green. It is not part of the estate and has never been used for recreational activities.

This photo from a 2008 court case shows the beautifully maintained sewer plant, with some garden waste left by hillcrest residents, and non-residents.



The real threat to livestock was actually from the pools of effluent that the sewer plant created in the adjoining field used by grazing animals. Photos on the next page show these effluent pools and are taken from the same 2008 court case concerning the sewer, and disputes over the Davies Bros. sewer charges. It was this pollution that was the reason further Hillcrest development was stopped.

Paragraph 3.

We feel Mr Amey would continue to use these plots in the same way. We have never allowed anyone to use any of these plots, the grass was cut once a year until 2007. Since then we cut the grass with tractor mower every two weeks.

Pure fantasy and possibly libelous! Decades ago I purchased a shredder from Charlie's Stores in Newtown so that I could shred my hedge cuttings and put them out for the dustman. Nowadays I take my garden waste to the recycling areas provided in the main Newtown car park. Please see other residents statements regarding the Davies Bros. claim that they never allowed anyone to use any of these plots.

Paragraph 4.

We started to develop in 1965, and were told by planning officer Mike Backhouse that all the field must be built on. He was not going to allow only roadside development.

If the Davies Bros business was established in 1973 it is difficult to see how they started to develop in 1965. I also think that trying to justify unwanted modern development based on a statement from somebody made over half a century ago is of no relevance in this century. Only 5 of the properties on Hillcrest border the B4568 so clearly this estate has not been limited to roadside development.

Paragraph 5.

GPP & DF Davies moved to Aberhafesp in 1951, DF Davies still lives there. A building business was started in 1961 by an older brother, we bought him out in 1973. Employed people and trained dozens of apprentices. We have paid business rates since 1961 on our workshop.

Completely irrelevant to this Village Green application.

Paragraph 6.

In 1994 we sold plot 16 with a bungalow but Environmental health stepped in and stopped us, we had also sold plot 15 and we had to stop both of these projects. In the past we have had help from Emlyn Hooson, Lembic Opec regarding this development which has been on hold for twenty three years. No wonder the country needs two million homes.

As previously mentioned the reason that their development was stopped 23 years ago is because they completely failed to address the sewage problems that they created in the Redhouse Farm field. I'm not sure who Lembic Opec is, but I know that Lembit Opik initially got involved after my neighbour's son Peter Blanchard wrote to Mr. Opik following Frank Davies attempt to intimidate her into paying a sewage bill she felt was unjustified. Copy included.



16/03/2017

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8, Hillcrest.
11/3/17.

Dear Richard,

Thank you for copying the letter from the Davies Brothers in response to the application for village green status-re the land in the centre of the Hillcrest Estate.

I am writing on behalf of myself. A resident at 8, Hillcrest from November 2000 and my mother Mrs P. Brabin who has owned no 10 Hillcrest since Sept 2000. As you are aware number 10 is now rented out to tenants ,as my mother lives with me, but she has always been resident on Hillcrest since the date mentioned above. As my mother is now 83 years old I am writing on her behalf, but she has signed below.

I have already written to Powys County Council on line, in response to the planning application proposed for the central green in Hillcrest. I hope that the facts outlined in that objection can be retrieved for use in support of this application for registration as a Village Green. It is an important fact that different residents have provided information that does not agree with information provided by the Davies Brother's application. We had not discussed the issues at that point in time, so my points were made completely independently of yours. Perhaps you would like to send this letter along with your own if you feel it would support our case.

In response to the letter.

I am unaware of the distance to Caersws but am aware that it is 4 miles from Hillcrest to Newtown.

The road to these places (B4568) is a busy "B" roads which personally I find risky for cyclists and pedestrians. I have discouraged my daughter in the past from cycling to Newtown because of the dangers involved. Namely windy, sometimes hilly and not wide roads, where cars travelling at considerable speed regularly have accidents. The County Council will be aware of the recent road tragedies that have occurred on these very roads. It shows a lack of understanding to argue that there are playgrounds in these nearby towns! There is no regular bus services and meeting friends for a kick about on the green is safer and nearer to home supervision for our children.

My second point is that there is a clear misdirection by the brothers. The land that we have asked to register as a village green is the piece of grassland at the centre of Hillcrest. Their letter refers to another area of land which is completely out of the Hillcrest estate. They refer to the piece of land over the main road which used to house the cesspit before the sewerage system was adopted by Severn Trent Ltd. As you will be aware that land had been fenced off by the Davies brothers since that adoption and no one can now use the right of way that I understand exists .

Therefore the Davies brothers are deliberately misleading the council by directing attention to that particular piece of land. I do not agree with the other "facts" stated, and I have no knowledge of complaints about "plastic". This whole argument is therefore a distraction. Unless the Davies brothers only object to us registering the old cesspit land as the village green! In which case I agree with them.

In all of the time we have lived in Aberhafesp I have not seen the Davies Brothers take any care of the green central area, until planning permission was re sought or re activated over the last year, in fact since the adoption of the sewerage system by Severn Trent. Since that time occasional mowing has taken place and co-incided with them putting in man holes.

Before this time since our arrival on to the estate we have sometimes paid a local tractor driver to cut the grass and then more recently Lyn Jones mowed it and maintained it regularly for years. That would be from 2000 to 2014 so it is fairly obvious that maintenance has been carried out by the residents. Children from the estate have grown up and moved on now, but used to camp on the green, played football and generally hung out there. Residents picnics have taken place regularly in the past. There have also been resident "get togethers" which have taken place on the green. Children now continue to use the area as a safe place to play.

1965 when planning permission was granted initially, is obviously over 50 years ago and much development for housing has taken place around Newtown in the years since we have lived here- nearer to community facilities and bus routes.

I am afraid it took the intervention of our local M.P. to encourage the Davies brothers to finalise the adoption of the sewerage system by Severn Trent. The amount of money demanded by them to enable this to happen suddenly dropped dramatically when he became involved!

The only time I ever saw the Davies brothers before this time was when they collected the cesspit emptying fee that we paid annually.

This letter has included several factors that could be argued as incidental but that I believe have relevance to the application put forward by yourself on our behalf.

I will unfortunately be unable to attend the meeting /hearing as I work full time . However as mentioned above you have both my and Mrs Brabin's wholehearted support .

The facts stand as they are. Witnessed by many residents.

With many thanks Richard

Yours truly

Teresa Burrows. 

B.A.Hons, B.Ed, Post Graduate Diploma in Equity and Diversity, MBP sS.

Patricia Brabin. 

Mr. Lynn Jones
No. 11 Hillcrest
Aberhafesp
Newtown
Powys

13th March 2017

We moved to Hillcrest in June 1988. The grass was not cut for a long time, probably 18 months – 2 years. I contacted the council on 2 occasions during the first 2-3 years to get the site tidied up. After this I took it upon myself to organise the grass cutting over the following years, sometimes doing the job myself, sometimes with a neighbour, sometimes paying a contractor until I bought my own ride-on mower about 2009-2010 thereafter doing the job full time myself till June 2014 when I told Frank Davies that I would not be able to cut the grass for a while as I was due an operation. Frank Davies has cut the grass since then, i.e. June 2014 with his son. This is the only time I am aware of him having anything to do with keeping the area tidy since 1990.



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Hillcrest Resident Statement for Village Green Application

NAME: SHIRLEY BLANCHARD

ADDRESS: 'BALLENBOCH'
HILLCREST,
ABERNAFESP,
NEWTOWN,
POWYS ST16 3NL

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

 TRUE NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

 TRUE NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

 TRUE NOT TRUE

Signed:

Date: 13th March, 2017.

Hillcrest Resident Statement for Village Green Application

NAME: MARJORIE PRICE

ADDRESS: PEN-Y-FFORDD

HILLCREST

ABERHAFESP

NEWTOWN

SY16 3JR

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 14-3-2017

Hillcrest Resident Statement for Village Green Application

NAME:

Lynn Jones

ADDRESS:

11, Hill Crest.

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

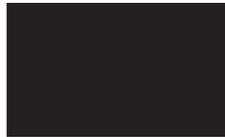
NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date:

13-3-2017

Hillcrest Resident Statement for Village Green Application

NAME: DAVID AND KAT WALKER

ADDRESS: 10 HILLCREST
ABERHAFESP
NEWTOWN
SY16 3JR

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 14.03.2017

Hillcrest Resident Statement for Village Green Application

NAME: RUBIN & MARGARET JONES
ADDRESS: DRAENEN WEN, 3 Hillcrest,
ABUCKHARPEP.

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:

Date: 15/3/17

Hillcrest Resident Statement for Village Green Application

NAME: Caroline Davies

ADDRESS: Haulfryn, Hillcrest, Aberhafesp, Powys, SY16 3HL

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 16/05/17.

Hillcrest Resident Statement for Village Green Application

NAME: JOHN + DIANE LAW

ADDRESS: NANT Y COED HILLCREST
ABERHAFESP

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date:

13 March 2017.

Hillcrest Resident Statement for Village Green Application

NAME: T. Burrows

ADDRESS: 8, Hillcrest Aberhafeop

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:

[Redacted Signature]

Date:

13 . 3 . 17

Hillcrest Resident Statement for Village Green Application

NAME: P. Brakin

ADDRESS: 8, Hillcrest Aberhafesp

Owner of 10 Hillcrest Aberhafesp + previous resident at No 10.

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date:

13/3/17

Hillcrest Resident Statement for Village Green Application

NAME: MRS M. TURNER

ADDRESS: COLONNEY HILLCREST, ABERNATHY
NEWTOWN. POWIS SY163JR

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date:

13/3/2017

Hillcrest Resident Statement for Village Green Application

NAME: Mrs P. BOUND

ADDRESS: BRIARLEE, HILLCREST, ABERHAFESP

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

THEY ONLY STARTED BEING SEEN HERE WHEN THERE WAS TALK OF SEVERN TREAT TAKING OVER THE SEWERAGE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed



Date:

15/3/17

They are actually here today doing work I have never seen them do since moved in 1980. They are clearing moss from the side of the pavements. Surely this is PC responsibility.



Hillcrest Resident Statement for Village Green Application

NAME: MR & MRS D. C. PUGH

ADDRESS: TARA, HILLCREST,
ABERZHAFESP
NEWTOWN
POWYS
SY16 3JR

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 13.3.2017

Hillcrest Resident Statement for Village Green Application

NAME: CARA RAWSTHORNE.

ADDRESS: BEECH GROVE, HILLCREST,
ABERHAFESP.

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 13-3-2017.

Hillcrest Resident Statement for Village Green Application

NAME: Bob Hill.

ADDRESS: Y GILFACH, HILLCREST

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed:



Date: 13/3/17

Hillcrest Resident Statement for Village Green Application

NAME: *GWYN FLEMING*

ADDRESS: *LINDEN LEA,
HILLCREST
ABERHAFFESP
NEWTOWN POWYS SY16 5HL.*

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE

NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE

NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE

NOT TRUE

Signed

Date:

15.03.2017

Hillcrest Resident Statement for Village Green Application

NAME: GREGORIO GARCIA-OCAÑA

ADDRESS: PENDOWER, ABERHAFESP SY16 3HL

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE NOT TRUE

Signed



Date: 13/03/2017

Hillcrest Resident Statement for Village Green Application

NAME: MRS E. DAVIES

ADDRESS: LLWYN GWAS
HILLCREST
ABERHAFES P
NEWTOWN SY16 3HL

1. The Davies Bros. claim to have cut the grass on the central green at Hillcrest every 2 weeks since 2007 is ...

TRUE NOT TRUE

2. The Davies Bros. have previously informed me and my family that the central green at Hillcrest must not be used for recreation by residents

TRUE NOT TRUE

3. I, or my neighbours have used the central green at Hillcrest to dump garden rubbish

TRUE NOT TRUE

Signed:



Date:

13/3/17

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Town and Country Planning Act 1990

**Town and Country Planning (Development Management Procedure)
(Wales) Order 2012 (as amended)**

Application P/2016/0567 for OUTLINE Planning Permission

**DRAFT NOTICE - NOT VALID UNTIL
SECTION 106 is signed**

Agent:

McCartneys (Newtown)
Mr Geraint Jones
39 Broad Street
Newtown
Powys SY16 2BQ

Applicant: Mrs R Jones, Milford Road, Newtown

In pursuance of its powers under the above-mentioned Act and Order Powys County Council (hereinafter called "the Council") as local planning authority hereby gives you notice that ~~OUTLINE Planning Permission is GRANTED~~ for the following development, namely:-

Outline planning permission for the erection of 10 dwellings with all matters reserved at land to the rear of Beechcroft, Aberhafesp

In accordance with the application and plan submitted to the Council on 25/05/2016 and revised indicative proposed plan on 12/06/2016 subject to the conditions specified hereunder:-

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. A scaled plan showing the location of the affordable residential units shall be submitted to the Local Planning Authority at the same time as the other reserved matters referred to in Condition No. 1.
5. An affordable housing phasing statement detailing the precise phasing (completion details) of the affordable units proposed shall be submitted for approval at the same time

as the other reserved matters referred to in Condition No. 1. The development shall be implemented in full accordance with the approved scheme.

6. Prior to any works commencing on site detailed engineering drawings to include a long-section for the forward visibility improvement along the B4568 shall be submitted to and approved in writing by the LPA.

7. Prior to any works commencing on site the forward visibility improvement along the B4568 shall be fully completed in accordance with the approved plans.

8. Prior to any works on site detailed engineering drawings for the footway to be constructed along the B4568 between the new development and Hill-Crest development along the improved forward visibility shall be submitted to and approved in writing by the Local Planning Authority.

9. Prior to the occupation of any dwelling the new footway along the B4568 shall be fully completed and operational.

10. Prior to the occupation of the dwelling any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

11. The gradient of the access shall not exceed 1 in 30 for the first 9 metres measured from edge of the adjoining carriageway along the centre line of the access.

12. The centre line of the first 9 metres of the access road measured from the edge of the adjoining carriageway shall be at right angles to that edge of the said carriageway.

13. Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 90 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway and 10 metres distant from the edge of the adjoining carriageway and 10 metres in each direction. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

14. Within 5 days from the commencement of the development clear forward visibility shall be provided above a height of 0.60 metres above carriageway level across the area shown on the approved plan. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

15. Within 5 days from the commencement of the development clear visibility shall be maintained above a height of 0.26 metres above carriageway level over the full frontage of the developed site to the estate road effective over a bandwidth of 2.4 metres measured from the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

16. Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 9 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
17. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom (maximum of 3) excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
18. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.
19. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.45 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
20. The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 9 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
21. Prior to the occupation of the development a radius of 7.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.
22. The centre line radii of all curves on the proposed estate road shall be not less than 20 metres.
23. There shall only be a single vehicular and pedestrian access to serve the development hereby permitted.
24. No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.
25. The estate road carriageway and all footways shall be fully completed, in accordance with the details to be agreed in writing by the Local Planning Authority, upon the issuing of the Building Regulations Completion Certificate for the last house or within two years from the commencement of the development, whichever is the sooner. The agreed standard of completion shall be maintained for as long as the development remains in existence.
26. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 9 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

27. Upon formation of the visibility splays as detailed in Condition 13 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
28. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
29. No storm water drainage from the site shall be allowed to discharge onto the county highway.
30. All landscape works shall be carried out in accordance with the details approved at the reserved matters stage. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
31. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
32. The development hereby permitted must be served by the public foul sewerage system (mains) prior to the occupation of any of the units.
33. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and retained in perpetuity.
34. Prior to the construction of the dwellings hereby approved details or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
35. All works and ancillary operations which are audible at the site boundary shall be carried out only between the following hours:
0800-1800 hrs Monday to Friday
0800-1300 hrs Saturday
At no time on Sundays and Bank Holidays
- Deliveries to and removal of plant, equipment, machinery and waste from the site must also only take place within the permitted hours detailed above.
36. A lighting plan showing the location and specification for any proposed lights on the site shall be submitted at the same time as the reserved matters referred to within Condition 1. The plan will include directing lighting away from retained and proposed trees and hedgerows around the application site and the use of down lighting to ensure suitable foraging and commuting habitats to remain unlit. The approved plan shall be implemented prior to the occupation of any of the dwellings.

Sian Barnes (CSP - Countryside Services)

From: Jean and Mike Morgan <[REDACTED]>
Sent: 22 May 2017 09:13
To: Claire Lewis (CSP - Countryside Services)
Subject: Aberhafesp Village Green

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Claire;

The Annual General Meeting of Aberhafesp Community Council was held on Wednesday 17th May 2017.

The application for 'Village Green' status for the small green area in the centre of Hillcrest estate was again discussed. The Community Council fully endorse this suggestion giving support to the residents in their endeavor to provide a safe environment for the children to play.

We look forward to your observations.

Regards

Jean Morgan (CLerk)

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Sian Barnes (CSP - Countryside Services)

From: Jean and Mike Morgan <[REDACTED]>
Sent: 22 May 2017 09:13
To: Claire Lewis (CSP - Countryside Services)
Subject: Aberhafesp Village Green

Follow Up Flag: Follow up
Flag Status: Flagged

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We look forward to your observations.

Regards

Jean Morgan (CLerk)

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Richard Amy
Madryn, Hillcrest,
Aberhafesp,
Newtown,
Powys
SY16 3HL

7th September 2018

Ref: 16-001VG

Copies to Commons Registration, Mr. F. Davies

Please find enclosed:

Application Banner

Photographs of Green being used

Photographs showing Briar-free Green

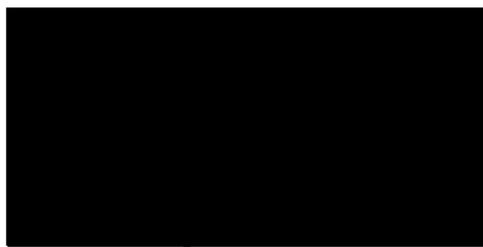
Photographs of dogs exercising on the Green

CD with more photographs than those supplied printed

List of Witnesses

New Witness Statements

Statements from people who cannot attend the hearing



Richard Amy

please !!

don't take
are Island
away !!

Rene'e
Age 6



The Green Being Used by Children and Adults 2016-2018

October 2016



October 2016



December 2016



February 2017



March 2017



March 2017



April 2017

April 2017



April 2017 (Faces obscured where parental permission not obtained)



April 2017



May 2017



August 2017



November 2017



December 2017



January 2018



February 2018



March 2018



March 2018



April 2018



May 2018



June 2108



June 2018



August 2018



August 2018



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August 2018



August 2018



August 2018



August 2018



August 2018



August 2018



August 2018



September 2018



Photos showing briar-free green before 2003

1985



Mid 80's



Circa. 1993 (when No. 10 was sold)



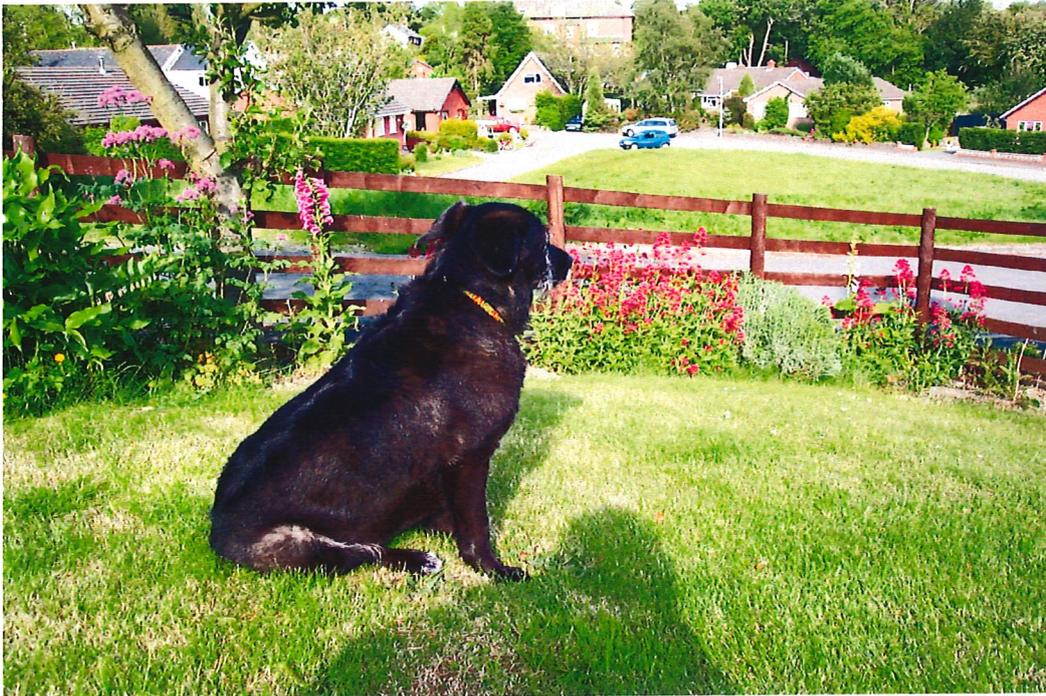
1996/97



February 2002



June 2002



March 2003

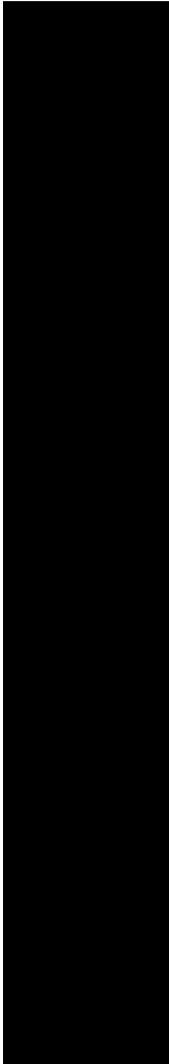


Dogs Using The Green



Hillcrest Village Green Hearing Witness List

10th 11th Witness



- Richard Amy - Madryn, Hillcrest
- Oliver Amy - Madryn, Hillcrest
- Alex Amy - Madryn, Hillcrest
- Lynn Jones - No. 11, Hillcrest
- Caroline Davies - Haulfryn, Hillcrest
- Alan Rowlands - Haulfryn, Hillcrest
- Rob Davies - Haulfryn, Hillcrest
- Peggy Bound - Briarlea, Hillcrest
- Eluned Jones née Davies - Previously of Llwyn Glas, Hillcrest
- David Walker - Highfield, Hillcrest
- Kat Przybysz - Highfield, Hillcrest
- Shirley Blanchard - Ballengioch, Hillcrest
- John Law - Nant y Coed, Hillcrest
- Diane Law - Nant y Coed, Hillcrest
- Margaret Jones - Draenen wen, Hillcrest

Key:

- ✓ All day
- M Morning only
- C While children are at school
- X Not available
- R Reserve if his brother is unavailable due to work

New Witness Statements

Oliver Amy,
Madryn,
Hillcrest,
Aberhafesp,
Newtown,
Powys.
SY16 3HL

7th September 2018

Dear Sir/Madam,

I am a 33 years old and have lived in Aberhafesp since the age of 3, spending the entirety of my childhood here. I am thankful that I was afforded a communal space in the centre of the community whilst growing up. The impact it has had on my quality of life here is immeasurable and I'm reassured to see subsequent generations of parents and children enjoying the same on a daily basis over 25 years later.

The green benefits all members of the community on Hillcrest. Children are able to enjoy a safe open space that is away from traffic and private property but easily watched over by parents. The village green fosters a sense of community and encourages people to get to know each other better. As an adult I spend less time there, but I still talk to neighbours who are out playing with their children.

I can confirm that the village green has been regularly used by children and adults for well over 20 years. To this day it is used daily by children for ball games and cycling whilst social gatherings are arranged by members of the community for all ages to enjoy.

Removal of the green for development will have a major negative impact on everyone living here. Traffic will increase and housing density will increase dramatically. Privacy in residential gardens will be diminished and children will be forced to undertake recreation alongside people's property on the road. Elderly residents will become isolated physically and socially as the communal green is no longer available for gatherings and meetings. Hillcrest will become a lot less welcoming and appealing to live at which will have adverse economic implications on homeowners.

Kind Regards,

A solid black rectangular box used to redact the signature of Oliver Amy.

Oliver Amy

Alex Amy,
Madryn, Hillcrest,
Aberhafesp,
Newtown,
Powys
SY16 3HL

I was born in 1987 and have lived at Hillcrest from the age of one year old (1988) until the age of 21 (2008) when I left to go to university. I can recall almost constant use of the green throughout my life at home, playing football, riding our bikes, making dens, having barbeques, social gatherings and much more. The green was the perfect place to have fun and socialize safely as a child and meet all the other people who lived on our estate, it pretty much defined my childhood growing up here, because without it we would have had nowhere else to safely play with the other children.

Even as an adult now I am pleased to see all of the social events and barbeques that still take place and I'm delighted to see the new generation of children using it as we all once had. Without it I feel as though it would be a huge loss to the estate and impact everyone who lives here negatively; the children who live here now would have no realistically safe place to play with the number of cars that frequent the estate and the road being the only option, and I believe everyone else would suffer too not being able to host our social events throughout the year.

Alex Amy



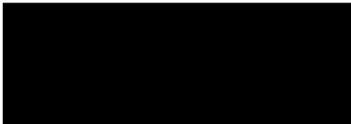
07/09/2018

Nant-yr-Oen
Felindre
Knighton
Powys.

I have lived at hillcrest from birth until I left for university at the age of 19. During that time my sisters and I regularly used the green in the middle of the estate for playing and exploring, it was a crucial area for children to play safely, off the road and away from the houses that surround it. We would regularly ride our bikes on it, play football, and I particularly remember the social barbecues we had during the summer holidays.

My parents still live on the estate and I regularly visit with my 3 small children and it's lovely to see them playing on it as we once did and with the increasing number of cars that goes through the estate, that area is now even more crucial. Living outside town and having nothing else to do locally I feel having an area for children to run around and play stops them from venturing further afield along potentially dangerous roads.

This estate has always had a presence of children and if more houses are built on the green I feel families would be discouraged from moving to the area which would be a massive loss.



E Jones

Statement requirements

Name PEGGY BOUND

Address BRIARLEA, HILLCREST, ABERHAFESP

How long you have lived here. SINCE 1980

Statement that you have regularly seen children using the green, or have used it yourself (with approximate years).

Have seen or attended social gatherings on the green.

Signed and dated

I have seen children playing on the green since this time as there is no playground within walking distance.

My children, together with others on the Estate used to make dens etc. in the very long grass; this would have been impossible had it been covered in brambles. Social gatherings are held on the green and a few years ago a Church Society also given permission by the curate to hold an outdoor service on said green.



7/9/18.

Caroline Davies

Haulfryn,

1 Hillcrest,

Aberhafesp

SY16 3HL

6th Sept 2018.

I purchased my property in May 1997. In the early years we used the Green for my children to play on, cricket, football, games etc with other children, until outgrown. Then other children on the estate took over as many residents had children.

I also attended official meetings and many social gatherings on the Green over the years



AHAN ROWLANDS

1. HILLCREST

AB-RMAP-SP

SY/16 346.

I moved into Hillcrest in April 2001 over the years I have seen many children use the green for recreation purposes, I have also attended many meetings on the green to do with local issues i.e. Severn Trent, sewage issues, health issues,

Many people have also fallen due to the lack of maintenance and the standard of pathways/roadway on the estate, as an ex community council member I would question that the estate as yet is not up to Council standard



7th SEPT 2018

EX: Postmaster Coerswe Region
1983 - 2010

10 HILLCREST
ABERHAFESP
5416 3JR.

To whom it may concern,

Kat and I have lived in Hillcrest for nearly 5 years now. We have regularly witnessed the local children, their friends and family who visit, and my own son use the green on Hillcrest for recreational use and sports.

We have also attended many community gatherings on the green where there are 20+ residents in attendance.

We feel this a much needed piece of ground for the local children as there is nothing in the local area for the children to do, or any other safe area for the children and families to congregate.

Kindest regards

MR David WALKER

MISS Kat PRZYBYL

7 September 2018

Statements from people who will not be at the hearing

5th September 2018

To the Commons Registration committee for application 16-001VG at Hillcrest Aberhafesp.

We are unable to attend the hearing in person but support the application.

Both my mother and myself have lived in Hillcrest as two separate households from 2000. My mother now lives with me (from 2000) and we continue to live as one household in Hillcrest.

My children used the green repeatedly as they were growing up. Camping overnight when teenagers, and playing rounders and cricket in groups. From 2000 to 2007 . Now my grandchildren use the green when they are here-weekly.

Community get-togethers are also organised on the green regularly.

I am quite sure there are other events for which it is used but these are the activities which I have personally witnessed and been involved with.

Thank you.

Teresa Burrows

B.A.Hons (Psychol)B.Ed.

Patricia Brabin.

BOB HILL
Y GILFACH
HILLCREST
ABERHAFFESP

To the Commons Registration committee for
application 16-001VG at Hillcrest, Aberhafesp.

I am unable to attend the hearing in person but
support the application 100%

I have lived at this address since 1983 (35yrs)
and in all this time I have enjoyed the sight +
sounds of children playing on the 'green' in the
centre of the estate. Over this period of time there
have been many families living on the estate and
all the children played on the 'green' and the adults
have had social events again using the 'green' as
a function space.

The grass was cut as it was needed and at no
time did I hear the landlord (Frank Davies) complain
about the grass being cut or say that the children
could not make use of the 'green'

BOB HILL

5th Sept 2018

rel -

1, Garden Suburb,
Llaidlaes,

Pauys

5118 GEN.

5th September 2018

TO the Commons Registration Committee
for application 16-001UG at Hillcrest
Aberhafesp.

We the Lone family, two adults and 3
children lived at Highfields, Hillcrest
Aberhafesp from 1993 to 2000.

All our 3 children, Harriette, Ryan and
Elliott Lone, played on the 'green'. The 'green'
was straight outside our house.

The children continually used the land
(green) to play on. During the Summer
football, tennis pitching Tents. During the
winter igloos.

My husband, Brandon purchased a Lawn
mower to cut the grass for the children.
Because the ground was uneven, another
neighbour, 'Bumble' came with a tractor
and roller and evened the ground.

The green was used for village functions
such as barbeques etc. Birthday parties and
general play for the children. It was
such a safe place for the children to play.
My husband cut the grass on a regular
basis. We left the lawn mower for the
community to use for the green.

We were never told by the Landlord not to
cut the grass. Also we were never told by
the Landlord ~~that~~ that the children could not
play on the green.

All the children who lived on Hillcrest played on the green, for example; the ORME'S x3, the RUTTERS x3 and the three children who lived nextdoor to us.

When we moved, we often talk about the lovely time the children had playing on the green, what a safe place it had been. Also how lucky we had been to live in such a safe place.

Ruth Love -

5/9/2018

BRANDON LOVE -

5/9/2018

Hillcrest

I lived on Hillcrest from 1978 until about 1998 and can recall using the central green throughout that period. It was an area for meeting and playing with friends and neighbours as there were many families with children. We spent time making dens, riding bikes and having bonfire and Halloween fun. I spent my childhood playing there as it was the only place to meet.

My children now play football and generally enjoy the space in safety when they visit their grandparents.



D E Jones

Additional Photos supplied by the applicant on CD 2003 - 2017

Photo entitled 'Compare' (Not dated)



March 2003



March 2003



February 2007



March 2007



March 2008



June 2013



June 2013



June 2013



September 2013



August 2015



November 2015



January 2016



May 2016



June 2016



June 2016



July 2016



October 2016



October 2016



December 2016



March 2017



April 2017



August 2017



September 2017



November 2017



December 2017



December 2017



Additional Photos supplied by the applicant on CD 2018

January 2018



February 2108



March 2018



March 2018



May 2018



June 2018



June 2018



June 2018



July 2018



August 2018



August 2018



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Ty Sgwylfa
Aberhafesp
Newtown
Powys
SY16 3JH
7 September 2018

Commons Registration, Countryside Services
Powys County Council
The Gwalia
Ithon Road
Llandrindod Wells
Powys
LD1 6AA
Your ref: RCCS/TVG/SB/16-001VG

Dear Sirs

Commons Registration Act 1965 & Commons Act 2006 – Section 15 (1)
Form 44 Application for the registration of land as a Town or Village Green
Land: land at Hillcrest, Aberhafesp, Newtown

I write further to your letter dated 3 May 2018 to confirm that I intend to give evidence at the hearing into the application for the registration of a Town or Village Green on the Land on 10 and 11 October 2018. This letter and the enclosed documents contain the evidence upon which I intend to rely at the hearing, and are limited to factual evidence. Legal matters relevant to the application will be dealt with in later submissions.

Before I comment on the documents submitted to date, I wish to comment on the current planning status of the Land. Planning permission was originally granted for the whole Hillcrest site in 1964, including permission for the erection of 3 dwellings on the Land (see attached planning permission no 6676). A subsequent permission (ref M4066, also attached) relating to the layout of Phase 2 of the development (which included the 3 plots on the Land) was granted in 1977. Those permissions were duly implemented by the erection of several dwellings. Whilst no dwellings have yet been built on the three plots located on the Land, it is my view that because these permissions were implemented, that planning permission for the erection of dwellings on the three plots on the Land remains extant.

My comments on the application form and the applicant's Evidence Questionnaire, Fuller Summary and Exhibits A, B and C:

At section 7 of the application form, the applicant says that the Land has been used for sports, recreation, social gatherings and meetings for 28 years. Counting back from 2016, which is the date of the application, means that the applicant's claim is that these activities have been occurring since 1988 at the latest.

However, the applicant's claim is disputed. In the early 1980s the Land was effectively a dumping ground with piles of soil on it. The Land was levelled off with the soil in the early to mid 1980's. Grass and thistles then grew on the Land, up to approximately 1 metre high, and from the mid 1980s the Land was cut approximately once per year with an agricultural mower. This cutting was organised by Lyn Jones, for which he was paid by way of a reduction in the amount we charged him in respect of the sewers/drainage to his property.

After the land was cut by the agricultural mower, the grass and thistles were not taken away but were left on the land, which made the Land inaccessible given there was a great deal of foliage left. The Land was then left for at least a year until it was cut again, during which time the grass and thistles grew back, and again grew to approximately 1 metre high, which made the Land inaccessible for much of the year until it was cut again with the agricultural mower. This continued until 2003, at which point Lyn Jones started cutting the grass on the Land regularly. From 2003 the Land was grassed and has been grassed ever since. Mr Jones cut the grass until 2014 when he had to stop because he was having an operation. In 2014 my brother and I took over the cutting of the grass and have cut it regularly ever since. Since my brother passed away in early 2018 my son has helped me cut the grass.

In response to the Questionnaire:

Question 9: I have never seen the applicant on the Land.

Question 18: the applicant says that the activities he has engaged in on the Land include firework displays and resident's association meetings. As to the firework displays, I have not seen the displays myself, and have not seen any evidence to suggest that they have taken place. There would be no physical evidence on the Land of those having been let off after the event in the same way as a bonfire. I note, in any event, that at question 26.c of the Questionnaire the applicant says that fireworks have not been let off from the site every year.

Question 20: the applicant says that, at the date the Questionnaire was completed, he was partaking in social gatherings and resident's association meetings. As to the social gatherings, I was not aware of any taking place at the time the Questionnaire was completed, and judging by other comments submitted (which I deal with below), any social gatherings were occurring very rarely.

Question 21.c: the applicant says that at the date the Questionnaire was completed, his children no longer used the Land, because they got too old to play. This has happened with many other residents' children, in that their children once did play on the Land but have since grown up and many have moved off Hillcrest, such that the use in later years has primarily been by residents' grandchildren who do not live on the estate.

Question 22.a: the applicant says that others use the Land daily. In his Fuller Summary, he says that he is 'not claiming that the green (i.e. the Land) is in continuous daily use, there are periods in the autumn and winter when very wet or cold weather prevents anyone from wanting to be outdoors'. I have never seen anything on the land which would suggest that it has been used by children. If the use of the Land is as the applicant suggests, I would have expected to have seen some evidence of it, such as play equipment.

Exhibit B: there is no evidence to suggest when the snowy photograph was taken. It does not show children building snowmen or throwing snow balls, as one might expect; instead, it purports to show a knocked over football goal; the photograph, however, is poor quality, and the purported goal cannot clearly be seen. No reliance should be placed on this photo. If what is shown is a goal, I would expect there to be another goal shown in the photo; however there is no evidence of another one.

Exhibit D: the letters of local residents

Several of the residents cannot attest to the use of the land in the requisite way for the requisite period because they have not lived there for a sufficiently long period. The following statements should therefore be disregarded.

1. Mr and Mrs Rawsthorne (who have only lived in their property for 8 months);
2. Gregoria Garcia-Ocana & Melanie Humphreys (who only moved in to their property 2 years ago);
3. John and Diane Law (who have only lived on the estate for 7 years). Their letter also indicates that the social events they have attended are not regular and that there had only been 2 such events in the couple of years preceding their letter.
4. D.R. Jones (who has only lived there for 6 years). There are no specifics in D.R. Jones' letter as to the frequency of the game playing or get-togethers, or what activities either comprise;
5. Mrs M Price (who has lived there for 14 years). Mrs Price says that she has no children, and is not specific as to the frequency of the residents' activities or get-togethers, or what they comprise;
6. Eluned Jones (who lived there for 19 years). Ms Jones is not specific as to the dates that she lived on the estate and thus little reliance can be placed on her letter;
7. Caroline Davies says that she purchased her property in May 1997 and thus by the date of the application (November 2016) she had not lived there for the required 20 year period. Ms Davies also says that the community has conducted various meetings on the Land '*over the past few year's*' [sic], and whilst she is not specific as to dates, the language used does not suggest that those meetings have been for in excess of 20 years. Personally, I have not seen anyone conducting meetings on the land. I have occasionally seen children playing on the land, and people walking across it.

As to the residents who have lived there for in excess of 20 years:

1. Elizabeth Davies is not specific as to the dates of her childrens' use of the Land and we cannot therefore be sure that their use continued for more than 20 years. Her letter says that her grandchildren now play on the Land when they visit; I understand that her grandchildren do not live on Hillcrest;
2. G and PE Fleming are not specific as to the dates the Land was used;
3. Bob Hill is not specific as to the dates the Land was used by the children he refers to;
4. K Pugh is also not specific as to dates. K Pugh has got two young children, and as far as I am aware, they are the only children currently living on the estate;
5. Marie Turner is not specific as to dates;
6. Mrs P Bound says that when she moved on to the estate in 1980 'the grass was so long as it was never cut by the Davies Bros', which supports what I say above. Mrs Bound is also not specific as to

the dates of her (and others') childrens' usage; her letter says that her grandchildren play on the land when they visit; I understand that her grandchildren also do not live on the estate, and that understanding is supported by the fact that her letter says that her grandchildren 'visit' which suggests that they do not live on the estate;

7. Margaret and Robert Jones are also not specific as to the dates on which the Land was used. They say they moved in in 1985, and that at that point their children were 11 and 7; by 1996 their children would have been 22 and 18, and very unlikely to have been playing on the Land; if they were, they would vey likely have ceased playing on the Land shortly after 1996. Mr and Mrs Jones also say that their grandchildren play on the site, and, as with other residents of the estate, I understand that their grandchildren are not resident on the estate;
8. Lynn & Barbara Jones are not specific as to dates of usage of the Land. They also say that grown ups have the 'occasional' barbecue on the Land, which suggests that they are very infrequent;
9. Shirley Blanchard says that she does not have children;
10. Oliver Amy is not specific as to the dates of his usage of the Land;

The letters written by current and former residents are completely lacking in detail and evidence as to what activities took place on the Land and when.

Several of the authors of the letters claim that their children have played on the land over the years. It is notable that none of these residents has produced any documentary evidence to support their claims; one would expect them to have taken photographs of their children playing, given that that is often an image captured by a parent. The only photographs of children playing on the Land were taken just prior to the date of the application, or just after, and do not therefore go any way to showing the required level or period of use. The photograph taken on 18 December 2016 shows who I believe to be are the only two children currently resident on the estate, who are the children of K Pugh. I believe that the girl shown in that photograph has since moved off the estate.

Whilst at one point many years ago there were several children living on the estate, at the date of the application it is my understanding that there were only 2 children living there. The evidence submitted in support of the application indicates a decline in the number of children actually living on the estate; several of the letters refer to residents' young children playing on the Land many years ago, and to their grandchildren (who are not resident on the estate) now playing on the Land when they come to visit their grandparents at Hillcrest. That assertion is supported by the following:

1. In his Fuller Summary the applicant himself states that 'a few families have remained after their children have departed for the wider world but even they still use the green when they are taking care of their grandchildren'.
2. Eluned Jones says that she regularly visits Hillcrest with her 3 small children; Ms Jones does not live on Hillcrest and her children, who she says play on the Land when she visits her parents, are not therefore resident on the estate.
3. The fact that the local primary school closed in 2011 (see attached printout from the gov.uk website).

Me and my brother's undated letter

The letter says that we have cut the grass since 2007 every two weeks. That is incorrect. My brother wrote that letter and was mistaken as to dates. As I have explained above, my brother and I took over the mowing regime in 2014 and have cut it regularly since then.

As to the letter from Powys County Council to me dated 13 August 2013, rubbish was being dumped on land which is situated close to Hillcrest but does not form part of the Land, which is owned by my older brother. My understanding is that the rubbish was being dumped by residents of Hillcrest and others, and then set alight by residents of Hillcrest.

The Applicant's submissions dated 16 March 2017

The photograph on the second page of the Applicant's letter shows who I believe to be my son, Ben, on the mower cutting the grass on the Land whilst two children play nearby. I believe that the two children shown in the photograph are the only two children who lived on the estate when the photograph was taken.

The photographs included within the applicant's submissions are not dated but purport to be 'recent'. There is, however, a total lack of photographic or other documentary evidence submitted by the applicant showing children playing on the Land (or indeed other activities taking place on the Land) over the required period. The photos only show recent use.

I do not propose to respond to 'Part 2' of the applicant's submissions dated 16 March 2017, given that they are not relevant.

Summary

The application contains a complete lack of detail as to the dates of use of the Land, and the frequency of that use. There is also a lack of evidence to support the claims made. One would expect more photos of children playing on the Land. Not one photograph of any adult social gathering has been provided. The evidence also suggests that whilst there may have been a level of use by children who lived on the estate some years ago, the majority of the use at the date of the application is by Hillcrest residents' grandchildren who do not live on the estate.

A case summary setting out the legal arguments and authorities upon which I wish to rely will be submitted in due course.

Yours faithfully



Mr Frank Davies

CC The Applicant (Mr Richard Amy at Madryn, Hillcrest, Aberhafesp, Newtown, Powys SY16 3HL)

IMPORTANT—THIS COMMUNICATION AFFECTS YOUR PROPERTY

MONTGOMERYSHIRE COUNTY COUNCIL

Application No. 6676

Town and Country Planning Act, 1962
Town and Country Planning General Development Order 1963.

To Messrs. T.C. Hughes & Powell,
Solicitors,
Newtown, Mont.

acting for:-

Mr. G.H. Woosnam, Warrendale, Aberhafesp.

In pursuance of its powers under the above-mentioned Act and Order, the MONTGOMERYSHIRE COUNTY COUNCIL (hereinafter called "the Council") as Local Planning Authority hereby permits

Site for Residential Development on Part Encl. 846
at Aberhafesp Hall

Conditional Consent - Residential Development.

in accordance with the plan and application submitted to the Council on
22nd September 1964 †(subject to the conditions specified hereunder):-

the submission and approval of detail plans of
the dwellinghouses

†The reasons for the Council's decision to grant permission for the development
subject to compliance with the conditions hereinbefore specified are:-

Planning Considerations

DATED 17th day of December 1964

†Signed _____

(Address to which all communications should be sent.)

COUNTY PLANNING OFFICER
COUNTY OFFICES
WELSPPOOL

† Cross out if not applicable.
‡ Clerk or other authorised Officer of the Council.

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ON THE REVERSE OF THIS FORM.

SHAW & SHAW LTD., FETTER LANE, E.C.4. T.O.P.19. H92870

Town and Country Planning Acts, 1971-74**Town and Country Planning General Development Orders, 1973-76**

To Mr. Marie Owen,
Frank Chambers,
Newtown.

Acting on behalf of:-
Mr. G. G. Davison,
(Hillcrest Developments),
John Ealed,
Adfa,
Newtown.

In pursuance of its powers under the above-mentioned Acts and Orders, the MONTGOMERY DISTRICT COUNCIL (hereinafter called "the Council") as Local Planning Authority hereby permits: layout for ten dwellings (Phase II), Hillcrest, Aberhafesp.

In accordance with the application and plan submitted to the Council on 15th July, 1977, subject to the conditions specified hereunder

1. Unless stated otherwise below, the duration of this permission is limited as specified overleaf. The date on which this permission is granted is 2nd September, 1977.
2. The conditions required by the Highway Authority (copy attached).
3. Details of the type, colour & texture of all external materials shall be submitted to and approved by the local planning authority prior to any work commencing.
4. Before development commences, details of the following matters shall be submitted to and approved by the local planning authority:-
 - a) plans & elevations of all buildings or structures to be erected on the site.
 - b) plan showing existing trees to be removed & existing trees to be retained.
 - c) type, colour & finish of all materials to be used on external surfaces.
 - d) precise positions, size, design, colour & materials of all boundary walls & fences.
 - e) plans indicating the landscape treatment of the site, including tree, shrub & hedgerow planting and indicating the size & species of all trees, shrubs & hedgerow plants.
 Such works shall be carried out as may be necessary to give effect to the details of the reserved matters so approved.

The reasons for the Council's decision to grant permission for the development subject to compliance with the conditions hereinbefore specified are:-

- Condition No. 1 - Conditions imposed by the above-mentioned Act.
 Condition No. 2 - In the interests of highway safety.
 Condition No. 3 - To enable the local planning authority to consider details of the proposal not covered by the present application.
 Condition No. 4 - To enable the planning authority to consider details of the proposal which are not covered by the present planning application.

DATED the 2nd day of September, 19 77 Signed

(Signed) M. S. BACKHOUSE, Chief Planning Officer.

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This establishment closed on 31/12/2011. View details of [linked establishments](#)

Aberhafesp C.P. School

URN: 400463 Welsh establishment

[ads/Download/Establishment/400463?](#)

[dGVWYWx1ZXMiOnsiaWQiOjQwMDQ2M30sIkxhYmVsljoiQWJlcmhhZmVzcbDlIAuIFNjaG9vbCJ9XQ2\)](#)

Details

[Links](#)

[Location](#)

Address: Aberhafesp, Newtown, Powys,
SY16 3HT

Local authority: Powys
(<https://www.gov.uk/Establishments/Search?searchtype=ByLocalAuthority&d=196>)
(666)

Headteacher/Principal:

Phase of education: Not applicable

School type: Welsh establishment

ID: URN: 400463, DfE number:
666/2000

Establishment status: Closed

Telephone: 01686688463

Religious character: Not recorded

Number of pupils: Not recorded

Section 41 approved: Not approved

Open date / Reason: Not recorded
Not applicable

Close date / Reason: 31/12/2011
Closure

Percentage of children eligible for free school meals: Not recorded

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Date: September 2nd 2018

Commons Registration Act 1965 & Commons Act 2006 – Section 15(1)

CASE SUMMARY BY APPLICANT Mr. Richard Amy
Madryn, Hillcrest, Aberhafesp, Powys SY16 3HL

Unfortunately I am not a Solicitor and have no legal training so I apologise if this document is not particularly professional.

At the hearing I intend to demonstrate that the land in question has been used by the children of Hillcrest “as of right” for the period between October 1996 and October 2016.

The evidence given by The Objector (Landowner Mr. F. Davies) is inaccurate and therefore his objections become invalid.

I am not suggesting that Mr. F. Davies is trying to intentionally mislead the hearing, but the fact is that he has limited social connection with and knowledge of the Hillcrest estate and its population, beyond the construction side of it.

After their last construction project finished in the mid 1980’s, and prior to taking over the grass cutting in 2014 the Davies brothers were rarely ever on the estate. They took no part in the social life of the community and were only present on the estate to deliver sewage charge bills annually (usually at night), and to try to fix problems with their malfunctioning sewage system. They therefore had no way of knowing the frequency or type of usage of the green by the children or adults.

“Significant number of inhabitants”

Mr. Davies lack of knowledge of the families of the Hillcrest estate is demonstrated by his claims on the number of families with children living on Hillcrest. In his statement of the 7th September he states “Whilst at one point many years ago there were several children living on the estate, at the date of the application it is my understanding that there were only 2 children living there”

Completely wrong. At the time of the application there were four households with school-age children living here, and all of these used the green for recreation:

Chris & Kathryn Pugh – 2 children
Greg Garcia-Ocana and Mel Humphreys – 2 children
Matt & Cara Rawsthorne – 1 child
Andrew Bromley – 1 child (not resident every day)

Since the application was submitted the Rawsthornes have left Hillcrest but they have been replaced by another family also with one school-age daughter who uses the green.

In the Objecter's summary 7th September 2018 he repeats this claim that there are only two children living on the estate, in relation to a photograph I supplied in March 2017 of him cutting the grass whilst two children play football. To gauge the credibility that should be given to Mr. Davies testimony he claims that the photograph shows his son cutting the grass, when in fact it is Mr. F. Davies himself riding the mower. Perhaps if an individual cannot recognise himself then his testimony should be taken with a pinch of salt.

Whilst there were fewer families with children at the time of the application than at any point over the previous years, there have always been families with children here, 51 of these since I have lived here. These are the families with children that my neighbours and I can recall:

Brian & Mia Poole - 3 children
Richard & Carol Amy - 2 children
Humphrey & Liz Davies - 3 children
Gwyn & Trish Fleming - 1 child
Gareth & Helen Owen - 2 children
Tony & Cheryl Orme - 3 children
Peggy Bound - 2 children
Keith & Marie Turner - 3 children
Micheal & Margaret Jones - 2 children
Brandon & Ruth Lane - 3 children
Jim & Cheryl Rutter - 4 children
Charlie & Mary Lowndes - 2 children
Margaret & Robert Jones - 2 children
Sharon & Jason Bright - 3 children
Donaways - 2 children
Andy & Sandie McDonald - 2 children
Teresa Burrows - 2 children
Chris & Kathryn Pugh - 2 children
Gareth & Dawn Davis - 3 children
Tony & Lucind Barfoot - 2 children
Marks - 2 children
Andrew Bromley - 1 child
Greg & Mel - 2 children
Steve & Helen Wright - 3 children
Matthey & Cara Rawsthorne - 1 child & 1 baby
New Family (Beech Grove) - 1 child

In the Objecter's Case Summary (part 14) he states that "Looking at the evidence holistically, it is clear that prior to the Application being submitted the Land was primarily played on by children who were not resident on the Estate, and were not therefore inhabitants of the locality/neighbourhood".

That statement is of course entirely wrong. Over the 20 year period dozens of resident children played on the Land, and even at the time of the application 6 resident children played on the Land. It should also be noted that when grandchildren of residents are using the estate they usually have at least one resident grandparent with them supervising so the green is being used by residents.

It is correct that adult gatherings on the Land are infrequent but this is true of all Village Greens.

It is also true that there is little photographic evidence of children playing on the Land over the 20 year period of the application, but it should be remembered that the desire to photograph everything is a recent phenomenon encouraged by the growth of social media. I took photographs of my children playing on our family holidays, and school sports days, not when they were playing after getting home from school.

I started taking photographs of children and adults using the Land only since I submitted the application, and whilst they do not cover the 20 year period in question they do show the sorts of activities that occur on the land.

“Any locality, or any neighbourhood within a locality”

It is the case that the Land in the middle of Hillcrest has been used primarily but not exclusively by the residents of Hillcrest. In social gatherings we have sometimes had people from properties either side of Hillcrest attend. We have also had children from properties near Hillcrest join the estate children, but this is infrequent.

“As of Right”

I have lived here for 30 years now and have never been advised by the landowners that the Land is not available for children. There has never been any signage or fencing to discourage its use. The Objector cannot have been unaware of the land use by residents, particularly since 2014 when he took over responsibility for mowing the grass. Children have played on the grass whilst he was cutting it.

Had he objected to the use of the Land I am sure he would have constructed a fence around it and put up a sign, as he did with the small area of land on the other side of the B4568 to Hillcrest.

“Lawful sports and pastimes”

Throughout the 20 year period children have used the Land for recreation. In the early days when the grass was a bit long the children would make dens and camps and kick footballs about where they flattened the grass. Since the grass was shorter they have used it for Cricket, Football, Rugby practice, Frisbee throwing, flying kites, camping, and several other pastimes.

Adults have used it for occasional social gatherings.

“Period of usage”

The Objector claims the Land was unusable before 2003 but I intend to demonstrate that that is an incorrect claim and the land was useable from before the “start date” of October 1996

DATE: SEPTEMBER 2018

COMMONS REGISTRATION ACT 1965 & COMMONS ACT 2006 – SECTION 15 (1)

**APPLICATION BY MR RICHARD AMY FOR THE REGISTRATION OF LAND AS A TOWN OR
VILLAGE GREEN**

LAND AT HILLCREST, ABERHAFESP, NEWTOWN

COUNCIL REF: RCCS/TVG/SB/16-001VG

**CASE SUMMARY OF LEGAL ARGUMENTS AND AUTHORITIES
ON BEHALF OF THE LANDOWNER IN OBJECTION**

FBC MANBY BOWDLER LLP
ROUTH HOUSE
HALL COURT
HALL PARK WAY
TELFORD
TF3 4NJ
NB/MT/979001/1

1. These submissions are made on behalf of Mr Frank Davies in relation to the application by Mr Richard Amy ('the Applicant') under s15 of the Commons Act 2006 for a Town or Village Green ('the Application') on land at Hillcrest, Aberhafesp ('the Land').
2. The Application has been allocated reference RCCS/TVG/SB/16-001VG by the Council and the validity of the Application will be considered at a hearing on 10 and 11 October 2018 ('the Hearing').
3. The Land is owned by Mr Davies ('the Owner') and his late brother's wife Mrs Carol Margaret Davies. The Owner objects to the Application and the submissions in this document set out the legal arguments and authorities upon which the Owner intends to rely at the Hearing. We are not formally instructed by Mrs Davies but are advised that she is content for the Owner to instruct us to resist the Application. We are not, at present, instructed to appear on the Owner's behalf at the Hearing.

The Law

4. The Commons Act 2006 s15 provides that any person may apply to the commons registration authority to register land as a town or village green where 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**.
5. The requirements of s15 of the Commons Act 2006 are dealt with separately below. Each component part of the legal test must be satisfied in order for the Application to succeed.
6. It is for the Applicant to discharge the burden of proof in this case. The standard of proof is the balance of probabilities.

"significant number of the inhabitants"

7. This requirement was the subject of judicial discussion in R (Alfred McAlpine Homes Ltd) v Staffordshire County Council [2002] EWHC 76 (Admin), where Sullivan J held:

"71. Dealing firstly with the question of a significant number, I do not accept the proposition that significant in the context of section 22(1) as amended means a considerable or a substantial number. A neighbourhood may have a

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very limited population and a significant number of the inhabitants of such a neighbourhood might not be so great as to be properly described as a considerable or a substantial number. In my judgment the inspector approached the matter correctly in saying that “significant”, although imprecise, is an ordinary word in the English language and little help is to be gained from trying to define it in other language. In addition, the inspector correctly concluded that, whether the evidence showed that a significant number of the inhabitants of any locality or of any neighbourhood within a locality had used the meadow for informal recreation was very much a matter of impression. It is necessary to ask the question: significant for what purpose? In my judgment the correct answer is provided by Mr Mynors on behalf of the council, when he submits that what matters is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers.”

8. In other cases the Court has established that what constitutes ‘significant’ will depend on the context of the locality or neighbourhood and the circumstances of the case.
9. In the Evidence Questionnaire attached to the Application, the Applicant confirms that the claimed locality/neighbourhood is ‘Hillcrest’; it is assumed that he is referring to the Hillcrest housing estate (‘the Estate’).
10. The test therefore is whether the Land has been used by a significant number of the inhabitants of the Estate. As per Sullivan J’s dicta above, the question which needs to be asked is whether the number of people using the Land has been sufficient to indicate that their use signifies general use rather than occasional use. It is submitted that the evidence submitted with the Application does not come close to establishing that.
11. Firstly, the evidence suggests that at the time of the Application (and for some years prior to that) a large number of the users of the Land did not reside on the Estate (and were not therefore inhabitants of the locality or neighbourhood):
 - i) Eluned Jones (who at the time of writing her letter had moved off the Estate) says that her children (who presumably live with her and therefore not on the

Estate) play on the Land when she takes them to visit her parents, who live on the Estate;

- ii) Elizabeth Davies says that she lives on the Estate and that her children (who used to play on the Land) now bring their children to play on the Land 'when they visit'; again, presumably Ms Davies' grandchildren do not live on the Estate and are not therefore 'inhabitants';
- iii) Mrs P Bound also says that her grandchildren play on the Land when they visit her;

12. The evidence also suggests that the use of the Land by children who were resident on the Estate decreased significantly in the years immediately prior to the submission of the Application: one example is the Evidence Questionnaire attached to the application, in which the Applicant says (at 21) that his children no longer play on the Land because they got too old; in the document attached to the Application and referred to by the Applicant as his 'Fuller Summary' he states that a few families have remained living at Hillcrest after their children have departed.
13. In his letter to the Council dated 7 September 2018 the Owner states that the children of many of the current residents living on the Estate used to play on the Land years ago, but have since grown up and moved off the Estate. The Owner also says that there were only 2 children living on the Estate when the Application was made, and produced evidence confirming that the nearest school closed on 31 December 2011.
14. Looking at the evidence holistically, it is clear that prior to the Application being submitted the Land was primarily played on by children who were not resident on the Estate, and were not therefore inhabitants of the locality/neighbourhood.
15. The evidence of use of the Land by adults residing on the Estate must also be assessed. Overall, the evidence of adult inhabitants of the Estate engaging in lawful sports or pastimes on the Land too is vague and unsupported for the Council to be satisfied on the balance of probabilities. There is no documentary evidence (e.g. photographs) of such events, which one would expect; the evidence of the few inhabitants who do refer to social gatherings suggests that they are extremely rare. Examples include:

- i) John and Diane Law say that they have attended two 'get togethers' of the residents' in the couple of years preceding their letter, which suggests that the get togethers are very rare. They are also not specific as to whether the get togethers were meetings, or sports or pastimes – the phrase could fall into either bracket;
 - ii) D.R. Jones says that the whole community use the Land to have a neighbourhood get together; however, they are not specific as to whether they are lawful sports or pastimes or in fact are the meetings referred to by others. Again, the phrase could fall into either bracket.
16. Even if one was to assume that some of the gatherings referred to were indeed 'lawful sports or pastimes', only a small percentage of the residents who made submissions actually refer to adult activities; the vast majority refer only to children playing.
17. The evidence does not, therefore, establish on the balance of probabilities, that a significant number of the inhabitants of the Estate were using it. The impression gleaned from the evidence is very much one of occasional use by younger inhabitants, rather than general use by a significant number of inhabitants.

“Any locality, or any neighbourhood within a locality”

18. The Land must have been used by inhabitants of a “locality” or of “any neighbourhood within a locality”. The locality/neighbourhood claimed is the Estate.
19. In Ministry of Defence v Wiltshire County Council [1995] 4 All ER 931 the Court held that a 'locality' needs to be an area capable of being defined by some division known in law such as a parish or local government area, and that the Court held that the residents of three streets did not constitute a locality. The Court in R (Laing Homes) v Buckinghamshire CC [2003] PLR 60 confirmed that a “locality” must be some legally recognised administrative unit and not an arbitrary line on a map.
20. The second limb to the test (“any neighbourhood within a locality”) is more flexible than the first but the Court in R (Cheltenham Builders Ltd) v South Gloucestershire District Council [2003] EWHC 2803 (Admin) held that a 'neighbourhood' “*has to be....a sufficiently cohesive entity that is capable of definition. Merely drawing a line on a plan does not thereby create a "locality"*”.

21. The Applicant has not made it clear whether his claim is based on use by inhabitants of a locality or of a neighbourhood within a locality. It is assumed, given the limited extent of the Land, that it is the latter, and that the neighbourhood claimed is the Estate, and the locality claimed is Aberhafesp.
22. It is submitted that the Estate does not constitute a neighbourhood within a locality, and the submissions in this regard made in Wace Morgan's letter of 28 June 2017 on behalf of the Owner are repeated.

“As of right”

23. In R v Oxfordshire County Council, ex p Sunningwell Parish Council [2000] 1 AC 335 ('Sunningwell') the House of Lords held that use is not “as of right” unless it is nec vi, nec clam, nec precario; Lord Hoffmann confirmed that that meant not by force, nor stealth, nor the licence of the owner.
24. In Sunningwell, Lord Hoffmann cited with approval a passage of Fry J from Dalton v Angus (1881) 6 App Cas 740 in which the doctrine of lost modern grant was established:

“in my opinion, the whole law of prescription and the whole law which governs the presumption or inference of a grant or covenant rest upon acquiescence. The Courts and the Judges have had recourse to various expedients for quieting the possession of persons in the exercise of rights which have not been resisted by the persons against whom they are exercised, but in all cases it appears to me that acquiescence and nothing else is the principle upon which these expedients rest.”

25. In R (Lewis) v Redcar and Cleveland Borough Council [2010] UKSC 11 Lord Walker (at para 30) referred to the proposition relied on by Counsel in that case that *“if the public (or a section of the public) is to acquire a right by prescription, they must by their conduct bring home to the landowner that a right is being asserted against him, so that the landowner has to choose between warning the trespassers off, or eventually finding that they have established the asserted right against him.”*
26. Lord Walker added (at para 36) that he had *“. . . no difficulty in accepting that Lord Hoffmann was absolutely right, in Sunningwell [2000] 1 AC 335, to say that the English theory of prescription is concerned with 'how the matter would have*

appeared to the owner of the land' (or if there was an absentee owner, to a reasonable owner who was on the spot)."

27. The Owner has not given anybody express permission to use the Land.
28. However it is contended that, aside from the occasional child playing on the Land, the Owner has not seen or been made aware of any social use of the Land e.g. social gatherings, firework displays or other activities which it is claimed have taken place, despite him passing it regularly by car (he lives only a few miles away) and mowing it regularly.
29. Whilst the inhabitants may not have intended their use to be secretive or by stealth, the use has not been sufficient to bring home to the Owner that a right is being asserted against him, and as such he has not had the choice of warning them off the Land as is required (per Lord Walker in the 2010 Supreme Court case of Redcar, referred to above).

“Lawful sports and pastimes”

30. In the Sunningwell case Lord Hoffmann said:

“As a matter of language, I think that "sports and pastimes" is not two classes of activities but a single composite class which uses two words in order to avoid arguments over whether an activity is a sport or a pastime. The law constantly uses pairs of words in this way. As long as the activity can properly be called a sport or a pastime, it falls within the composite class”.

31. The Application suggests that activities on the Land have included children playing, barbecues, social gatherings, meetings, firework displays and snowmen building. It is accepted that, aside from the meetings, barbecues and social gatherings, these activities meet the definition of ‘lawful pastimes and sports’ for the purposes of s15 Commons Act 2006.
32. Several of the letters submitted with the Application refer to meetings taking place on the Land. The Applicant says that residents’ association meetings have taken place. It is submitted that such a meeting cannot possibly be defined as a sport or a pastime.

33. The Court explained in Sunningwell that the context of sports and pastimes in the Commons Act 2006 suggests that barbeques or social gatherings should not be seen as falling into this category either.
34. The Owner has occasionally seen people walking across the Land. That is not a lawful sport or pastime if it is walking directly from A to B; in this case the land area is so small that those walking across it would not have been doing so as a sport or pastime.

“For a period of at least 20 years”

35. Subject to the exceptions below, the Land must have been used as of right for at least 20 years prior to the date of the Application. In Oxfordshire County Council v Oxford City Council [2006] UKHL 25 the Court confirmed that the 20 year period must be continuous.
36. The requirement that the use must continue up to the date of the application is qualified in s15 as follows:
 - a) S15(3) says that where the use has ceased before the application is made, but after s15 has come into force (6 September 2007 in Wales), then provided the period between the cessation of the user and the making of the application is not more than 2 years, the user is deemed to have continued until the date of the application.
 - b) Section 15(4) says that where the use has ceased before s15 came into force, an application must be made within 5 years. Under s15(5) the right to apply within this 5 year period does not arise where, before 23 June 2006, construction works have been carried out with planning permission and the land has become permanently unusable.
37. The documents submitted with the Application contend that the use of the Land was ongoing as at the date of the Application, and therefore the relevant period is 1996 to 2016.
38. The Owner’s case is that the Land was inaccessible to anyone from 1996 (and prior to this from at least the mid 1980s) up until 2003 because it was overgrown with

grass and thistles. The grass and thistles were cut once a year following which it remained inaccessible because the cut grass and thistles were left on the Land.

39. Even if the use of the Land met the requirements of the legislation from 2003 to 2016, that would only give 13 years and the Application would fail. The required 20 years use could not have been achieved prior to the 1980s because the Applicant says that the contended use commenced in 1988.
40. On this basis, the claim should not succeed.
41. If, however, for whatever reason the Owner's case on this is not accepted, the Owner contends that the use of the Land has not continued for any 20 year period (whether from 1996 to 2016), or even between 1994 to 2014 if s15(3) were relied on by the Applicant, which it has not been.
42. The Applicant contends that, even if the other requirements of s15(2) are met (and it is denied that they are), the use has not continued for in excess of 20 years, and that the use ceased in or around 2010/11. This is corroborated by some of the letters submitted with the Application, including those of Eluned Jones, Elizabeth Davies and Mrs P Bound (referred to above). In addition, the closure of the local school in 2011 supports the Owner's contention that the number of children resident on the Estate had dramatically decreased by that point. D.R Jones' letter says that the whole community use the Land to have a neighbourhood get together; however, the letter also confirms that they had only lived on the Estate for 6 years, and cannot therefore attest to any get togethers taking place prior to this.
43. Whilst the Applicant does not need to show that the Land has been permanently in use for lawful sports and pastimes for the full 20 year period, the Sunningwell case confirmed that if the use is "so trivial and sporadic as not to carry the outward appearance of user as of right" then the Application should not be validated.
44. This echoed what was said by Buckley J in White v Taylor (No. 2) (1969) 1 Ch 160 who said: "...the user must be shown to have been of such a character, degree and frequency as to indicate an assertion by the claimant of a continuous right, and of a right of the measure of the right claimed."

Conclusion

45. Several aspects of the test set out in s15 are simply not made out:

- i) 'significant number of the inhabitants': the Application does not show that the Land has been used by a significant number of inhabitants of the Estate, and suggests that the numbers of people using the Land has been so insignificant that it signifies that it has been in general use rather than occasional use;
- ii) "As of right": the use of the Land has not been sufficient or significant enough so as to bring home to the Owner that a prescriptive right was being asserted against him; the owner did not, therefore, have the choice of warning the users off or finding that the rights have been established;
- iii) "For a period of at least 20 years": the Land was inaccessible from the mid 1980s to 2003, such that it is impossible for the 20 year period to be made out. Even if the Land had been accessible during that period (and even if the other requirements of s15 were met, which they were not), it is contended that the use stopped prior to the submission of the Application.

46. It is clear that, on the balance of probabilities, each component part of the legal test in s15 of the Commons Act 2006 has not been satisfied. For these reasons, the Application is not valid.

3.1

Timetable – Village Green hearing, 10th & 11th October 16-001VG

Time	What
Thursday 11th October:	
10:00	Hearing reconvenes – Welcome, fire arrangements, introduction
10:15	Landowner – Statement and cross examination
10:30	Landowner closing statement
10:45	Applicant closing statement
11:00	Public hearing closes

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