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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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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]