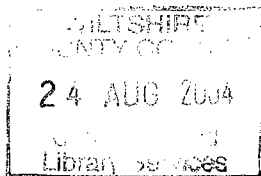


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Wiltshire County Council
County Hall
TROWBRIDGE
Wiltshire
BA14 8JN

Your ref: TSS/05775
Our ref: DJB/CD//PER001-705
Date: 23 August 2004

For the attention of Trevor Slack

BY FAX TRANSMISSION: 01225 713998

ALSO BY POST/DX

Number of Pages including this page: 3

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Dear Sirs

**Application to register land as Town or Village Green at Penleigh Park, Westbury
Our client: Persimmon Homes (Wessex) Limited**

Persimmon Homes (Wessex) Limited ("Persimmon") is the registered proprietor under title WT173571 of part of the land described in the Schedule to the "Second Notice of Applications for Registration of Land Claimed To Have Become A Town Or Village Green After The 2nd January 1970" dated 8 July 2004 ("Notice of Applications"). The land described in the Schedule to the Notice of Applications as being shown edged green on the plan in the application is below referred to as the "application site" and the part of the application site to which Persimmon has title is referred to below as "Persimmon's land" and is shown cross hatched black on the attached plan.

Persimmon objects to the registration of Persimmon's land for a number of reasons:

- 1 Persimmon's land comprises part of a larger area that was transferred from West Wiltshire District Council to Persimmon on 24 July 1998 and the last paragraph of Part 9 of the application (in particular that made by Mrs Sylvia Taylor reference 2001/16 CR Form 30) expressly excludes from the application "the land then sold" by West Wiltshire District Council to Persimmon (of which Persimmon's land forms part).
- 2 The plan in the above application is inconsistent with the written terms of the application and the description of the land in the Schedule to the Notice of Applications by referring to the plan in the application does not reflect the true extent of the application and is misleading. The plan to the above application shows detail which is inconsistent with the Ordnance Survey plan base (which is used by the Land Registry and from which the attached plan is produced). A plan based on the Ordnance Survey plan should have accompanied the application to confirm the intention of the applicant that the boundaries of the application site exclude Persimmon's land and it is suggested that a revised plan should be now substituted in the application.

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- 3 Notwithstanding the above, Persimmon does not admit the facts given in the application and the supporting statements. Persimmon's land should not be registered on the basis that it is not proved that there has been a 20 year period of use by a significant number of the inhabitants of the locality or neighbourhood within the locality for lawful sports and pastimes as of right and either that they continue to do so or they have ceased to do so for not more than a prescribed period, as required by s22(1A) of the Commons Registration Act 1965.
- 3.1 Not all the supporting statements to the application show a 20 year period of use - some state that such use started after 1984 (such that any 20 year period has not yet concluded).
- 3.2 Furthermore the application and supporting statements do not all show a 20 year period of uninterrupted use. Statements have been signed 2 August 2001 and suggest "a 20 year period of use to the present date". However, in 2000, during the period in which Persimmon's land was used for the construction of the existing road and by construction traffic it was unavailable for use for lawful sports and pastimes. Fencing has also excluded the public from Persimmon's land.
- 3.3 Of the 32 statements with which we have been copied, supporting the application made by Mrs Sylvia Taylor referred to above, 14 do not evidence a 20 year period of use given the period of interruption to any such use in 2000 resulting from the events referred to above and it is contended that the requirement for a significant number of inhabitants of the locality or neighbourhood to have used Persimmon's land has not been met.
- 3.4 Notwithstanding the claimed period of use and numbers claiming use, to the extent that and for the time that part or all of Persimmon's land comprises highway it is not and has not been usable for lawful sports and pastimes.
- 3.4 Furthermore before it was transferred to Persimmon in 1998, Persimmon's land was in the ownership of West Wiltshire District Council and held for recreational purposes and it is believed that any user was not of right.

For the reasons given above, Persimmon contends that Persimmon's land is not intended by the applicant to be subject to (and is not therefore subject to) the application for registration and properly should not have been included (by reference to the plan to the application) in the Notice of Applications for registration of the application site as a town or village green. Persimmon contends that Persimmon's land should be excluded from such Notice of Applications. Persimmon contends that in any event, registration of the application site as a town or village green should be refused without first holding a non-statutory inquiry in the interests of fairness.

Yours faithfully

Davies and Partners

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