

COMMONS REGISTRATION ACT 1965 (as amended)
APPLICATIONS FOR THE REGISTRATION OF THREE AREAS OF LAND
IN THE PARISHES OF LYNEHAM AND BRADENSTOKE
AS TOWN OR VILLAGE GREENS

Purpose of Report

1. To inform the Committee of three applications which have been received to register land in the parishes of Lyneham and Bradenstoke, as village green under the Commons Registration Act 1965, and to seek a decision on the applications.

Background

2. The Commons Registration Act, 1965 required all common land and town or village greens to be formally registered. County Councils were charged with compiling the register of such land.

Failure to register any land within the prescribed period, which expired in 1970, resulted in that land ceasing to be common land or town or village green.

3. Further registrations may be made in certain very specific circumstances.

Under Section 22(1A) of the Commons Registration Act 1965 (inserted with effect from 30th January 2001 by Sections 98 and 103(2) of the Countryside and Rights of Way Act 2000) land will be a town or village green:

“.....if it is land on which for not less than twenty years a significant number of inhabitants of any locality or of any neighbourhood within a locality have indulged in lawful sports and pastimes as of right and either:-

- (a) continue to do so; or
- (b) have ceased to do so for not more than such period as may be prescribed or determined in accordance with prescribed provisions.”

No regulations have yet been made under paragraph (b)

If any application to register land as common land or as town or village green is submitted, the County Council as registration authority is required to advertise the application in the local press and on site, inform the other local authorities in the area, and the owner, lessee, tenant or occupier of the land concerned. A period of not less than six weeks is allowed for objections to the application to be lodged.

The application and objections must then be considered by the Registration Authority and a decision made as to whether the land is to be registered or not. Whilst there is no formal right of appeal against a rejected application, it is open to the applicant to seek a judicial review of the Authority's conduct if he believes it to constitute an abuse of power or to be wrong in law, unreasonable, procedurally improper, biased, or contrary to legitimate expectations.

Detail

- 4(a) The application site 1 is known as Lyneham playing field and is shown edged red on the plan known as Exhibit 1. The Secretary of State is the owner of this application site
- 4(b) The application site 2 is known as Lancaster Square playground and is shown edged blue on the plan known as Exhibit A. Annington Property Ltd own part of this application site and the remainder is leased to Annington Property Ltd by the Secretary of State.
- 4(c) The application site 3 is known as Lancaster Square open space and is shown edged green on the plan known as Exhibit B. Annington Property Ltd lease this application site from the Secretary of State.
5. The applications dated 6th November 2001 were made by Mrs Wendy Ann Comley of 37 Branscombe Drive, Wootton Bassett, Wiltshire acting as Clerk to Lyneham and Bradenstoke Parish Council. Mrs Comley's case is that the land has been used as of right for not less than twenty years and that it became town green on or about January 1979. Evidence Questionnaires in Support of Registration were submitted in respect of the site known as
 1. Lyneham playing field by Mr R J Wright and Mr M J Petch.
 2. Lancaster Square playground by Mr R J Wright, Mrs C A Vines, Mr R G Cole, Mr G A R Childs, Mrs J A Petch and Mrs M A Mayer
 3. Lancaster Square open space by Mr M J Petch and Mr R J Wright
6. Following public notice of the applications, objections were received from the following in respect of all the application sites: Eversheds Solicitors acting for Annington Property Ltd and Bond Pearce Solicitors acting for the Secretary of State for Defence. With regard to paragraph 1 of Eversheds' letter (contained in Appendix 2 to this report), the Parish Council has acknowledged that the applications should be addressed to the County Council and the application form has been amended accordingly.

Objections were received from the following in respect of the application referred to in 4(b) above: Mr D Monckton, Mrs B M Boyland, I A Boyland, C & S Brooks, B A Hinkinbottom, D Matthews, Mr & Mrs Jupp, I R Hollyhock, J Haydock (also submitting a petition) and M J Tuck.

7. Copies of the representations listed above (Appendix Two) and the applicant's observations on the representations (Appendix Three) are annexed to this report. Copies of the applications and the Evidence Questionnaires in support of Registration as a New Green are available for inspection in the Members' Room.

Issues for Consideration

8. In order to meet the requirements of the Commons Registration Act 1965 (as amended), the applicant must demonstrate that the land has been used by a significant number of local inhabitants for lawful sports and pastimes as of right for not less than 20 years. To qualify 'as of right' the use must have been open. It must have been achieved without the use of force. Finally it must not have been use under licence from the owner. Each of these requirements is examined below.

Actual Use for Lawful Sports and Pastimes

9. The applications for registration assert that the land has been used for recreation and sport as of right. The objectors contend that whilst the land may have been used for these purposes, the use has been with the permission of and under the management of the Ministry of Defence and Annington Property Ltd

Local Inhabitants

10. The use must be mainly, but need not be solely, by a significant number of inhabitants of any locality or of any neighbourhood within a locality.

As of Right for Not Less than 20 years

11. The applicant claims that the application sites became village green on or about January 1979 by the actual use of the land by the local inhabitants for lawful sports and pastimes as of right for not less than 20 years.

In order to qualify for use "as of right" the users need not necessarily believe that they have any right to go on the land. It is, however, necessary to provide evidence to satisfy the tests of the use without force, without secrecy and without permission.

On behalf of the Secretary of State and Annington Property Ltd it is claimed that until 1996 the land was held for military purposes, and the possible making of bylaws, the provision of play equipment, the permission for the erection of a scout hut, and general estate maintenance, including mowing the grass and keeping the areas of land clean and tidy and safe for public use make

it clear that the areas of land in question are facilities provided for public recreation.

In giving consideration to these matters, members' attention is drawn to a recent Court of Appeal decision (the Beresford Case) in which it was held that if it was apparent from the circumstances of that case that the land had been made available to the public, and their use had not simply been tolerated but in effect encouraged, then a licence should be implied from the circumstances.

Conclusion

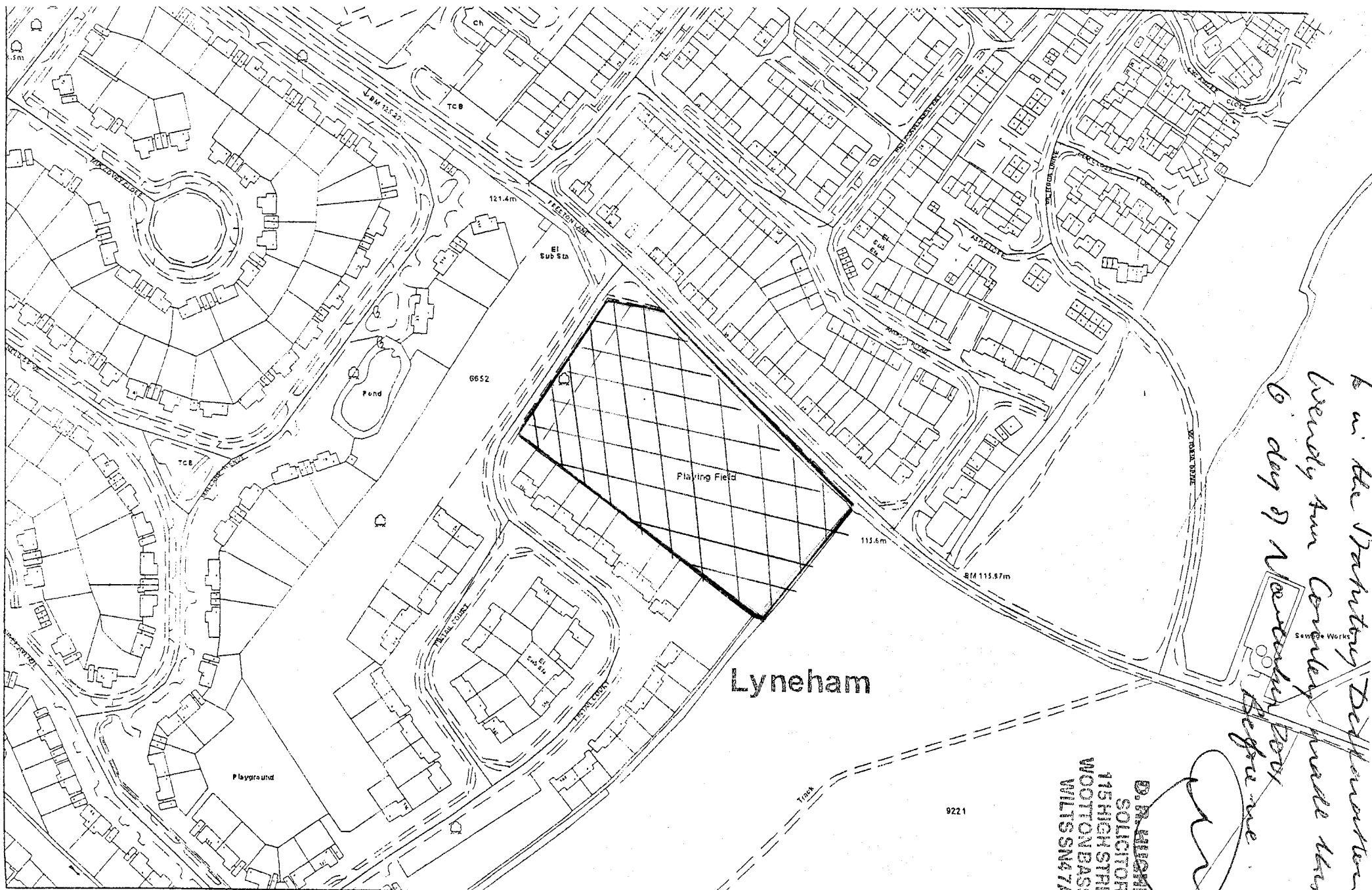
12. In considering these applications, members need to consider and determine whether, on the evidence, local people have as of right used the areas of land known as Lyneham Playing Field, Lancaster Square Playground and Lancaster Square Open Space for lawful sports and pastimes for the required period of time, or whether the use has been by licence. If it is considered that the use has been of right, the applications for registration should be approved; if it is considered that the use has been by licence the applications should be rejected. Members may, of course, reach a different conclusion on each application.

PETER SMITH
Director of Corporate Services

Unpublished documents relied upon in the production of this report: The application for registration and Evidence Questionnaires in support of registration as a New Green submitted by Mr M J Petch, Mr R J Wright, Mrs C A Vines, Mr R G Cole, Mr G A R Childs, Mrs J A Petch and Mrs M A Mayer.

Environmental impact of the recommendations contained in this report: Approval of the applications for registration would result in the areas of land being registered as Village Green under the Commons Registration Act 1965.

APPENDIX 1



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2000.
 Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

EXHIBIT "1"

Date:
 SLA:
 Scale

29 June 2001
 Not Set
 1:2500

D. R. MILES
 SOLICITOR
 15 HIGH STREET
 WOOTTON BASSETT
 WILTSSN47AU

APPENDIX 2

Fitzalan House
Fitzalan Road
Cardiff
CF24 0EE

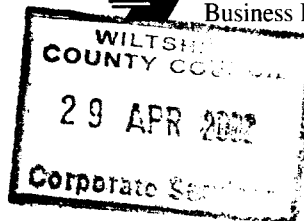
Telephone
International
Facsimile
DX
Internet

029 2047 1147
+44 29 2047 1147
029 2046 4347
33016 Cardiff
www.eversheds.com



EVERSHEDS

Business Lawyers in Europe



Solicitors for the County Council
Wiltshire County Council
County Hall
Trowbridge
WILTSHIRE BA14 8JN

Date 26 April 2002

Your Reference SH/0510
04513

Our Reference 4.HMB.A102

**BY RECORDED DELIVERY AND
FAX: 01225 713998**

Direct Line 029 2047 7635

E-mail helenbaker@eversheds.com

Dear Sirs

APPLICATIONS TO REGISTER LAND AS TOWN OR VILLAGE GREEN IN THE PARISH OF LYNEHAM AND BRADENSTOKE

We refer to your letter of the 12th March enclosing applications to register land at Lyneham as Village Greens. We also acknowledge receipt of your letter of the 12th April enclosing evidence in support of the applications.

We act for Annington Property Limited the freeholder and/or the leaseholder of the application sites, which object to the applications on the following grounds:

1. Introduction

- 1.1 The application fails as it is defective. The Commons Registration Authority for the purpose of the applications is Wiltshire County Council. The Applicant appears to have made the applications to the Lyneham and Bradenstoke Parish Council. The Parish Council has no remit to determine the application.
- 1.2 The application fails at law. Neither the application nor the evidence in support of the application can demonstrate that the land in question has been used "as of right".

2. The Law

- 2.1 Section 22 (1) of the Commons Registration Act 1965 contains a three limbed definition of Town or Village Green. It is what has commonly become known as the 'Class (c) Green' upon which the applicants are seeking to register the land in question. This is "land on which the inhabitants of any locality have indulged in such sport and pastimes as of right for not less than 20 years".



INVESTOR IN PEOPLE

CAR_LIB1/031406.016028/490275.1
2292/BakerHM/WILLIASW/19 April 2002

Authorised by the Financial Services Authority.
A list of partners' names and their professional
qualifications is available for inspection at the above office.
The partners are solicitors or registered foreign lawyers.

AMSTERDAM* BIRMINGHAM BRUSSELS CAMBRIDGE CARDIFF
COPENHAGEN* DERBY IPSWICH LEEDS LONDON MANCHESTER MILAN*
MONACO NEWCASTLE NORWICH NOTTINGHAM PARIS ROME* SOFIA*
*Associated office

In strategic alliance with KHATTAR WONG & PARTNERS
HONG KONG KUALA LUMPUR SINGAPORE



Solicitors for the County Council

The House of Lords, in *R -v- the Oxfordshire County Council and Others ex-parte Sunningwell Parish Council* (1999) 3 ELR 160 recently thoroughly reviewed the requirements of registration of Class (c) Greens. The Lords brought the definition of "as of right" in line with the general law of prescription, namely that the recognition of prescriptive rights falls upon the use being not by force, nor stealth, nor of the licence of the owner – the Latin phrase *nec vi, nec clam, nec precario*.

The existence of permission, expressed or implied (*R (on the application of Beresford) -v- City of Sunderland* (2001) All ER565) is fatal to the registration of a Class (c) Green. The Applicant has not satisfied the requirements of the definition, (and the burden of proof is on the Applicant to satisfy the test). Our client can demonstrate that its consent and the consent of the Ministry of Defence was given to the public for the use of the land. The Sunderland case assists our client in demonstrating that it gave an implied licence to users of the land the subject of the applications.

To conclude, the application fails as a matter of law, fact and the defective nature of the application.

3. Evidence

There are three separate applications relating to three parcels of land. We annex as appendices to this letter plans of the three areas and comment below by reference to the evidence supplied in connection with each area.

3.1 Appendix 1

The Applicant names this as Pintail Court Football Pitch. Evidence has been supplied by two people in connection with the use of the pitch.

(a) Roger James Wright.

Mr Wright is a former employee of the Ministry of Defence, a former RAF officer. He personally took part in soccer and fitness training on the land, and was the youth soccer coach. He has seen children playing, dogs being walked, team games, football, cricket, kite flying, people walking and bicycle riding taking place on the land from the period since 1973 and the present date. He carried out football coaching in conjunction with other RAF service staff. He admits in section 30 of his evidence that this was known about by the PE department at RAF Lyneham. At part 30a, he concedes that use was approved. This permission defeats a claim of use "as of right"

At section 31, he admits that as a serving RAF Officer he helped coach and referee football matches for the youth team. The football on the land ceased when the posts were removed and Mr Wright now does not very often use the land.



Solicitors for the County Council

(b) Mr M J Petch

Mr Petch has not used the land. He has seen others use it between 1959 and 2001. He has seen football and general use of the land as a playing field. He has also seen children playing, dog walking, team games and football. He provides no further evidence about the use of the land.

The application relating to Pintail Court Playing Fields should fail. It is clear that the Ministry of Defence permitted such organised activities by the RAF taking place on the land. The permission involves some positive acts on part of the owner. The maintenance and provision of facilities on Pintail Court Playing Field by the Ministry of Defence demonstrates a positive act of permission and provision of facilities for the public to use the playing fields.

Despite the fact that the football posts have subsequently been removed, Annington has procured the maintenance and general upkeep of the playing fields for the use of the public. Residents of the former married quarter estate who have subsequently acquired houses from Annington are granted express rights to use the land.

3.2 Appendix 2

The land shown at appendix 2 is known as Lancaster Square. Two people give evidence in support of the application:

(a) Mr Roger James Wright.

Mr Wright has knowledge of the land to 1973 to the present date.

He did not use the land often and does not now take part in any activities on the land.

He has seen children playing, dog walking, community celebrations taking place on the land.

(b) Mr M J Petch

Mr Petch has knowledge of the land from 1959 to 2001. He has not used it and considers it as an open space. He has seen children playing and dog walking taking place on the land.

The Ministry of Defence have maintained the upkeep of the land for the general use of the residents of the estate and the public as a whole. Such maintenance amounts to an implied licence to the public to use the land.

3.3 Appendix 3

Land at appendix 3 is known as the Lancaster Square Play Area.



Solicitors for the County Council

Three people give evidence in respect of this area.

(a) Mr Roger James Wright

Mr Wright has been familiar with the land since 1977 to the present day. Mr Wright went on the land as part of organised activities at the former scout hut. The scout hut has since been removed.

Mr Wright attended the land as part of his inspection and parish duties as Parish Clerk. These duties do not in our view amount to lawful sports and pastimes.

Mr Wright's role was assisting the scout group between 1973 and 1984. The activities that took place on the land were part of permitted activities and in addition he has seen children playing, dog walking, team games, football, cricket, kite flying, people walking and bicycle riding taking part on the land. The land was laid out as a playground *such playground being provided by the MOD* and as such, on the basis of the Sunderland case, amounts to a permission which defects a claim of "as of right".

(b) Janet Ann Petch

Mrs Petch has been familiar with the land from 1940 onward.

Our client does not dispute that sports and pastimes took place on the land.

However, the use of this land for this purpose was by permission not as of right. The use of the land for these purposes was with the permission of the Ministry of Defence and subsequently Annington Homes Limited.

(c) Raymond George Cole

Mr Cole has been familiar with the land from 1938 to 2001. He has knowledge of the use as children's playground and scout hut.

4. Conclusion

The application must fail since use of the land "as of right" has not been established. The Ministry of Defence and Annington Property Limited gave permission to use the land. Such implication can be established on the basis that the Ministry of Defence and Annington Homes Limited have made this land available for public use, by providing play equipment, the permission for the erection of a scout hut, and general estate maintenance, including mowing the grass and keeping the areas of land clean and tidy and safe for public use.

Passive toleration of the use of the land cannot be established here.



Solicitors for the County Council

The case of Ministry of Defence –v- Wiltshire County Council 1995 4 ER931 quite clearly shows that where an employer allows children of its employees to play on an open piece of ground behind their parents houses, the only reasonable inference to draw was such user by implied permission. It followed therefore that the resident's activities on the land gave no rise to a claim of right sufficient to create a Village Green.

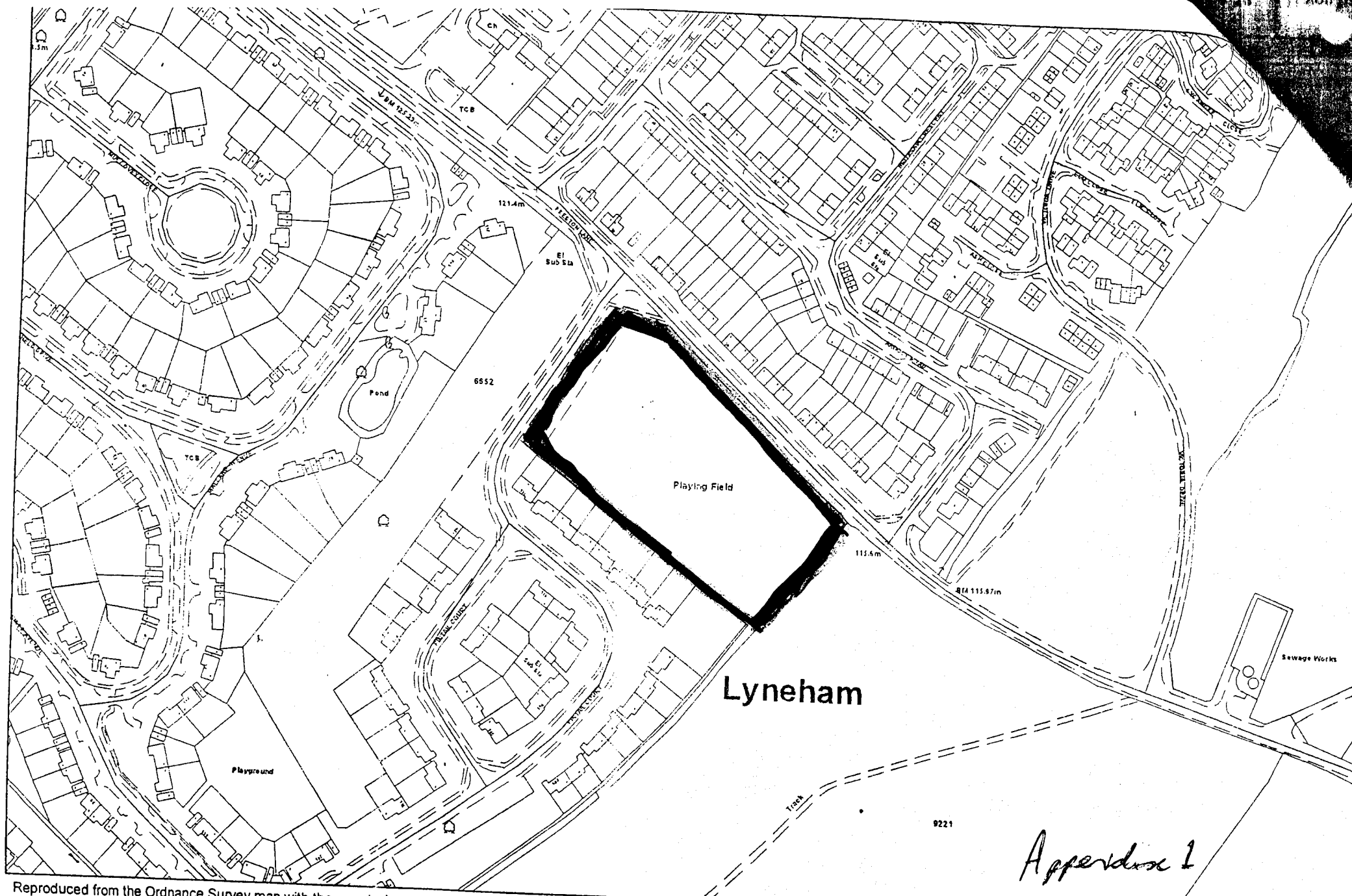
The applications must fail as a matter of law.

Yours faithfully



EVERSHEDS





Appendix 1

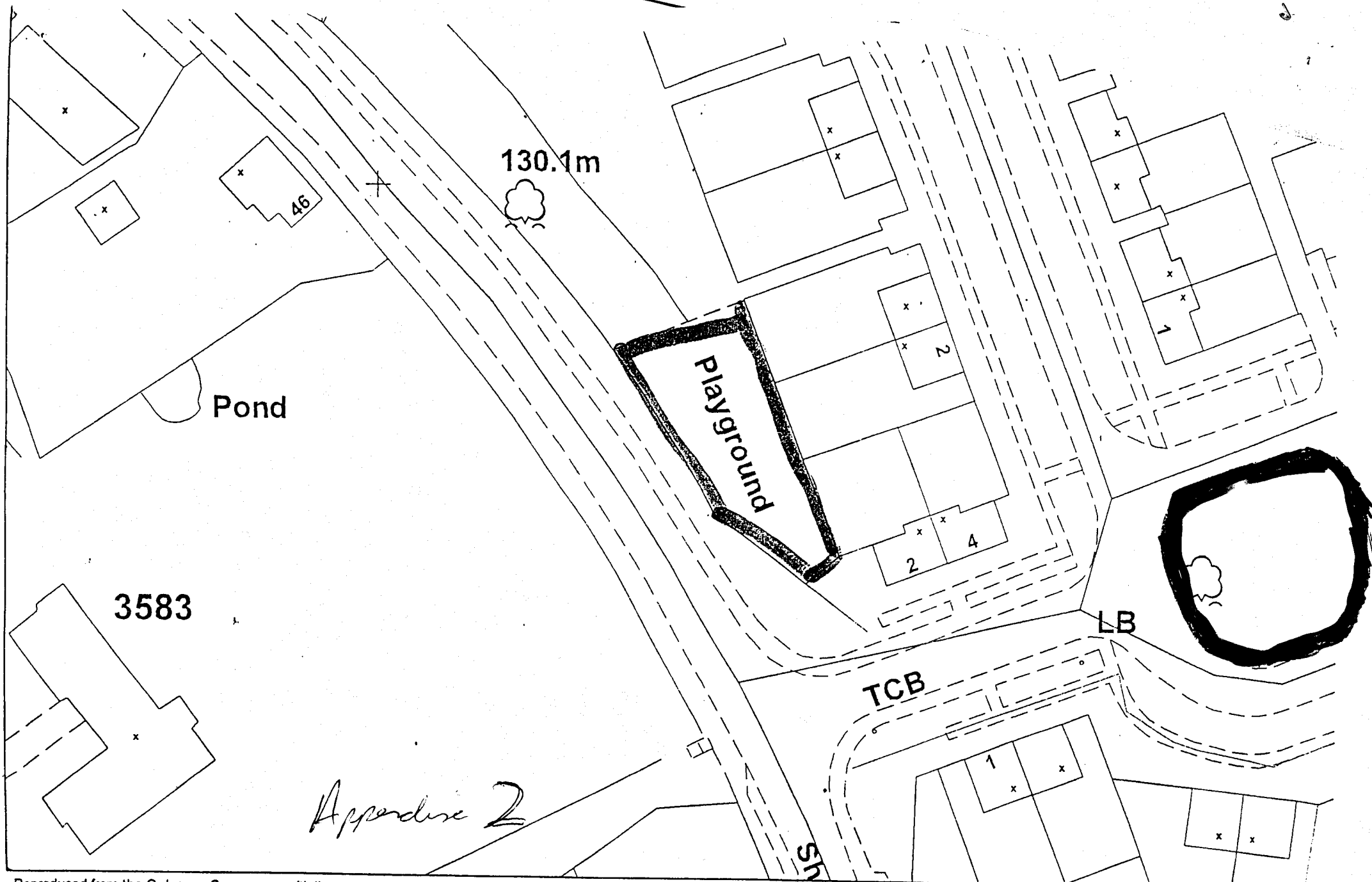
Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2000.
 Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

EXHIBIT "1"

Date:
 SLA:
 Scale

29 June 2001
 Not Set
 1:2500



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2000.
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

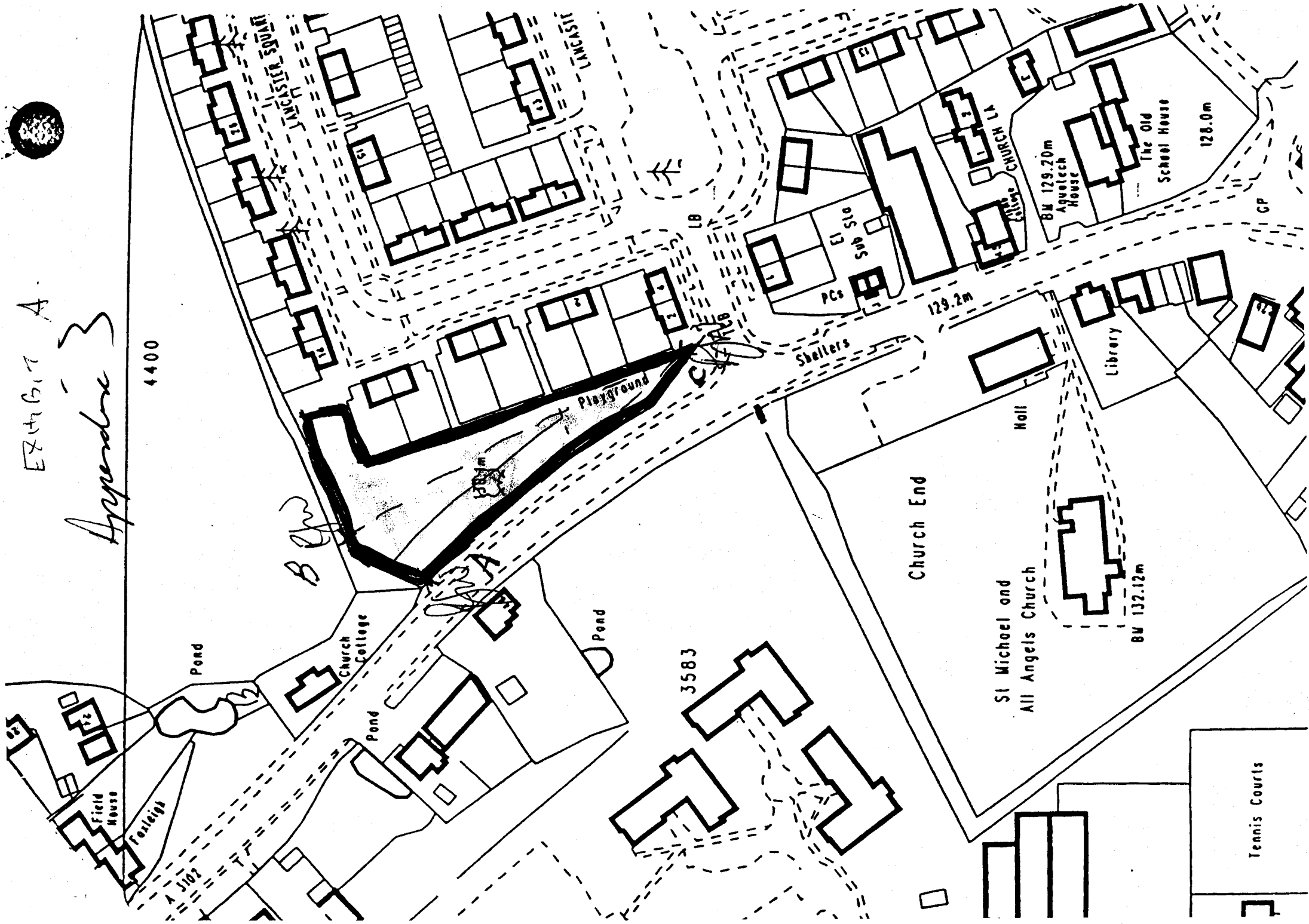
EXHIBIT "B"

Date:
SLA:
Scale

29 June 2001
Not Set
1:625

EXHIBIT A

Appendix 3



Solicitors for the County Council
Wiltshire County Council

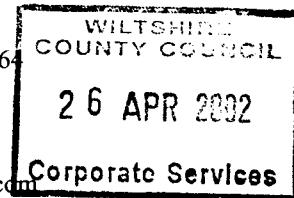
DX 11689 Trowbridge 3

WCS 04498 - SH.
Marsh House, 11 Marsh Street
Bristol BS99 7BB

Telephone 0117 929 9197
Direct Dialling 0117 929 6264

Fax 0117 926 2403
DX 7851 Bristol

E-mail rgood@bondpearce.com
www.bondpearce.com



Our Reference
RFG1\TEMP04\251487.245

Your Reference
~~SH/0510~~

25 April 2002

Dear Sirs

**APPLICATIONS TO REGISTER LAND AS TOWN OR VILLAGE GREEN
IN THE PARISH OF LYNEHAM AND BRADENSTOKE**

We act for the Secretary of State for Defence, the freeholder of some of the application sites. We have had the benefit of reading the objection being lodged by Annington Homes Limited who are also interested in the application sites and in particular Messrs Eversheds observations on matters of law. We agree with their conclusion that the applications fail in point of law, fact and the defective nature of the application.

Until November 1996 all the land the subject of these applications would have been held for military purposes in connection with the operation of the adjacent Royal Air Force Station, Lyneham. Research is being undertaken as to whether or not the Ministry of Defence made bylaws under Part II of the Military Lands Act 1892. Section 4(2) of that Act specifically provides that bylaws may be made to permit the public the use of land for any purpose when not used for military purposes.

Quite apart from what may be the position under Military Lands Act 1892 the Ministry of Defence has given to the local inhabitants express or implied licence to carry on the activities on its land (in accordance with the decisions in *R v Oxfordshire County Council and Others ex-parte Sunningwell Parish Council* (1999) 3 ELR 160 and *R (on the application of Beresford) v City of Sunderland* (2001) AER 565) or has tolerated the user within the decision in *MOD v Wiltshire County Council* 1995 4 AER 931.

Also the Ministry of Defence reserves its position insofar as permission to use the open spaces may have been granted as an incident to a serviceman's occupation of a married quarter, or on the freehold disposal of a married quarter before 1996.

With one exception, the Secretary of State for Defence is the freeholder of all the land affected by these applications.

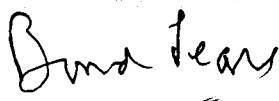
The position on tenure is as follows :-

1. Land shown on exhibit 1 to Ms Comley's Statutory Declaration in support of the registration of Lyneham Playing Field in the locality of Pintail Court, Lyneham. Neither Annington Property Limited or any company within the Annington Group has any interest in this land. It is all the Secretary of State's unincumbered freehold interest. Part 6 of the CR Form 30 is therefore inaccurate.
2. The land shown on exhibit B to Ms Comley's Statutory Declaration and described as Lancaster Square Open Space is MOD freehold and under-leasehold interest. Part 6 of Ms Comley's Statutory Declaration is therefore technically incorrect. Annington Property Limited hold a superior leasehold interest from the Secretary of State.
3. The land shown on Exhibit A to Ms Comley's Statutory Declaration and described as Lancaster Square Playground A3102 Calne Road, Lyneham, is partially owned outright by Annington Property Limited, and partially subject to the same arrangements as are mentioned in paragraph 2 above.

We have reviewed the evidence adduced by the applicant in support of these applications and can find nothing to displace the conclusion that the user in question has not been "as of right" but has been permissive or has been tolerated within the meaning of the cases cited above.

The Ministry of Defence reserves the right to adduce rebutting evidence of fact.

Yours faithfully

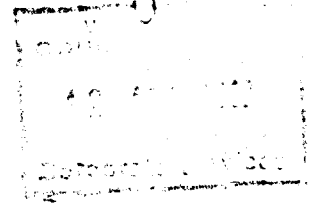


27 Lancaster Sq
lyneham
chippenham
WILTS
SN15 4AD



01244 891808

Ref: 2 at lyneham



To the Solicitor to County Council

I write with reference to the
Notice of Intent regarding the piece
of land behind 2-12 Lancaster Square.
(Ref 2 at lyneham)
If this land is indeed to become
public land, then it should become
maintained by the Public & not
exclusively by Lancaster Square
residents.

I do not see how we should
be expected to pay for the upkeep
of the land which will be for
general public use.

PTO

It is currently used only by dogs
to foul. Planning Permission was
refused. The residents of 2-12
Lancaster may as well have the
land to extend their gardens -
at least then it will be used
for a good purpose.

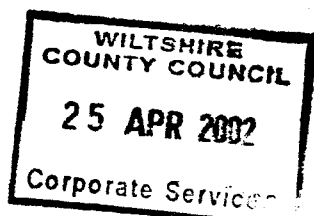
The residents of Lancaster sq already
pay for the upkeep of another piece of
land on the street, the street lights &
the road + car park - on top of which
we pay for council tax which has
incidentally just gone up too!

So we strongly object to being made
to pay for the upkeep of the land if
it does indeed become included in
the register of Town + Village Greens.

Yours faithfully

Mr + Mrs Jupp

Residents of Lancaster sq.



23.4.2002

12 Lancaster square

Lynham

re Chippenham

wills

SWIS 4A0

Dear Sir/Madam

I wish to object to the Lynham parish council
plan of changing the land category behind 2-12
Lancaster square to village green.

The land currently belongs to Annington,
So is private land.

ref 2

Yours M J Tuck

28 Lancaster Square
Lyneham
Wilts
SN15 4AD
12.4.02

To Solicitor to the County Council Wiltshire

Ref 2 at Lyneham

We are writing to state as pensioners, we will certainly not be prepared to pay maintenance on the land behind 2-12 Lancaster Square. The very idea is totally out of order, if it becomes public land. If Lyneham Parish Council want the land to become public we would have no objections, provided they then take over the maintenance of the land.

It would be nice if some playground re swings, roundabouts for small children whose parents are not in RAF was in Lyneham or money spent on teenagers, as they seem to do for Bradenstoke.

The green area re Preston Lane – Victoria Drive was apparently meant to be a playground, but was never developed.

At present we are forced to pay Annington re grass cutting of green area and we are always disputing this as when Annington expected to build it was their land. Yet when planning was refused it was our land. Double standards.

So we expect better from the Council.

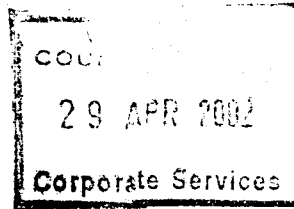
We already pay some rates as other private houses yet we get no rebate allowed on our rates for the fact you do not pay out of our rates towards this, as private roads.

So no way will we prepared to pay towards the maintenance of the land, if declared public. After all at present it is only a dog's toilet, not used by Lancaster Square but other local people.

Yours sincerely

I. R. Hollyhock

6 Lancaster Square
Lyneham
Chippenham
SN15 4AD



Ref SH2

25 April 2002

Wiltshire County Council
County Hall
Trowbridge
Wiltshire

Dear Sirs

I am writing in objection to the land, your reference SH2, being claimed as Village Green. This land prior to 1995 was owned by the Ministry of Defence, which has never been public land, and since 1995 has been owned by Annington Homes.

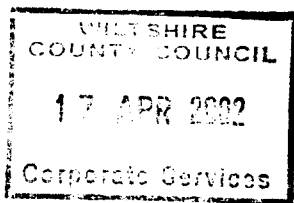
As a resident of Lancaster Square I pay a Management Company to maintain this area at a cost of £17.63 per year. As there are 56 houses the residents in total pay £987.00, which is not an insignificant amount. After attending the Parish Council meeting in April it would appear that residents are still expected to maintain and pay Public Liability for this land should Village Green status apply. If the Parish Council contribute to the cost we would be paying twice, once to the Management Company and then via Council Tax. The rest of the village would only be paying Council Tax. We already have the extra burden of tree maintenance due to Preservation Orders put on the trees 3 years ago.

It was mentioned at the Parish Council meeting that they had applied for Village Green Status to stop development of these areas. It would appear that Annington Homes no longer have plans to develop the area having had planning permission and an appeal turned down 3 years ago.

I hope you will take these points into consideration when making your final decision.

Yours faithfully

IA Boyland



36 Lancaster Square
Lyneham Village
Chippenham
Wiltshire
SN15 4 AD

Tel: (01249) 890885

Email: colin-g@brooksc.fslife.co.uk

Colin.brooks@mbrtech.com

15 April 2002

Solicitor To County Council
Wiltshire County Council
County Hall
TROWBRIDGE
Wiltshire
BA14 8JN

Dear Sir

STATEMENT IN REFERENCE TO GROUND BEHIND 2 - 12 LANCASTER SQUARE,
LYNEHAM

It has come to my attention that the Lyneham Parish Council have applied for the land behind 2-12 Lancaster Square to be included in the register of town or village greens. I feel must object to this, as this land is privately owned by Anningtons and the Lancaster Square Residents, since the mid 1990's when it was sold by the MOD, and as such has been maintained for our private use.

This land has never to my knowledge, been public as it formally belonged to the MOD for use by it's servicemen's families. Following its sale to Anningtons during the 90's the entire area was renovated and the properties sold to us in 1999. The sale included the area behind 2 - 12 Lancaster Square as out amenities area for the sole and private use of the residents of the Square, and is outlined as such on the land registry files.

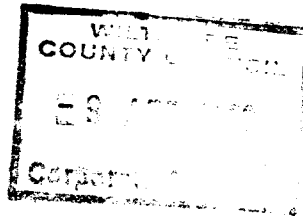
I would point out at this stage that the residents of the square pay for the maintenance and upkeep of this area as part of the sale contract. I have no objection to this application, if the council are prepared to either purchase the land or take control and maintain it. I understand from other residents that have contacted you that this is not the case and that they would still expect us to pay for its upkeep, whilst allowing it to be used as a public area.

This is not an acceptable outcome to this matter, hence my objection.

Yours Sincerely

Colin & Sheila Brooks

SH.
B A Hickinbottom
42 Lancaster Square
Lyneham
Chippenham
Wilts SN15 4AD



Solicitor to County Council
Wiltshire County Council
County Hall
Trowbridge
Wilts BA14 8JN

6 Apr 02

Re: Ref. 2 Lyneham

Dear Sir,

It has come to my attention that the Lyneham parish council has applied for the land behind 2 - 12 Lancaster Square to be included in the register of town or village greens. I feel I must strongly object to this, as this land has been privately owned by Anningtons and the Lancaster Square Residents Since the mid 1990's, when it was sold by the MOD, and as such has been maintained for our private use. This land has never, to my knowledge, been public as it formerly belonged to the MOD for use by its servicemen's families. Following its sale to Anningtons during the 90's the entire area was renovated and the properties sold to us in 1998. The sale included the area behind 2 - 12 Lancaster Square as our amenities area for the sole and private use of the residents of the Square, and is outlined as such on the land registry files. The residents of the square pay for its maintenance as part of the sale contract.

I would have no objection to this application, if the council were prepared to either purchase the land or take control and maintain the area. I believe this is not the case and that they would still expect us to pay for its upkeep, whilst allowing it to be used as a public area. This I am not prepared to accept, as when we purchased the property this piece of land was part of the sale agreement for all residents.

Yours Faithfully

B A Hickinbottom

34 Lancaster Square Lyneham Chippenham Wiltshire SN15 4AD

Derek Monckton

Tel. 01249 892280

email derekmonckton@waitrose.com

Solicitor to County Council
Wiltshire County Council
County Hall
Trowbridge
Wiltshire
BA14 8JN

4 April 2002

Dear Sirs

Land at 2-12 Lancaster Square, Lyneham, Chippenham, Wiltshire SN15 4AD
Change of Category ref SH2

I note from a recent public notice of intent displayed in the vicinity of the above properties that the green open space is subject to a change of category. I have several points of concern to raise with regard to this change of category.

When I purchased my property, 34 Lancaster Square in 1998, the legal transfer document prepared by solicitors representing Annington Properties noted that certain areas were designated as 'amenity areas'. I understand that the land in relation to the proposed change of category is an 'amenity area'.

As part of the transfer of properties to new owners in Lancaster Square a resident's company was formed to look after the estate management including 'amenity areas'. This is handled by Greehart Estate Management (GEM) based in Letchworth, Hertfordshire. Residents in Lancaster Square pay an annual charge to maintain the land referred to in the change of category notice.

If this land is subject to, and successfully completes all legal requirements, to change its category to a public open space who will be responsible for the maintenance of the land?

I am copying this letter to GEM to obtain their view on this issue, because as a resident contributing to a privately run enterprise I am not prepared to contribute to the upkeep of the land as a public open space through an annual estate management charge. Such responsibility I consider should rest with the local council, be it parish, district or county level. Monies for upkeep should be collected through the Council Tax such that the cost is spread evenly throughout the parish.

Yours faithfully

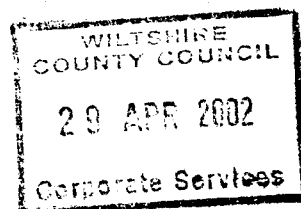


Derek Monckton.

Cc - Rebecca Jones
GEM Ltd., PO Box 125, Letchworth Garden City, Hertfordshire SG6 1XN.

8 Lancaster Square
Lyneham
Chippenham
SN15 4AD

Wiltshire County Council
County Hall
Trowbridge
Wiltshire



Ref SH2

25 April 2002

Dear Sirs

I am writing in objection to the land, your reference SH2, being claimed as Village Green. This land prior to 1995 was owned by the Ministry of Defence, which has never been public land, and since 1995 has been owned by Annington Homes.

As a resident of Lancaster Square I pay a Management Company to maintain this area at a cost of £17.63 per year. As there are 56 houses the residents in total pay £987.00, which is not an insignificant amount. After attending the Parish Council meeting in April it would appear that residents are still expected to maintain and pay Public Liability for this land should Village Green status apply, we already have the extra burden of tree maintenance due to Preservation Orders put on the trees 3 years ago.

It was mentioned at the Parish Council meeting that they had applied for Village Green Status to stop development of these areas. It would appear that Annington Homes no longer have plans to develop the area having had planning permission and an appeal turned down 3 years ago.

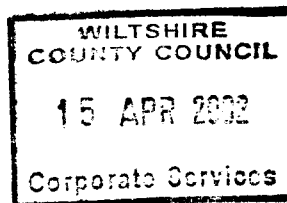
I hope you will take these points into consideration when making your final decision.

Yours faithfully

B M Boyland

Mrs BM Boyland

155
D Matthews
40 Lancaster Square
Lyneham
Chippenham
Wilts SN15 4AD



Solicitor to County Council
Wiltshire County Council
County Hall
Trowbridge
Wilts BA14 8JN

6 Apr 02

Re: Ref. 2 Lyneham

Dear Sir,

It has come to my attention that the Lyneham parish council has applied for the land behind 2 - 12 Lancaster Square to be included in the register of town or village greens. I feel I must strongly object to this, as this land has been privately owned by Anningtons and the Lancaster Square Residents Since the mid 1990's, when it was sold by the MOD, and as such has been maintained for our private use. This land has never, to my knowledge, been public as it formerly belonged to the MOD for use by its servicemen's families. Following its sale to Anningtons during the 90's the entire area was renovated and the properties sold to us in 1998. The sale included the area behind 2 - 12 Lancaster Square as our amenities area for the sole and private use of the residents of the Square, and is outlined as such on the land registry files. The residents of the square pay for its maintenance as part of the sale contract.

I would have no objection to this application, if the council were prepared to either purchase the land or take control and maintain the area. I believe this is not the case and that they would still expect us to pay for its upkeep, whilst allowing it to be used as a public area. This I am not prepared to accept, as when we purchased the property this piece of land was part of the sale agreement for all residents.

Yours Faithfully

D. Matthews.



Property Legal Dept.
Wiltshire County Council
County Hall
Trowbridge
Wiltshire
BA14 8JN

John Haydock
Chairman, Lancaster Square
Residents Committee
4 Lancaster Square
Lyneham
Chippenham
Wiltshire
SN15 4AD

18 April 2002

Dear Sir / Madam

Reference : SH2 at Lyneham

I write to you to present a petition, signed by the residents of Lancaster Square, who object to your plans to include our private land in the Register of Town or Village Greens.

The properties at Lancaster Square, together with the Land at Ref SH 2 now belong to the Lancaster Square Residents Company Ltd, which comes under the control of Annington Nominee's. As a private estate, all the properties at Lancaster Square pay maintenance for the upkeep of the Square and the land at Ref SH 2. This is in addition to paying full council tax, which contributes to the maintenance of all public areas within the village.

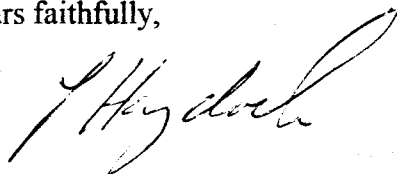
We have already had the additional financial burden of maintaining the trees in this area. Imposed upon us by the Parish Council, placing a preservation order on them. This appears to have been done purely with the aim of preventing any development of the site, as the order was only introduced on Annington's application for planning permission to build on this site. This did not include trees of the same types in nearby gardens, or even across the road, which they saw fit to remove in order to widen the path. By declaring this as a town or village green, it will impose an indefinite financial burden upon all the residents.

Questions were put to the Parish Council, 09/04/02, the first meeting following the putting up of notices of intent, dated 14/03/02. One of which, was, would the council take over the costs for the upkeep of the land. These questions cannot be debated until the next meeting in May, which will be after the land has, or, has not been included in the register. The chairman admitted at the meeting that the council was not aware that the residents paid for the upkeep of this land, and it was submitted only to prevent Annington's from developing the land at a future date.

We believe that the land cannot be listed as a green, as on the 1 Jan 79 the land belonged to the MOD and as such was not part of the Parish of Lyneham & Bradenstoke. The only access to the land from the main road, would be, if people strayed off the public footpath, which follows the edge of the area for approximately 25 yards. As such, any person other than RAF residents would have been trespassing. The area at Ref SH 2, was set aside for servicemen's children, as the old RAF signage still shows. The RAF ceased using the Lancaster Square Estate in the Mid 1980's for families and the whole area fell into disuse. There hasn't been 20 years of use by children or families. The play park was dismantled by the RAF, I believe, in 1995, due to being in a dangerous condition, and as the area was no longer in use, was not replaced. Again, identifying that there was no use.

Lyneham itself is blessed with a large village green, play parks and large roadside grassed areas, together with play parks and large grassed areas on the MOD estate. If the parish council wishes to make this land available for public use, it should purchase the land from Annington's and the maintenance be shared equally by all of the village who are able to use it.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'J Haydock', written in dark ink.

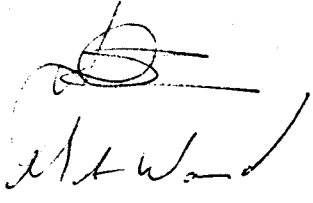
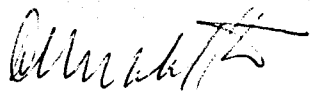
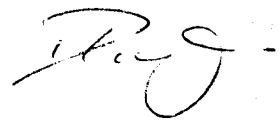
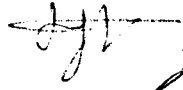
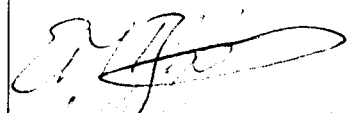
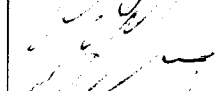
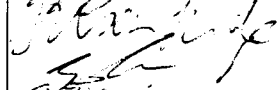
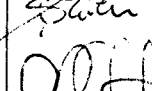
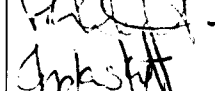
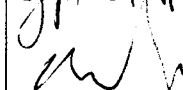
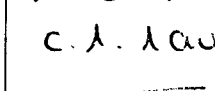
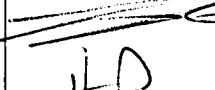
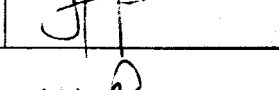


John Haydock

Petition

Against the land behind No's 2 - 12 Lancaster Square, being declared a public park.

This is private land and is owned by Annington. The Lands maintenance is paid for by the Lancaster Square Residents Company and as such, all residents of Lancaster Square pay towards its upkeep. By designating this land as a public park, the Parish Council is placing a continual financial burden upon the residents.

<u>Name</u>	<u>Address</u>	<u>Signature</u>
JOHN HAYDOCK	4 LANCASTER SQ	<i>[Signature]</i>
SUE HAYDOCK	"	<i>[Signature]</i>
SIAN HAYDOCK	4 LANCASTER SQ	<i>[Signature]</i>
BARBARA BOYLAND	6 LANCASTER SQ	<i>[Signature]</i>
IAN BOYLAND	6 LANCASTER SQ	<i>[Signature]</i>
BESSIE BOYLAND	8 LANCASTER SQ	<i>[Signature]</i>
GARY PAINES	10 " "	<i>[Signature]</i>
CAROL GOUGH	20 LANCASTER SQ	<i>[Signature]</i>
LORRAINE O'ROURKE	18 LANCASTER SQ	<i>[Signature]</i>
BOY LOUWICK	18 LANCASTER SQ	<i>[Signature]</i>
JASON GOUGH	20 LANCASTER SQ	<i>[Signature]</i>
Carol Gough	" "	<i>[Signature]</i>
Flora Bullock	22 " "	<i>[Signature]</i>
Jhalanda	26 " "	<i>[Signature]</i>
SHARON ROOPE	" "	<i>[Signature]</i>
J.R. HOLLICK	28 Lancaster	<i>[Signature]</i>
<i>[Signature]</i>	" "	<i>[Signature]</i>
L.M. COOK	30 " "	<i>[Signature]</i>
COLIN & SHEILA BROOKS	36 LANCASTER	<i>[Signature]</i>
D.J. PAINES	23 LANCASTER SQ	<i>[Signature]</i>
J. MCINTURE	" " "	<i>[Signature]</i>

<u>Name</u>	<u>Address</u>	<u>Signature</u>
MR. WARD	37 LANCASTER SQ LYNCHING, WILTS	
MRS WARD	— // —	
MR D MONCKTON	34 LANCASTER SQ SNIS 410	
MR J. LAGOR	38 LANCASTER SQ	
MRS J LAGOR	38 Lancaster Square	J. Lagor.
MRS V. HAINES	44 Lancaster Sq	V. Haines
Miss M Culmen	48 Lancaster sq	M. Culmen
Mr P Hewelllyn	48 Lancaster sq.	P. Hewelllyn
MRS L PERKINS	50 Lancaster Sq	
MRS CHAPMAN	52 Lancaster sq	S. Chapman
MR S BROOME	56 LANCASTER SQ	S. Broome
MISS M BROOME	56 LANCASTER SQ	
Mr M TUDGE	62 Lancaster Sq	
Mrs S TUDGE	62 Lancaster Sq	
MR G E WOOD	64 — " —	
MRS S E WOOD	64 — " —	
MR P PLASKITT	31 LANCASTER SQ	
MRS J PLASKITT	— " —	
Mr M Lavender	29 Lancaster sq	
Mrs C Lavender	"	C. Lavender.
MR E GREGG	25 "	
MR S JUP	27 —	
MRS N JUP	27 —	

<u>Name</u>	<u>Address</u>	<u>Signature</u>
Paul Best.	21 LANCASTER SQ.	Paul Best
Perry Hughes	10, LANCASTER SQUARE	Perry Hughes
Simon Vogt	9 Lancaster Square	Simon Vogt
Zoe Burridge	9 Lancaster Sq	Z Burridge
Robert de Buckland	7 Lancaster Sq.	Robert de Buckland
Fiona Buckland	7 Lancaster Sq	Fiona Buckland
Sheelah, Barker	5 LANCASTER Sq	Sheelah. Barker,
LINDEN BARKER	5 LANCASTER SQ	L Barker
SIMON GRAIN	24 LANCASTER SQ	Simon Grain
JOHNSON	46 LANCASTER SQ	Simon Johnson
JOHNSON	46 LANCASTER SQ	Simon Johnson
Brade Hickinbottom	42 LANCASTER SQUARE	Brade Hickinbottom
W. DRAPER	16 LANCASTER SQ	W. Draper
J. DRAPER	16 LANCASTER SQ.	J. Draper
K Draper	16 Lancaster Sq	K Draper
S. Hare	11 LANCASTER SQ.	S. Hare
C. PHILLIPS	11 LANCASTER SQ	C. Phillips
A. NEARY-PHILLIPS	15 LANCASTER SQ	A. Neary-Phillips
V. NEARY-PHILLIPS	15 LANCASTER SQ	V. Neary-Phillips
S. J. SMITH	17 LANCASTER SQ	S. J. Smith
S. BROWN	19 LANCASTER SQ	S. Brown
SABROWING	19 LANCASTER SQ	SABROWING

RICHARD PHILLIPS 13 LANCASTER SQ
LISA PHILLIPS "

EMMA BLARAGHS 54 LANCASTER SQ

COLETTE LANGELOE 58 LANCASTER SQ.

NICOLA BRANNAGAN 33 LANCASTER SQ

ERIC Brannagan "

DAVE OLLEY 35 Lancaster Square

MARGARET OLLEY 2 "

KERRY HORNBY 39 LANCASTER SQUARE


M. M. OAKLEY 4 HARROW GROVE.


V R OAKLEY 4 HARROW GROVE

K. Baines 1 Lancaster Sq.

S. OAKLEY 3 LANCASTER SQ.

I. G. OAKLEY 3 LANCASTER SQ.


R Phillips


Changappa.
N. BRANNAGAN
Eric Brannagan
D. O'Leary

M. O'Leary
h. d. j.
m. m. oakley
V R Oakley



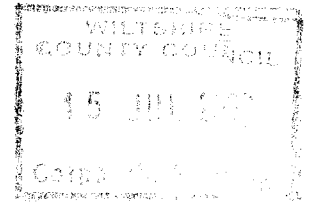
S. Oakley
J. G. Oakley

APPENDIX 3

LYNEHAM & BRADENSTOKE PARISH COUNCIL

Parish Clerk: Mr M J Edwards
C/O ICT Services
North Wiltshire District Council
Monkton Park
Chippenham
Wiltshire SN15 1ER
(W) 01249 706214 (H) 01249 891951
(E) parishclerk@lyneham.co.uk

SH



Ref: Your SH/04498/04510/04513 dated 14/6/02.

**Miss S Handsley
Legal Services, WCC. County Hall.
Trowbridge.
Wilts BA14 8JN**

10 JUL 02

Dear Sarah,

Application to register land as Village Green in the Parish of Lyneham & Bradenstoke.

Letter Written by G Childs (Acting Clerk) and approved at the PCM 9th July 2002.

As explained in my telephone conversation with Trevor Slack, the Parish Council has recently been reduced to 4 councillors and a temporary Clerk due to resignations and councillor friction, but is now complete again, although with many inexperienced members.

The old Council were very concerned that some 75% of Lyneham village had been 'sold' by the Government to a Private Company with no provisos or control over what was done with garages, open spaces and leisure areas, trees, hedgerows and even unadopted roads within these three large, ex RAF estates. The only requirement for this company to meet, admitted by RAF Lyneham, was to supply suitable accommodation in acceptable condition for a reducing number of RAF personnel when required. These 'concerns' were greatly increased when the 'Development Firm' sold off 'surplus MQs [in a well planned 'PR' Exercise], destroyed and removed playground equipment and subsequently proposed a development of 5 'large' houses on this playground. This 'proposal' was vigorously opposed by this Parish Council because this playground had been 'Public Open Space' during the 50 years of RAF ownership, with MoD and Council (?) installed play equipment and a 'Scout Hut' (in use for many years), plus the egress to the road of Footpaths (1 & 6); Vicarage to Church and Church to Tockenham Church. [These detailed problems have been addressed to Mr Lander and Mr Gerrard in several letters over the last 18 months, but despite WCC's 'Statutory Duty' to take action in maintaining 'Rights of Way', nothing has been done and no reply has been received].

The new Council has studied the Reference and discussed it at their PCM of 9JUL02. The following actions and replies are forwarded:

a. CR Form 30, Page 4, should be amended to read: Registration Authority "Wiltshire Council Authority" and Name & Address of Applicant "Lyneham & Bradenstoke Parish Council, Parish Clerk, Mark Edwards

b. The Parish Council make no pretence of understanding the Legal definitions or implications of "permission to use", "passive toleration" and "use as of right", but many Parishioners could testify that over many years they have made use of these land areas for a variety of purposes, without any restriction, and without any 'permission' or knowledge that any 'permission' was required or had been granted. [The writer, (G A R Childs) moved to Lyneham in 1996, and has used all 3 land areas (Appendix 1,2 &3) for recreation and dog walking without any knowledge of 'ownership' or any representation that 'permission' was granted or required. In fact, I assumed that Appendix 1 & 3 were 'ancient common land' alongside the road, and Appendix 2 was WCC Highways Land. This assumption was gained from a study of large scale OS maps of 1865, 1900 and 1923 and references to 'traces of this common pasture survived in 1968 as an extreme wide verge on either side of the road at Preston' in the "History of Wiltshire - Lyneham Parish"].

c. All 3 areas of land have footpaths across them, some produced 'as a right' by the inhabitants and visitors of RAF houses, and others of 'ancient' origin shown on the OS maps.

d. The Council do not know the background or reasons for the 'private residents' objections to the application (for Appendix 3 but not 2?) but will endeavour to convince them that the application is to their benefit, will cost them nothing, and is far better, long term guarantee of their property values than is offered by a Property Company.

e. The new Council has voted to endorse and support the applications for 'village green' status for the three areas and hope that the Wiltshire County Council will support their application which is aimed at preserving the heritage and village life of the whole rural community.

Yours,



Mark Edwards
Parish Clerk