Appendix 4.

WEST AUCKLAND: FLEECE & NURSERY

APPENDIX 4

Pre-Inquiry Objections and correspondence

OBJECTION TO REGISTER LAND AS VILLAGE GREEN FLEECE AND NURSERY LAND

THE RESPONSE OF MRS JOANNE CLIFF 26a, FRONT STREET, WEST AUCKLAND DL14 9HW TO THE LETTER OF WEST AUCKLAND PARISH COUNCIL

I would like to make my comments regarding the letter submitted by the Parish Council.

The Prince of Wales pub burnt all there rubbish behind the pub as they would not pay for to have it taken away.

I would occasionally burn household stuff but my Father always cleared this away.

In my opinion whatever happened on this land my Father got the blame and the real culprits just laughed because they knew my fathers' name was always linked to whatever happened but they didn't care what happened to the land BUT my Father did and that's why he has always cleaned up the land cut the grass and generally tried to maintain it.

I have been here since I was 12 years old and I have always used the back way in to our properties I have played on the land with my friends, we have, as others also, paddled in the river by the waterfall and I have also driven over this route since I was 17 years old.

Any documents you require regarding my property are readily available from the Land Registry.

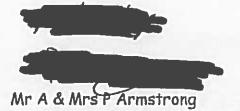
Yours Sincerely



Dear Ms Errington,

Please find enclosed our response letter for the objection of Application to Register Land as Village Green – Land at West Auckland

Yours Faithfully



27, Front Street, West Auckland. DL14 9HW

OBJECTION TO REGISTER LAND AS VILLAGE GREEN FLEECE AND NURSERY LAND.

THE RESPONSE OF MR & MRS A ARMSTRONG, 27, FRONT STREET WEST AUCKLAND DL14 9HW.

TO THE LETTER OF WEST AUCKLAND PARISH COUNCIL

Addressing point C.1994

Stated by Parish Council late 1993 or early 1994 we began to use an opening in the wall... we were actually using this since 1989 - 4 years previously to this statement.

March 1989 -Purchased 27, Front Street, West Auckland

September 1989 - Purchased 24, Front Street West Auckland

1994 - Purchased The Old Wesleyan Chapel now known as 26a Front Street, West Auckland

Our Answer:-

The caravan we resided in for a short time while 24 Front Street was modernised was delivered by Barrons Caravans in September 1989 and brought in through the nursery to the rear of the property, Mrs Jenny Laskey, informed us that access was paid in the sum of 2s 6d by her father, to the then Monk Brewery (West Auckland Brewery) in 1951, and to this end she wrote a statement to this effect. The reason for the fee was that on our property there were pig stys, slaughter houses and stables and vehicles came to the rear to take livestock to market.

Addressing point 2006

We have no say who uses the land as at this time Mr Robinsons fence was down and the land was totally open and so in response to the Caravans parked outside our boundary these had NOTHING to do with us it is an unfortunate situation that a landlord of the Prince of Wales happened to be related is as I say unfortunate he was the one that had all these caravans parked on the land not us he was also responsible for the Bus and wagons with a crane on and the burning of copper wire scrap etc I repeat nothing to do with us and nothing to do with our using land as access to our property.

Addressing point 2008 - 2011

When the bollards were erected we did agree to meet with Mrs Margaret Charlton and the Parish Council, Mrs Charlton said she would arrange a meeting to show all documentation to support our claim and she would call at our house with details of said meeting, but instead of an expected visit from Mrs Charlton we got a visit from PC Andy Hucker the local beat policeman of which he promptly told us that the Parish Council had informed him that they owned the land, we showed our evidence to PC Hucker and he actually said in his opinion we had more rights than the Parish Council had to this land.

We have never refused to meet with the Parish Council.

We also have to say our wall has not been partially removed it was made safe and straight as there were old bricks jutting out and this was smoothed with concrete and we have photographs to show the wall before and after concreting because we anticipated this exact response from Parish Council

The fence in the nursery was erected and on the advice of our solicitor, he said the gates could be left open as long as we controlled the land by locking the gates, which as Parish Council stated we have done when grazing horses and we also lock them to keep unwanted travellers from camping on the land around travelling time to Appleby Fair.

The laying of road planings were inspected by DCC and approved as eventually the grass would grow through.

In support of our claim for access to Land Registry measurements and photographs were submitted that clearly show a gap between the corner of our wall and Mr Robinsons fence of nearly 2.5meters (7ft 6ins) which was more than enough for our car.

Mr Abel & Mrs Pauline Armstrong

West Auckland Parish Council

Sharon Wootton, Clerk to the Council
20 Loweswater Grove, West Auckland
BISHOP AUCKLAND
County Durham DL14 9NA

101388 834360 Sharon.home@btopenworld.com



25th November 2011

Head of Legal Services
Durham County Council
County Hall
Durham DH1 5UQ

Dear Sir/Madam

RE: APPLICATION TO REGISTER LAND AS VILLAGE GREEN FLEECE AND NURSERY LAND, WEST AUCKLAND

I refer to the letter sent to the Parish Council by Jill Errington (Senior Committee Services Officer, Corporate Services) on 7 November 2011, enclosing copies of the two objection letters received against the proposed designation of the Fleece and Nursery Land in West Auckland as village green. The letter invited our comments on the objections and these are attached to this letter. From that response you will note that we take issue with the objectors on a number of points.

In essence we wholly challenge Mr and Mrs Armstrong's and Mr and Mrs Cliff's access (Route 2), occupation and fencing of the Nursery land, noting their trespassing on private land to achieve that access. We also challenge their cavalier occasional occupation of the Fleece land. His access across the Fleece land (Route 1) is also challenged in the absence of documentation.

The Parish Council is aware that, in their consideration of these proposals and objections, and in reaching a recommendation to its members, County Council officers have the option of recommending a public inquiry. Before such options are considered, the Parish Council would be keen to sit down in more informal surroundings than an inquiry, with officers and objectors, to discuss the proposal, in particular to establish what all parties agree on and precisely where they differ.

Should this proposal ultimately end up in a public inquiry, it would be one of the first tasks of all parties, usually before the inquiry, to agree 'common ground' so that the inspector can be clear about the issues in dispute. Such a meeting now would usefully clarify what is quite a complicated land issue.

To that end, before the Parish Council attended such a meeting, it would be good to know the objectors' view of the Background History report we prepared to accompany our submission. Specifically we would wish to know what aspects they disagree with in the report. That could usefully form the basis of our discussions

Yours sincerely

Sharon Wootton Clerk to the Council

25/11/11

West Auckland Parish Council

QUALITY PARISH GOUNCIL

APPLICATION TO REGISTER LAND AS VILLAGE GREEN FLEECE AND NURSERY LAND, WEST AUCKLAND

THE RESPONSE OF WEST AUCKLAND PARISH COUNCIL TO THE OBJECTION LETTERS OF (1)MR & MRS A ARMSTRONG AND (2) MRS JOANNE CLIFF

1 LETTER OF MR & MRS A ARMSTRONG

General comments

- 1.1 Mr Armstrong's letter mentions a 1990 letter from a Jane Laskey, as being attached to his objection letter. West Auckland Parish Council (PC) has not received a copy of this letter.
- 1.2 The map accompanying the letter is inaccurate and has not reproduced colours faithfully and sometimes not at all. For example on the plan the 'Fleece' proposed green land (coloured bluey-green on our copy) excludes the land behind the Prince of Wales PH and includes the fenced and walled private gardens behind nos 20, 20A, 20B and 21 Front Street. Furthermore, the house 24 Front Street (brown, but actually pink on our plan) does not have its rear garden demarcated in colour at all. The 'Nursery' proposed green land is a slightly greener version of the Fleece land are they meant to be the same colour? Can we suggest that Mr and Mrs Armstrong resubmit this plan on the basis of the plan we have submitted which we believe to have accurate boundaries.

Specific Comments

1.3 Addressing the statement by Mr Abel Armstrong, we would respond to his eight points in turn.

Point 1

1.4 The PC would welcome a copy of evidence of purchase of 24 Front Street in 1989 together with a plan showing the house and land attached.

Point 2

1.5 Vehicular access to Mr Armstrong's rear garden at the time of his purchase was solely through a pedestrian gate in his side wall, which still survives. So he could not get a caravan onto his own land from the rear. Did he get it through the Front Street arch? At some time after purchase and before 1994 he breached the rear garden wall to make the new vehicular opening now used. It would be helpful to know precisely when this was done.

Point 3

This is where the colour problem is important. When Mr Amstrong speaks of access over the 'green land' is he talking about both Fleece and Nursery land?

- 1./ As a general point, the matter of caravans both on 'green' land and taking access across it, extends beyond Mr Armstrong's ownership and that of his daughter and son-in-law, Mr John-Paul and Mrs Joanne Cliff, to their wider family and friends. At times there have been upwards of six to eight caravans on the Fleece land. In addition friends and family visiting Mr and Mrs Armstrong and/or Mr and Mrs Cliff, routinely park their cars or trucks on the Fleece land rather than enter his parking area within his garden.
- 1.8 Specifically, Mr Armstrong and his family had no vehicular access between 1994 and 2006 through the Nursery (his route No.2) because the adjacent land was fenced off by Mr Steven Robinson, during an adverse possession claim. The gap left by Mr Robinson between his claimed land, and the Fleece and Nursery land, was approximately one metre only a pedestrian width. Vehicular access was thus impossible along Route No2 and only became possible again when Mr Robinson's fence was removed by members of the Wood family in 2006, assisted by members of Mr Armstrong's family.
- 1.9 The current vehicular gap, of approximately two metres, in width was created post-2006 by Mr Armstrong and his family repositioning Mr Robinson's corner post further west, so that the vehicular route now used by Mr Armstrong, his family, friends and business colleagues is actually trespassing on Mr Robinson's land.
- 1.10 Mr Robinson has planning permission to erect two dwellings on his land, with the boundary defined by a high stone wall, thus restoring the one metre pedestrian gap at the comer. The precise boundaries of Mr Robinson's land, fully surveyed and dimensioned, with the pedestrian gap evident, are fully documented in the Land Registry. The construction of the stone wall along Mr Robinson's boundary will deny vehicular access from the Fleece land to the Nursery land, although it should be noted that in an attempt to slightly widen the gap, Mr Armstrong has shaved off some of the stonework from the corner of his own wall.

Point 4

- 1.11 The PC has not had sight of this letter. Our understanding from local residents is that historically the narrow side gate accessing (via Route 1) this rear garden land was used once a year by the owner of 24 Front Street to removed garden produce. It was very much a secondary access, rarely used. Certainly it was impossible to get a vehicle *into* the rear garden before Mr Armstrong breached the wall sometime between 1989 and 1994.
- 1.12 The extent of Mr Armstrong's vehicular access to Front Street (Route 1), if it still exists, has not been proven as the PU have seen no documentation. It may have applied to his occupation of 24 Front Street, from which he has now moved. It certainly does not extend to his neighbours, who coincidentally, are members of his family.
- 1.13 Other local residents have vehicular access across the Fleece green land (Nos 19, 20B, 21, 22/3 Front Street). Their use of their accesses is very occasional and secondary to their Front street frontage.

Point 5

1.14 This is a highly inaccurate statement. The land coloured green – which we take to be the Fleece and Nursery land – has not be used on a daily basis for

the grazing or norses by Mr Armstrong and his family. Grazing is at best intermittent and at all times both areas of land have been available for public recreation by all local residents. This intermittent grazing has, by tree rubbing, killed at least one of the trees planted by the community twenty years ago. We would accept that intermittently Mr Armstrong and his family have placed/or allowed caravans on this land (with power cables back to their house), as well as undertaking the burning of industrial waste and scrap, matters taken up by DCC enforcement officers.

- 1.15 Route 1 (to the south) is at best a secondary, domestic access for the very occasional use of a single piece of land, formerly belonging to 24 Front Street, and now, we understand attached to Mr Armstrong's new property at 27 Front Street. It would be helpful to see the ownership curtilages of both 26a and 27 Front Street in this respect. Route 2, as stated above, was not used for twelve years between 1994 and 2006. We would assume that no vehicular access rights from the rear garden of 27 Front Street can therefore attach to No 26a Front Street?
- 1.16 Two aspects add some complexity to this issue of access and land use. Firstly the matter of who has access, if at all. If the owner of 24 Front Street did once have very occasional (once a year) access to the pedestrian gate in his wall, to whom does that right now pass? 24 Front Street is now owned by local dentists but its land was retained by Mr Armstrong when he and his wife moved to 27 Front Street in 2009. The greatest vehicular use of the land (cars, transit vans, horseboxes, etc) is made by Mr and Mrs Cliff of 26a Front Street, whose property, we suspect, enjoys no established vehicular rights across these public spaces.
- 1.17 The second matter is the nature and degree of that access. Access once a year to a pedestrian gate is a world away from vehicular access on a daily basis, upwards of 20 times a day at times, by commercial vans, horseboxes and private cars, sometimes lorries, once a double-decker bus, by the objectors, their family and friends.

Point 6

- 1.18 Photograph 6 cannot be taken in 2004-5, as Mr Robinson's land was fully fenced off at that time, allowing no access to the Nursery land. Our quess is that this is likely to be taken in late 2006 or 2007, after the fence had been taken down and Mr Armstrong and family had begun driving north through The Nursery (Route 2).
- 1.19 Responding to the photographs at this point, we would only note that the venicular gates snown in Photo 8, as dated 1989/90, were venicular gates put in by Mr Armstrong after purchase. They were not there already. The PC believed these were put in some time after purchase in 1989, because it was the development of Route 2 through the Nursery by Mr Armstrong that led to a confrontation with residents, police and local councillors that resulted in the 1994 fences being erected (see Dackground History).

Point 7

1.20 This is an inaccurate and inflammatory statement. The green land – we take this to be both Fleece and Nursery land – is common public land for the enjoyment of all – our submission demonstrates that over much of the twentieth century. As a local resident, Mr Armstrong and his family are entitled to enjoy that land for public recreation as much as anyone in the village. But

their excessive vehicular access has been challenged by residents and the parish council. Their use of the land for caravans and for industrial bonfires has been dealt with by WVDC and DCC enforcement officers, and their failure to remove their own property and litter from these public spaces has been a continuing irritant to local residents. (A trampoline and chairs belonging to Mr and Mrs Cliff still litter the Fleece land). This is public land belonging to all of the residents, not for the exclusive use of Mr Armstrong and his family.

- 1.21 The families' use of this land and access was challenged by the Parish Council in 2008 and 2009, with written requests to see what documentation they had to support their access rights producing no response whatsoever. This is summarised in our Background History report (p5-6), but enlarged with further details here.
- 1.22 In February 2008, the Parish Council placed a legal Caution on both areas of land. Subsequently in an effort to improve the area within the Nursery the PC asked Sones Landscaping to create amenity planting areas within the Nursery land, but Sones were stopped by Mr Armstrong and his son-in-law parking a lorry across the site. Later in 2008 the PC erected bollards around the Nursery green area to prevent vehicular access. Some of these bollards were removed, after which a site meeting occurred with parish councillors and the police present at which the PC agreed, temporarily, to one bollard being removed by Armstrong, without conceding any right of access. The police advised they had no role as this was a civil matter.
- 1.23 In 2009, the PC's solicitor wrote to Mr Armstrong about his vehicular access, followed by a PC letter. In response Mr Armstrong claimed he had documents claiming access through the Nursery, though his solicitor's letter, actually refers to an old access on Route 1 (to Front Street), not through the Nursery (Route 2). A further letter from the PC requesting sight of the access claim never elicited a response from Mr Armstrong.
- 1.24 The above paragraphs, reflecting our Background History report, confirm that Mr Armstrong's occupation of the Nursery land did not go unchallenged.
- 1.25 Maintenance of the Fleece and Nursery land does not convey ownership or access rights. At least three other owners have routinely cut the grass outside their own gardens, one for as long as 32 years, without ever claiming ownership. It is done simply to improve the appearance of the area for the benefit of all. Mr Armstrong and his family have only recently begun maintaining this land in the past year or two. Historically the land was maintained by WVDC but after 1994 only the Nursery land was maintained by them, and since Mr Armstrong erected his fences DCC (as successors to WVDC), have not carried out any work. Had Mr Armstrong and his family not created new vehicular routes where none previously existed, the fences would not have been erected and local authority maintenance of the entire area might well still be in place. It was Mr Armstrong's actions over the past twenty two years that caused the abandonment of WVDC/DCC ground maintenance.

Point 8

1.26 We would welcome sight of the conveyancing document relating to the house and land at 27 Front Street.

Conclusion

1.2/ I his is a totally inaccurate and untrue statement, as the very substantive submission made by the Parish Council, supported by a great many witness statements, makes abundantly clear. This land has a long tradition of recreational use by many people for the benefit of the whole village.

Z LETTER OF MRS JUANNE CLIFF

2.1 The Parish Council will respond to the letter, taking each paragraph in turn.

First paragraph

2.2 No comment.

Second paragraph

2.3 The actions of Mr Robinson are not in dispute, although children continued to play alongside the river as they could access the land behind the fence line.

I nird paragraph

- 2.4 The remaining land (the Fleece and Nursery land) is still used for recreational enjoyment although the actions of Mr Armstrong's and Mrs Cliff's families in intermittently parking cars, vans, horse boxes and equipment on the land, grazing horses and burning industrial waste do not encourage community activity. Nevertheless that community activity has never ceased. One specific activity, the communal sitting out of Nursery residents around their small green area and tree, has been temporarily stopped by the post-2006 vehicular access and more recent fencing of the land undertaken by Mr Armstrong. This simple recreational activity within their communal area was much enjoyed by elderly residents particularly, and Mr Armstrong's actions have stopped it.
- 2.5 The PC would reiterate that it is both the vehicular routes taken and the level of activity that they oppose. This is not a minor occasional use by one or two domestic cars, but a very significant semi-commercial use by several private cars (not just two), many open Transit vans with scrap metal, horse boxes, etc, all to the detriment of the residential amenities of local houses and the communal activities on the open land. Frequently these vehicles are parked on the green areas while business is transacted.

rourtn paragraph

2.6 The PC accepts that during the tenancy period of the adjacent Prince of Wales PH by a relation (brother-in-law) of Mrs Cliff, the distinction between whose vehicles were using the open land were blurred. But some of the caravans on this land had power cables linked back through the vehicular access used by Mr and Mrs Armstrong and Mr and Mrs Cliff, and so must have been there with their blessing.

Fifth paragraph

2.7 Mr Armstrong erected his fence in the Nursery for the simple purpose of protecting his vehicular Route 2, and annexing the land to the exclusive use of his family, all to the huge detriment of Nursery residents, who have enjoyed its open amenity character for almost a century at least, certainly as far back as the 1920s. If Mr Armstrong had respected the narrow pedestrian gate between the Fleece and Nursery open areas and not widened it to create a vehicular route, then travellers would not be able to gain access to the Fleece

land, except by the narrow alley onto Front Street, which generally prevents caravan access. By his own actions he caused the travellers to come onto the land.

- 2.8 There was a caravan on the Fleece land pre-Appleby Fair this year, clearly there with the agreement of Mr and Mrs Armstrong and or Mr and Mrs Cliff.
- 2.9 The self-congratulatory tone of the end of this paragraph stating that 'we even mow the grass to keep it tidy, etc' is a little rich, to put it mildly. The PC reiterates, it was Mr Armstrong's fencing of this land that caused the local authority to stop cutting the grass. Had he not done so, the Nursery land would still be well maintained. We believe the family is maintaining the land solely in the mistaken believe that maintenance of land somehow bestows ownership, which, of course, it does not.

Final paragraph

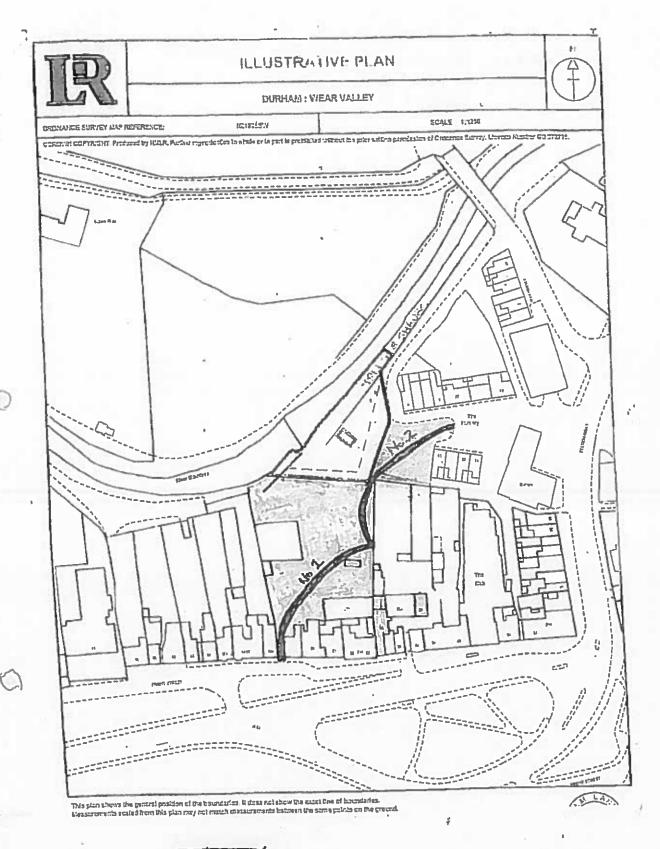
2.10 This paragraph is a frank admission that both families acknowledge - 'we now have control over this land' — that they have taken over and fenced land over which they have absolutely no claim to access or ownership.

STATEMENT OF ABEL ARMSTRONG

I Abel Armstrong of 27 Front Street West Auckland in the County of Durham DL14 9HW, will say as follows:

- 1. I, with my wife Pauline Armstrong, purchased our property ("our property") at 24 Front Street West Auckland in October 1989. This property is marked brown on the attached plan.
- 2. At the time of the purchase of our property we could not take up immediate occupation as major renovation works were required. We purchased a large caravan to live in and this was sited on the rear garden to our property (marked yellow on the attached plan).
- 3. In order to site the caravan it had to be driven to our property over the land coloured green on the attached plan. We have owned caravans for over 21 years and these have been stored on our garden (the yellow land). We have used access over the green land to get them to our garden and to store and park our other vehicles. The approximate position of the access roads ("the access roads") are coloured red on the attached plan.
- 4. When we purchased our property one of the previous owners, Jane Laskey stated that access to our property had been exercised openly over the green land and that she had knowledge that this had taken place since 1951. She also stated that access had taken place without any challenge or payment save that her father had paid a sum of 2s 6d on one occasion. I attach a copy of a letter she provided me with in 1990 before she died.
- 5. Since our purchase in 1989 we have continued to use the land coloured green on a daily basis for grazing our horses and for vehicular access to and from our property to the south to the public highway (access road no.1 on the plan) and to the north to The Nursery (access road no.2 on the plan).
- 6. I exhibit herewith a Google Map photograph (numbered 1) recently obtained from the internet which I believe shows the property in 2004/5 which clearly shows our caravan returning and the access roads. I also exhibit further photographs (numbered 2-7) that confirm the regular and constant use of the access roads and the rear garden gates. The photograph numbered 8 shows the gates in place that have been used daily since 1989. I have made explanatory notes on the reverse of the photographs.
- 7. Over the period of time of our ownership of our property we have cut down nettles and ragwort on the green land and used it as our own openly and freely at all different times without let hindrance or challenge by any third party. And we have not made any payment to any third party.
- 8. We sold 24 Front Street in March of 2009 (retaining our garden-the yellow land) and moved into 27 Front Street (coloured pink). We have continued to use the green land and the access roads over the green land in the same way.

We wish to register our objection to the registration of the land coloured green as Village Green as we do not believe that it has been used for that purpose at anytime. Apart from ourselves the land has been only used by dog-walkers and people using it as a short cut to the Front Street and back. The only piece of land that was ever used for recreational purposes was near to the river and this is now owned by Mr S D Robinson.



AFRIAL PHOTO OF VEHICLE ENTERING PROPERTY APPROX 2004/5

TRACKS TO FRONT STREET

N° JON PLAN (Z)









TRACKS FROM GATE TO NURSERY Nº 2 ON PLAN

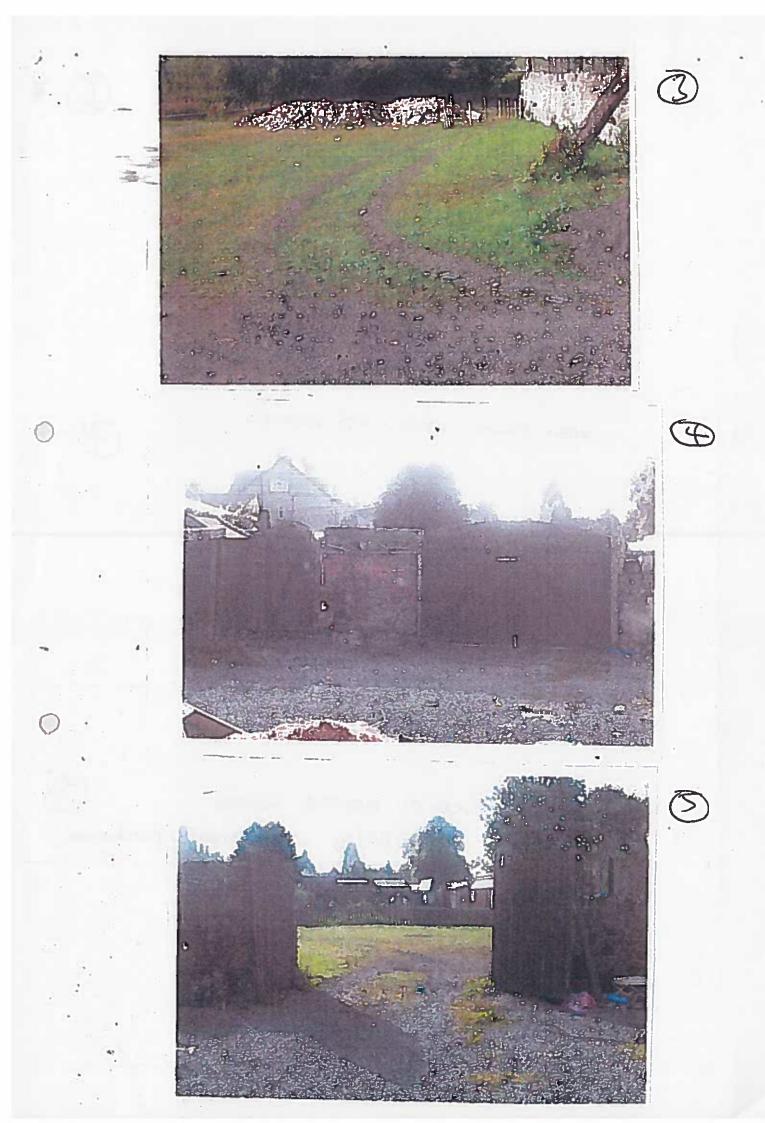


PICTURE OF ACCESS GATES 2010



VIEW FROM GARDEN ONTO LAND.





VIEW FROM GARDEN SHOWING GATES, STABLES CARAVANS AND CAR

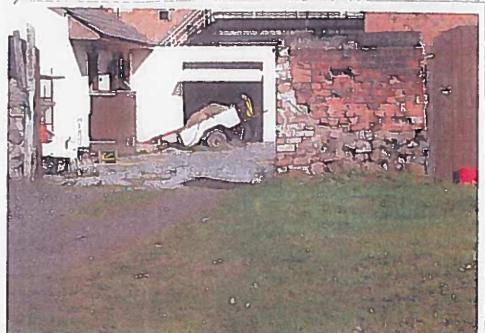


VIEW FROM LAND INTO GARDEN



PICTURE OF ACCESS GATES &











I make this Statement believing the contents to be true.

Dated 27 10 2011

Dear Ms Errington

Please find enclosed my response to the Objection to Register Land - West Auckland

yours faithfully



26a Front Street West Auckland Bishop Auckland Co. Durham DL14 9HW

30/10/2011

Dear Sirs.

My name is Mrs Joanne Cliff and I am writing to you with my objection to the granting of village green status to the land known as The Nursery and The Fleece land in West Auckland.

I have lived here with my parents since 1989, I was 12 years old, and as kids we all used to play down by the waterfall which was a local attraction, we used to have picnics there and with our fishing nets catch fish, but in 1994 Mr Robinson erected a fence to claim adverse possession around the area where the waterfall is and all that activity stopped as no-one could get near the waterfall anymore.

The only uses for this land since then has been for people to walk their dogs and to get from the Nursery to Front Street and back and we have used this since 1989 for grazing our horses and access to the rear of my parents land, for our caravan, which is only out occasionally in the summer and for our horsebox to occasionally transport our horses to the vets etc, other than that we do use it daily for our car.

Whenever anyone came up the back my father was mentioned, but at the time we were not the only people using this land as access as there has been a mention of a double-decker bus and a large wagon with a crane a wagons loaded with scrap, and I must admit this made a real mess of the land, Travellers parked on the land and we actually asked these to move off this land which they did, once again my father was mentioned, when in actual fact all this activity was down to Mr Micheal Cliff who had the tenancy of the Prince of Wales pub at the time.

This however has all ceased and we are the only ones travelling over this land and to make sure there is no more ploughing of the land and to stop wagons and caravans parking here my father erected a fence around the area in the Nursery 2 years ago, within this fence there is a large gate that can be locked and sometimes it is especially around Appleby time, but there are two small gates in so that people can still walk through to get from the Nursery to Front Street and back, there is one vehicle track clearly marked, so therefore the green is left untouched we even mow the grass to keep it tidy and have even planted some flowers around the fence.

I would finally like to add that where we now have control over this land regarding travellers parking etc, the residents of the Nursery still have travellers parking behind their houses on council ground.

Yours Sincerely



Mrs Joanne Cliff