

LITTLE ACRES
BALTIC ROAD
KIRK MICHAEL
ISLE OF MAN
IM6 1EF
16/1/14

JONATHAN KING
SECRETARY
SELECT COMMITTEE, LAND SWAP KIRK MICHAEL
LEGISLATIVE BUILDINGS
DOUGLAS

Dear Mr King,

We were unable to attend the Select Committee of 2/12/113 but we read with interest the Hansard transcript. Gow nyn leshtal nagh vel yn screeuyn shoh ayns y Ghaelg. (Forgive us that this letter is not in Manx.)

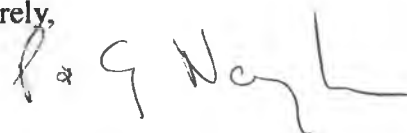
Though we are sure the Select Committee is well aware of the many consequences of the evidence from Heritage Homes, we thought we should make the following brief comments.

Mr Kirkpatrick indicated that moving our right of way without our consent could have serious legal and financial consequences for Heritage Homes. He stated that the only way round this was that, if Heritage Homes (or the Lewis family) obtained planning consent and if we refused to allow the right of way to be displaced, Heritage Homes would ask a court to overrule our wishes and rights. Mr Kirkpatrick admits that the outcome of such a court hearing would be uncertain and unquestionably it would be unknown until the court had made its decision. If Mr Kirkpatrick's description of the legal process is correct:

1. Our statement in our letters to Mr Teare (copies enclosed; 9/5/11 & 17/5/11) that our rights might block the availability of the alternative access was unquestionably correct.
2. It was entirely incorrect of anyone to claim that Heritage Homes had obtained complete control of the alternative Lhergy Vreck access.
3. It was equally incorrect to describe the availability of the Lhergy Vreck access as a "done deal"
4. It was incorrect of Mr Nugent to reply "Absolutely not" when asked if we (Dr & Mrs Naylor) were in a position to veto the alternative access (Hansard 613 & 616). According to Mr Kirkpatrick no one knows whether we should or should not be in a position to veto the access.

It is quite uncertain whether Mr Kirkpatrick's description of the Manx legal process is correct since no such mechanism was described by Mr Wright in his advice to the Select Committee. In the Clarkson case, the judge clearly stated that the court did not have the power to alter the route of a public right of way. Mr Kirkpatrick is saying that Mr Lewis, having created a right of way in order to sell Lhergy Vreck can now change his mind and ask a court to change the route of that right of way and impose that on the purchasers of Lhergy Vreck. We are consulting on this problem and we will write again if we get any useful or definitive information.

Yours sincerely,



Dr & Mrs NAYLOR

CC Mr A Cannan MHK

P.S. Hard copy in pool.

LITTLE ACRES
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ISLE OF MAN
IM6 1EF
9/5/11

Mr E TEARE
MINISTER OF EDUCATION
DOUGLAS

Dear Mr Teare,

We understand that there is a proposal to exchange land at the school in Kirk Michael to enable Heritage Homes access to land zoned for building. The details of this proposal seem to be based upon the belief that Heritage Homes, in the absence of access through the school, would have access from the Douglas Road through the entrance to High Tilt. This is uncertain since we own the farm buildings and some of the land of Lhergy Vreck Farm and our deeds give us rights over the access road to High Tilt. Heritage Homes have not had the common courtesy to show us the proposal and discuss with us whether this would infringe our rights.

We simply do not know whether our rights would or would not prevent Heritage Homes access to the zoned land. If Heritage homes do not have access through High Tilt entrance, it alters the logic and certainly the price for access through the school: such access would obviously be worth hundreds of thousands of pounds not the £9000 worth of land at present proposed. We would not be willing to have our rights infringed.

Yours sincerely,

Dr & Mrs G Naylor

CC. D Cannan MHK
Michael Commissioners

LITTLE ACRES
BALTIC ROAD
KIRK MICHAEL
ISLE OF MAN
IM6 1EF
17/5/11

your ref ET/JK

Mr E TEARE
MINISTER OF EDUCATION AND CHILDREN
DOUGLAS

Dear Mr Teare,

Thank you for your prompt reply of 11/5/11. We fear that you have misinterpreted the point of our letter which was to indicate the possible effects of our rights on the potential land swap, not the effects of the potential land swap on our rights.

You state that your understanding is that the developer has already obtained access. Not having seen the proposals, we do not know and we guess that you do not know whether the rights in our deeds would legally block such access. No one, not you, nor we, nor Heritage Homes know whether the proposed access through Lhergy Vreck Road to the zoned land will be given planning consent until the proposal to enter the zoned land through Lhergy Vreck Road has been through the full planning process, including I assume, an appeal and the decision of an external assessor (planning is a very unpredictable process).

Until it is known whether an alternative access through Lhergy Vreck Road is REALLY available, you cannot know the real commercial value of access through the school: is it worth several million pounds or not?

Even if access were available through Lhergy Vreck Road, the developer's preferred option is through the school because that would be more profitable (at its simplest it saves the cost of one or two houses on Douglas Road). With or without possible access through Lhergy Vreck Road, the access through the school, therefore, has a considerable value to a developer. You do not know whether other developers would be willing to take less profit and pay the Dept of Education and Children more than Heritage Homes are.

Why, therefore, is the whole process of "exchange" or sale of land at the school not open to tender? Only by such a process do you get the commercial value of an asset.

Yours sincerely,

Dr & Mrs G Naylor

CC. D Cannan MHK
Michael Commissioners

COMMITTEE PAPERS INSTRUCTIONS

Date Received:	RECEIVED 20 JAN 2014 OFFICE OF THE CLERK OF TYNWALD (Date Stamp)
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Author:	Naylor G (Surname Firstname e.g. Smith John)
Document Date:	16/1/14 (dd/mm/yyyy)
Title:	Comments on Heritage House oral evidence — hard copy version (Short description eg 'Letter to Fred Jones' or 'Response to Public Notice of 01/11/2011')
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