

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.)

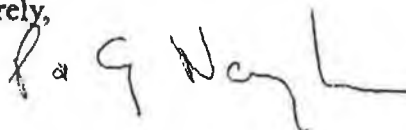
Though we are sure the Select Committee is well aware of the many consequences of the evidence from Heritage Homes, we thought we should make the following brief comments.

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 post.

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