



Isle of Man
Government

Reiltys Ellan Vannin

Department of Education and Children

Rheynn Ynsee as Paitchyn

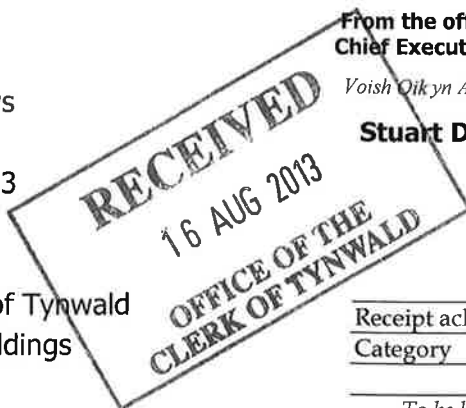
Hamilton House,
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Isle of Man IM1 5EZ

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Fax: (01624) 685845
Website: www.gov.im/education
Email: stuart.dobson@gov.im

Our Ref: SD/ws

14 August 2013

Mr J King
Deputy Clerk of Tynwald
Legislative Buildings
Douglas
Isle of Man
IM1 3PW



From the office of the
Chief Executive Officer

Voish Oik yn Ard Shekter

Stuart Dobson

Receipt ack'd	16/8/13		
Category	☒ Private Ev	☐ Public Ev	☐ Corr
To be held in accordance with standing instructions for category			
Additional Actions	☐ Circulate now	☒ List on next Agenda	
Other instructions			

Dear Jonathan

Select Committee on Kirk Michael School Land Exchange Agreement

Thank you for your letter. The vast majority of information was given in our responses to the Select Committee which reported in May 2013. However, we have attempted to be as clear as possible in the responses to these further six questions.

This matter was begun long before I became CEO of Department of Education and Children. When I took over at DEC in January 2011, in addition to running the Department, I needed to have a very high level of engagement with the changes at the International Business School. Despite this I was kept informed by the Minister of progress on the Kirk Michael land swap. I was not though involved in direct meetings/negotiations. Therefore most of the responses are taken from documented evidence.

I wish to thank Richard Collister, my Estates Director for his significant help on these matters.

Question 1: In your submission to this Committee dated 22nd March 2012 you mentioned the option at Cass A Lergy but you did not mention that it had been registered. Did the Department at any time consult the Land Registry to see whether it was possible to verify whether Heritage Homes has acquired this option?

I understand that there was no direct consultation with the Land Registry regarding this matter. We obtained via Heritage Homes a copy of the Caveat Deed in respect of Heritage Homes' option on the land, part of Cass A Lergy, on the south side of the Lergy Vreck entrance, as dated 7/1/08 – copy attached.

Question 2: With reference to (vi) above, what more could the Department have done to verify the viability of the alternative access more clearly and at an earlier stage?

The viability from a highways perspective was verified by DoI, in their advice to Heritage Homes – Mr P Salmon email 15/4/11 refers. DoI confirmed their agreement in principle to the proposed access, subject to it serving no more than 100 dwellings. At all times Heritage Homes confirmed that the site could be independently accessed as agreed, over land which was within their control.

Question 3: Did you at any time ask Heritage about the viability of the alternative access from the point of view of private rights of way?

No – I do not believe that we specifically did. The Minister was aware of the Naylor's concerns, albeit they were unclear as to what their rights were and whether they would or would not possibly prevent Heritage Homes access to the zoned land. With hindsight it is possible that more could have been done to challenge Heritage Homes to verify the viability of the alternative access. However, as you concluded following paragraph 73 in the Select Committee Report "In an ideal world it might have been interesting for the Department to investigate the Naylor's concern in more depth had time and resources have been no object."

Question 4: Is Mr Lewin right about the viability of the alternative access?

I consider that the Select Committee should seek Heritage Homes' response on this matter, and their confirmation that they did secure the alternative access. If necessary the advice of the Attorney General's office can be sought by the Select Committee, to investigate the Naylor's rights of access, and determine any rights in respect of the change of entrance necessitated by the revised entrance agreed in principle with DoI, to serve development from this point.

If he was right, what affect would this have on the value for money represented by the Agreement?

As far as a valuation is concerned, I believe that this is a question for the Government Valuer who provided all the valuation advice, which supported our negotiations with Heritage Homes. It is clear that the Government Valuer's advice in respect of the agreement which progressed, was based on the developer having secured an alternative access for the development of the zoned land.

Please can you comment on Mr Lewin's reference to the sum of £8 million to £10 million.

Again, I believe that this is a matter for the Government Valuer.

Question 5: Is Mr Lewin right about the overage clause? If so, what effect would this have on the value for money represented by the Agreement?

Our brief to the Attorney General's office was to ensure that an enforceable agreement was put in place to protect our interests in respect of both the exchange of land with accommodation works, and for any development that might take place on the future land. The Agreement includes an enforceable covenant, included in the conveyance, read with a collaboration clause, in respect of the possibility of the development of the future land using the preferred access made possible through the school land to be exchanged. The Department's consent is required to lift the covenant if requested to do so by the Landowner or Developer, with resort to an Independent Valuer if the parties are unable to agree terms. The Government Valuer was also consulted by the Attorney General's Office and us in the establishment of this mechanism within the agreement to secure future overage value.

As you are aware the agreement was considered by the Government Valuer to provide suitable net benefit for the Department in respect of the land exchange and accommodation works alone, with the covenant enabling the Department to secure further additional value in the future.

Question 6: Is the Agreement still part of a "live" process?

I confirm our understanding that neither the planning process nor the agreement itself are now 'live'. This aligns with the independent view recorded in the Select Committee Report paragraph 46, that the Agreement has expired.

Yours sincerely

A handwritten signature in cursive script, reading "Stuart Dobson".

Stuart Dobson
Chief Executive Officer

Enc Cass-a-Lergy Option Agreement Caveat Deed 7.1.08

DATED 19 December 2007

MICHAEL

**RICHARD JULIAN CASSIDY
and
JULIE LORRAINE CASSIDY
Seller**

and

**HERITAGE HOMES LIMITED
Buyer**

OPTION AGREEMENT

Part of Cass-a-Lergy Douglas Road Kirk Michael

**Dandara Group Legal Department
Dandara Group Head Office
Isle of Man Business Park
Cooil Road
Braddan
Isle of Man
IM1 2SA**



Isle of Man
Government

Seal of the Isle of Man

Certificate of the Registration of a Deed

IN THE GENERAL REGISTRY, ISLE OF MAN
Pursuant to The Registration of Deeds Act, 1961 as amended

Deed No: 2008/00109		Nature of Deed: Caveat
Date of Deed: 07 January 2008		Registered By: G.S. Kirkpatrick
Parties:	1 Title of June Lorraine Cassidy Title of Richard Julian Cassidy 2 Gwelda Isobel Lamden 3 Julie Lorraine Cassidy Richard Julian Cassidy	
Registered On:	08 January 2008 at 15:56:02	
Parish:	Michael	
I Hereby Certify that the deed above described has been duly Registered and Recorded in the General Registry, pursuant to The Registration of Deeds Act, 1961 as amended. Given under my hand at Douglas, this 9th day of January 2008. <i>Kevan Cubbon</i> Deputy Assistant Chief Registrar		

Dated 7th JANUARY

2008

IN THE MATTER of the title of **RICHARD JULIAN CASSIDY and JULIE LORRAINE CASSIDY** in and to **ALL AND SINGULAR** a plot or parcel of land forming part of Cass-A-Lergy situate on the eastern side of the high road leading from Kirk Michael to St Johns in the Parish of Michael being part of the quarter land of Ballacrink the same being represented by the portion delineated and edged red on the plan annexed hereto and to which said hereditaments (inter alia) the said Richard Julian Cassidy and the said Julie Lorraine Cassidy became entitled by a Deed of Conveyance bearing date the 11th day of December 1998 from Gwelda Isobel Lambden ("the Property")

MICHAEL

CAVEAT AND NOTICE

**Part of Cass-A-Lergy
Douglas Road Kirk Michael**

**Dandara Group Legal Department
Dandara Group Head Office
Isle of Man Business Park
Cooil Road
Braddan
Isle of Man
IM2 2SA**

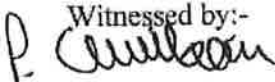
IN THE MATTER of the title of
RICHARD JULIAN CASSIDY and
JULIE LORRAINE CASSIDY in and
to **ALL AND SINGULAR** a plot or
parcel of land forming part of Cass-A-
Lergy situate on the eastern side of the
high road leading from Kirk Michael to St
Johns in the Parish of Michael being part
of the quarter land of Ballacrink the same
being represented by the portion
delineated and edged red on the plan
annexed hereto and to which said
hereditaments (inter alia) the said Richard
Julian Cassidy and the said Julie Lorraine
Cassidy became entitled by a Deed of
Conveyance bearing date the 11th day of
December 1998 from Gwelda Isobel
Lambden ("the Property")

TO ALL TO WHOM THESE PRESENTS COME GREETINGS:

TAKE NOTICE that **HERITAGE HOMES LIMITED** a company incorporated in the Isle
of Man and having its registered office situate at Dandara Group Head Office Isle of Man
Business Park Cooil Road Braddan Isle of Man IM2 2SA claims an interest in the Property by
virtue of as Option dated the 19th day of December 2007 to purchase the Property and made
between the said **Richard Julian Cassidy and Julie Lorraine Cassidy** and the said **Heritage
Homes Limited**

AND in as much as the said Heritage Homes Limited Doth require a Caveat and Notice to be
recorded to protect the priority of its interest I, **GRAHAM SEAN KIRKPATRICK** of
Dandara Group Legal Department Dandara Group Head Office aforesaid Advocate for the said
Heritage Homes Limited hereby confirm that I am required by the said **Heritage Homes
Limited** to record this Caveat and Notice of Option to purchase the Property and have
hereunto subscribe my name this the 7th day of **JANUARY** 2008

Witnessed by:-



:

:



Peter Christian
Conveyancing Manager
Dandara Group Head Office
IOM Business Park
Cooil Road, Braddan
Isle of Man IM2 2SA

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[illegible]heritage
homes limited

Gendry, Gwynedd, Gwynedd
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Land at Cass A Lergy,
Kirk Michael,
Douglas Road,
Isle of Man.

Unidentified Coordinates.

1:500	Sept 2007	1FC
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