



David Wilcock
Head of Legal and Governance Reform
Rochdale Borough Council
First Floor
Brook House
Oldham Road
MIDDLETON
M24 1AY

Dear David

**Re: Commons Act 2006 – Section 15 (1)
Notice of an Application for the Registration of Land as a Town or Village Green
Open Green Land at Swift Road, Bamford, Rochdale**

I am writing on behalf of Rochdale Borough Council to formally object to the application made under Section 15 (1) of the Commons Act 2006 and in accordance with the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 to register the land known as open green land at Swift Road, Bamford, Rochdale as a Town or Village Green.

The objection is based on the Council's view that the applicant does not meet the legal test as laid down in Section 15 (1) in that "a significant number of the inhabitants of any locality, or of any neighbourhood in a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years", and that the land has been used "by right" rather than "as of right" and thus the application fails to meet the criteria in Section 15 (1).

In order to successfully demonstrate that the land has been used "as of right" the use must have been on the following basis:

- Without force
- Without stealth
- Without permission

The Council objects on the grounds that the land has been used with permission and thus the use does not satisfy all three criteria.

This is by virtue of the following:

- Whilst the site was originally sold to Whelmar Homes the Council bought it back in 1988. Whelmar Homes paid the Council £2,500 towards the cost of maintenance of the land and the completion statement report refers to the land's future maintenance as a landscaped area. Please find relevant documentation attached.

Economy and Environment

**Director
Mark Widdup**

Property, Highways and Strategic Housing

Donna Bowler
Interim Head of Service

Floor 2, No.1 Riverside,
Smith Street, Rochdale, OL16 1XU

Telephone: 01706 923273
E-mail: beverley.hirst@rochdale.gov.uk
Web Site: www.rochdale.gov.uk

Your Ref.
Our Ref. EAM/BJH
Enquiries: Beverley Hirst
Extension: 3273
Date: 2 September 2015

- Planning permission for the development of the surrounding housing estate attached the following condition to the land:

"The area of public open space shown on the approved plan shall be provided for use by the general public concurrent with the carrying out of the approved development and shall be maintained to the satisfaction of the Local Planning Authority thereafter."

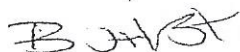
Please find relevant documentation attached.

- The Council enforces no dog fouling on the site as evidenced by the sign on the gate. Please find photographs attached.
- Whilst the site is gated the gate is unlocked and access is readily available to members of the public either via the gate or to the side of the gate.

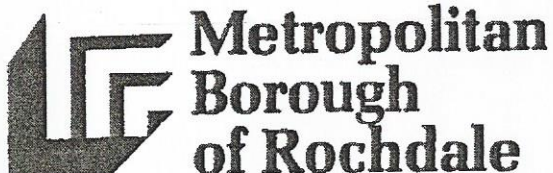
The Council strongly believes that the above provide both explicit and implicit permission to use the land.

For this reason the application must fail as the application does not meet the criteria as set out in Section 15 (1) of the Commons Act 2006 as the land has been used with permission of the Council as landowner.

Yours sincerely



Beverley Hirst BSc (Hons) MRICS
Estate Manager
Estates and Asset Management
Rochdale BC



Town and Country Planning Act 1971

PLANNING PERMISSION

Name and address for correspondence

Salvesen Homes,
Whelmar Ltd.,
Whelmar House,
Holden Road,
Leigh. WN7 1HH

Name of applicant

Salvesen Homes,

Part 1 - Particulars of application

Date of application
5th September 1985

Application No.
D18377

Proposal and location

SUBSTITUTION OF HOUSE TYPES

PLOTS 57-59 MARTLETT AVENUE, BAMFORD, ROCHDALE.

Part II - Particulars of decision

The Rochdale Metropolitan Borough Council hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1971 that permission has been granted for the carrying out of the development referred to in Part I hereof in accordance with the application and plans submitted subject to the following conditions:

- 01 The development must be begun not later than the expiration of five years beginning with the date of this permission.
- 02 Notwithstanding any description of materials in the application, no development shall be commenced until samples or full details of materials to be used externally on the building(s) have been submitted to and approved by the Local Planning Authority. Such details shall include the type, colour and texture of the materials.
- 03 No building, fence, wall, hedge, caravan or boat shall be placed in the area between the building line shown in blue on the approved plan and the boundary of any highway, without the prior written consent of the Local Planning Authority.
- 04 Before the buildings erected pursuant to this permission are first occupied, a wall or close boarded fence to a design and height approved by the Local Planning Authority shall be erected on the site in the positions indicated with a brown line on the approved plan; and such wall or fence shall be retained thereafter and kept in good repair.
- 05 Before any development is commenced, a landscaping scheme shall be submitted for the approval of the Local Planning Authority. Such a scheme shall include details of the type, species, siting, planting distances and the programme of planting of trees and shrubs. The scheme

Continued

of planting, as approved, shall be carried out during the first planting season after the development is substantially completed and the areas which are landscaped shall be retained as landscaped areas thereafter. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within three years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

- 06 The area of public open space shown on the approved plan shall be provided for use by the general public concurrent with the carrying out of the approved development and shall be maintained to the satisfaction of the Local Planning Authority thereafter.

The reasons for the conditions are :

- 01 Required to be imposed pursuant to section 41 of the Town and Country Planning Act 1971.
- 02 In order to ensure a satisfactory appearance in the interests of visual amenity.
- 03 In order to ensure a satisfactory appearance in the interests of visual amenity.
- 04 In order to ensure a satisfactory appearance in the interests of visual amenity.
- 05 In order to achieve a satisfactory level of landscaping in the interests of the amenity of the area.
- 06 In order to ensure a satisfactory appearance in the interests of visual amenity.

Date of decision 14th November 1985

Signed
On behalf of the Council

IMPORTANT 1.PLEASE ENSURE THAT YOU HAVE READ AND FULLY UNDERSTOOD THE CONTENTS OF THIS DECISION NOTICE.

2.YOUR ATTENTION IS DRAWN TO THE ATTACHED NOTES.

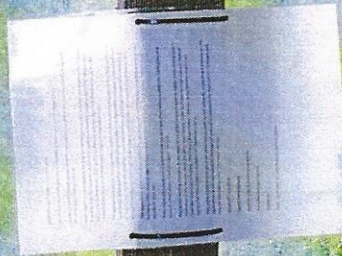
FIXED PENALTY FINES



ISSUED TO OFFENDERS

**NO FOULING
PLEASE**

WORKING TOWARDS A SAFER,
CLEANER, GREENER ENVIRONMENT



COMPLETION STATEMENT : PURCHASE/~~SALE~~XXXXXXXXXX

From: DEPUTY TOWN CLERK

Ref: JP/EC/L.10111

Name & Ext: Mr Paramor 4746

Date: 17th June 1988

To: DIRECTOR OF ENVIRONMENT &
EMPLOYMENT Ref: EST/LEA/9956
TREASURER (2) + ACCOUNTANCY (1)
~~DIRECTOR OF HOUSING~~XXXXXXXXXX
~~REVENUE~~SECTION
FILE
COMPLETION REPORT FILE
DEED PACKET
DIRECTOR OF COMMUNITY LEISURE

1. Property and Interest : Area Square Yards :	Land at Swift Road, Bamford shown edged red on the attached plan - Freehold	
2. (a) Consideration : (b) Legal Fees : (c) Surveyors Fees	£1.00 £85.00 paid to the Council	3. Committee and Date : March LAND 1988 Min.199 (U) Min.No.
4. Date of Document :	26th May 1988	5. Insurance Cover Required : NO
6. Deed Packet Number :	B 13969	
7. Statutory Authority Purpose of Acquisition/ Disposal Owning Committee	Town & Country Planning Act 1971 - see box 10 below	
8. Name and Address of Vendor/ xxxxxxx	Whelmar Homes Ltd 25 Abercrombie Place, Edinburgh, Scotland	
9. Rent Details Amount, methods and dates of payment of rent amount paid on completion		
10. Additional Points	<p>In addition Whelmar ^{paid} pay to the Council the sum of £2,500 towards the cost of maintenance of the land.</p> <p>The Council are to maintain the land as a landscaped area.</p>	



ACTING BOROUGH PLANNING & ESTATES OFFICER
ROCHDALE METROPOLITAN BOROUGH COUNCIL
P.O. BOX 32, TELEGRAPH HOUSE
BAILLIE STREET, ROCHDALE, OL16 1JH
TELEPHONE: ROCHDALE 47474

SCALE : 1/12

