

7<sup>th</sup> January, 2015

Dear Ms Jones-Hughes

**Re Fareham BC Local Plan Part 2 – Development Site and Policies, ISSUE NO 7, ( 5<sup>TH</sup> ITEM)**

I have reason to believe that someone is appealing the decision of the inspector to remove the words 'potential access' from Green Lane on a diagram submitted by Fareham Borough Council to the inspector. This is in regard to finding access for H7 and area landlocked to which the council wish to open up for the development of 28 houses.

You should, therefore, be aware of the history of Green Lane and the laws protecting it. Firstly, my solicitor has confirmed that the lane is a private road with no public right of way. It is a cul-de-sac, with no public house, station or church on it to attract the public. There are no lampposts on it and it is outside of the Road Traffic Act 1988. As a private road with no public right of way, ( Highways Act 1980) the road is also subject to the laws of trespass.

It was formed organically from people walking in a straight line along the side of a boundary hedge to the north. Originally strawberry fields, the road or 'track' which would be a better description, became more prominent with the development of cottages at the end of Green Lane ( no's 28/30). According to Private Roads, The legal Framework, Barsby 2013 "Typically, in the late nineteenth century or the first half of the twentieth, there will often have been an intention that the road will be adopted and the sale of properties may have been made subject to positive covenants to repair or contribute to the cost of repair on the assumption that the road would be adopted. If this didn't happen then Residents would be left to make arrangements for maintenance." This is the best description of what we believe happened to form Green Lane. All current houses have rights over the lane in the form of easements or rights of access or can claim the right of prescription. ( Prescription act 1832) We have searched unsuccessfully for any Easement Grant for the lane itself, but old easements are rarely still available and not a prerequisite under law. No additional houses or pieces of land, have any rights to the lane and therefore, houses built in H7 will not have right of access over Green Lane.

As the road was not laid out by a developer and no rightful owner has been found, presumption of ownership laws apply. Under the land registry act 2002 section 60, the Limitation act of 1980 and case histories in 1996 (Pardoe and Pennington 1996ECWCA CIV 895 1993 73 P AND CR26) and 2002 ( Commission for new towns and Worcester CC and JJ Gallagher Ltd) and the Government white paper on Private Roads, 2010, the Green Lane Residents association can claim ownership of the road on behalf of the current residents.

Therefore, Fareham Borough Council have no legal right to suggest access to H7 from Green Lane.

Yours sincerely,

Mrs L Stevens

Chairperson, Green Lane Residents Association