

Richard Farhall
Clerk to Rye Town Council
Town Hall
Rye
East Sussex
TN31 7LA

Date: 21 September 2010
Our ref: IRD/RYE0011
Your ref:

Dear Richard,

RYE ALLOTMENTS – SOUTH UNDERCLIFF

I refer to our earlier correspondence and discussions.

I enclose a copy of the notice of objection to the Council's application for registration of the restriction.

We need to act quickly in this matter. You will see that unless the application or the objection is withdrawn the matter will (subject to the opportunity to negotiate) be referred to the Adjudicator. You should be aware that once the matter is referred to the Adjudicator the application cannot normally be withdrawn.

You need to be aware of the potential for costs to start rising now. They will accrue at £205 per hour for my time, plus counsel's fees, court or adjudication fees, costs in cause. The Council must also consider the reputational issues.

The Council's position has to be communicated to the Land Registry by 8 October.

I should appreciate your further instructions.

Yours sincerely

Ian Davison
Hedleys Solicitors LLP
Email: i.davison@hedleys-solicitors.co.uk

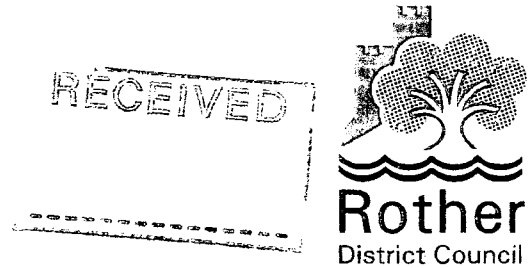
Offices at East Horsley and Great Bookham

Members/Partners: Roger S Taylor (Notary Public) Christopher Hughes (Notary Public) Sarah E Christmas
Consultant: Ole H Lav Associates: Anne Bott Ian Davison Lewis J Hulatt Kate Jackson Conveyancer: Sonia Gould (FILEX)

*Hedleys Solicitors LLP is a Limited Liability Partnership Registered in England No OC310564
Registered office at 6 Bishopsmead Parade, East Horsley, Surrey, KT24 6SR
Hedleys Solicitors LLP is regulated by the Solicitors Regulation Authority reference no. 420576*

A member of the International Practice Group

Your ref:
Our ref: DE/LC/
Please ask for: Mr. D. Edwards
Direct dial no: 01424 787840
Date: 6 September 2010



FAO Denise Dodd
Portsmouth District Land Registry
DX 83550
PORTSMOUTH 2

Resources Directorate
Malcolm Johnston MBA MSc BSc(Hons) MCIEH
Director

Town Hall
Bexhill-on-Sea
TN39 3JX

Dear Sirs

**TITLE NO. ESX 62521
LAND AND BUILDINGS ON NOTH AND SOUTH SIDES OF NEW ROAD
AND ALLOTMENT GARDENS ON THE SOUTH SIDE OF SOUTH UNDERCLIFF, RYE**

I wish to object to this registration.

No legal basis for it exists and the applicant has no legitimate interest in the land. It is not accepted that any of the land is "statutory allotments" within the Allotments Acts 1908-1950. The owner has adequate powers to use the land as "non-statutory allotments" under the Local Government Act 2000 (section 2). It is accepted that the Applicant is an Allotments Authority having the legal ability to provide allotments on land owned (or to be acquired) by it but its position as such does not enable it to interfere in the manner suggested in relation to land held by the District Council for many years which it has the freedom to dispose of pursuant to S.123 of the Local Government Act 1972. It is not the function of the Land Registry, by Restriction, to interfere with the ability of a Public Authority to dispose of its land in order to give effect to legislation that would not otherwise apply.

The wording in the proposed Restriction is inconsistent, because if the Allotments Acts do not apply (which is the case) then there is no legal basis for requiring the imposition of the suggested covenant. There is also no suggestion as to how such a covenant would take effect legally.

This application is misconceived and should be refused. It would be appreciated if a copy of the Statutory Declaration or other document in support of the application could be supplied.

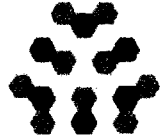
Yours faithfully

A handwritten signature in black ink, appearing to read "David Edwards".

David Edwards
Solicitor to the Council



INVESTOR IN PEOPLE



Hedleys
DX 141174
EAST HORSLEY

Date
17 September 2010

B193(AR) Notice of objection under Section 73(5) Land Registration Act 2002

Important: this notice is not a circular. Please read it carefully.

Title number	ESX62521
Property	Land And Buildings On The North And South Sides Of New Road, And Allotment Gardens On The South Side Of South Undercliff, Rye
Registered proprietor of above title number	Rother District Council
Application	to register a restriction
Objector	Rother District Council
Objector's representative	Rother District Council
Your ref	IRD/RYE0011
Our ref	ESX62521/D/096

Land Registry
Portsmouth Office
St Andrews Court
St Michaels Road
Portsmouth
Hants PO1 2JH

DX 83550 Portsmouth 2
Tel 023 92768888
Fax 023 92768768
portsmouth.office
@landregistry.gsi.gov.uk

www.landregistry.gov.uk

Dear Sirs

Following service of notice, I am writing to inform you that an objection to your client's application has been received in this office from the objector. A copy of the objection is enclosed. **This letter**

constitutes formal notice of the objection to the application pursuant to section 73(5) of the Land Registration Act 2002.

How does this affect the application?

As an objection to the application has been received, Land Registry cannot complete the application until the objection has been withdrawn or otherwise disposed of.

What happens now?

Your client needs to consider if they still want to proceed with the application in the light of the objection that has been received or if they wish to withdraw their application.

If your client decides to continue and the objector also continues to object, they will both be embarking on a process which could lead to a hearing before the Adjudicator to HM Land Registry or to proceedings in court.

An application, or an objection to an application, may be withdrawn at any time until the matter is referred by Land Registry to the Adjudicator.

If your client decides to continue with the application, you need to let me know before 12 noon on 08 October 2010.

If your client decides to proceed

Initially, your client and the objector will be offered an opportunity to negotiate. I will ask each party to complete a form, indicating whether they wish to negotiate and believe that a settlement is possible. If both parties respond, confirming they wish to negotiate and believe there is a chance of settlement being reached, the parties will be given a period of time in which to negotiate. I shall ask for further forms to be completed with details of the negotiations from time to time so that I can see how they are progressing.

No negotiations or breakdown of negotiations

If either party indicates that they do not want to negotiate, or negotiations break down so that it is evident that agreement cannot be reached, then Land Registry is required, pursuant to section 73(7) of the Land Registration Act 2002, to refer the matter to the Adjudicator to HM Land Registry.

Referral to the adjudicator

Prior to making the referral, I will prepare a case summary which will include details of the parties and their representatives and set out factual information about the application and the objection. The purpose of the case summary is twofold. First it will provide the adjudicator with sufficient information to enable him to decide which party is to be the applicant, and which the respondent, for the purpose of the proceedings before him. Secondly it will enable him to decide whether to hear the matter himself, or make a direction requiring one of the parties, usually the party he has designated as the applicant, to start proceedings in court. The case summary will only contain factual information, it will not contain details of all the parties evidence and arguments. A copy of the case summary will be sent to you for comments before the referral is made. The case summary will then be sent to the adjudicator.

The role of the adjudicator

The adjudicator is independent of Land Registry, and his role is to determine disputes arising from applications to Land Registry.

Once a case is referred to him, the Adjudicator to HM Land Registry (Practice and Procedure) Rules 2003 will apply. These set out a formal process that must then be followed.

Costs

Your client should understand that costs are likely to be incurred in connection with the various procedure I have outlined, and that the adjudicator has power to make an order for costs against either party in respect of the proceedings before him. There is also separate provision for the registrar to make an order for costs in some circumstances in relation to proceedings within Land Registry for example where costs have been incurred prior to referral to the adjudicator.

Practice guides

Land Registry has published two Practice Guides, Practice Guide 37 – *Objections and disputes – A guide to Land Registry practice and procedures* and Practice Guide 38 – *Costs*, which contain more information, and which you should read. You can view or download copies of these guides from our website at www.landregistry.gov.uk in English and Welsh or obtain copies of them free of charge from any Land Registry office.

Conclusion

Your client now needs to decide whether, in the light of the objection, and the information contained in this letter and the practice guides, they wish to proceed with the application. You can complete and return the enclosed duplicate copy of this letter for this purpose. If you wish to reply by e-mail, please ensure that you supply all of the relevant information in your reply.

Please reply before 12 noon on 08 October 2010.

If I do not hear from you by then, I will assume that your client does not wish to proceed with the application and it will be cancelled.

If you would like to discuss this notice or require it in an alternative format please contact me.

Yours faithfully

Patricia White
Assistant Land Registrar
Direct line 02392 768719
Direct fax 02392 768831

Confirmation of application

On behalf of
(give full name (print))

I confirm that I wish to proceed with the application
Signed

Name in full
(print)

Title number ESX62521

Date

Withdrawal of application

On behalf of
(give full name (print))

I withdraw the application
Signed

Name in full
(print)

Title number ESX62521

Date

Richard Farhall
Clerk to Rye Town Council
Town Hall
Rye
East Sussex
TN31 7LA

Date: 14 September 2010

Our ref: IRD/RYE0011

Your ref:

Dear Richard,

RYE ALLOTMENTS

I refer to our discussion earlier today, 14 September 2010.

I enclose:

1. a copy of the Land Registry's letter of 13 September
2. a copy of the enclosed letter from David Edwards
3. a copy of my reply of today's date.

You will see that I have sent to the Land Registry a redacted copy of counsel's advice. The deleted sections relate to counsel's advice on tactics – the balance relates to his in-depth analysis of the law. Clearly I can consider any reply from the Registry. The outcome of the restriction application affecting the South Undercliff land will in large measure inform any for the Love Lane site.

However, I have to point out that this is a case which I have doubts in pursuing further. Our fees to date are around £4000 (plus disbursements) and the prospect of two authorities expending more public money or potentially engaging in litigation on points of principle will not be readily understood by parishioners. As counsel has intimated, the arguments here are by no means clear and much could turn on the proper construction of the 1976 order which no-one appears to have seen. While Rother appears to have become entrenched, I can see the force of its position. I am fearful that Rother might withdraw its offer of a long lease. I understand that the Town Council and the Allotments Society are pursuing a political approach and there is much force in the Society's being seen to be in the vanguard.

Offices at East Horsley and Great Bookham

Members/Partners: Roger S Taylor (Notary Public) Christopher Hughes (Notary Public) Sarah E Christmas
Consultant: Ole H Lav Associates: Anne Bott Ian Davison Lewis J Hulatt Kate Jackson Conveyancer: Sonia Gould (FILEX)

*Hedleys Solicitors LLP is a Limited Liability Partnership Registered in England No OC310564
Registered office at 6 Bishopsmead Parade, East Horsley, Surrey, KT24 6SR
Hedleys Solicitors LLP is regulated by the Solicitors Regulation Authority reference no. 420576*

A member of the International Practice Group

I should appreciate your further instructions.

Yours sincerely

A handwritten signature in black ink that reads "Ian Davison". The signature is written in a cursive style with a small dot above the 'i' in Davison.

Ian Davison
Hedleys Solicitors LLP
Email: i.davison@hedleys-solicitors.co.uk

Land Registry
Portsmouth office
DX83550 Portsmouth 2

Date: 14 September 2010

Our ref: IRD/RYE0011

Your ref: ESX62521/D/096/MW/A-
BRIGHTON/RO/HH

Dear Ms White,

LAND ON SOUTH SIDE OF SOUTH UNDERCLIFF RYE EAST SUSSEX

I refer to your letter of 13 September 2010.

I enclose the relevant extracts of counsel's opinion. Gordon Nardell's advice is, in summary, that:

1. until 1976 there was no doubt that the land together with the Love Lane allotments site was held by the Town Council as statutory allotments; i.e. held and regulated by the Allotments Acts 1908-1950 (which impose stringent requirements on the use and disposal)
2. following the order of the Secretary of State the land was vested in Rother District Council
3. since 1974 the sole allotments authority for the town of Rye (as is the case in all parished areas) has been the Town Council
4. a District Council can provide [e.g. under s 111 of the Local Government Act 1972, s 2 of the Local Authorities (Land) Act 1963, s 13 of the Housing Act 1985, s 2 of the Local Government Act 2000] non-statutory allotments on land it holds, e.g. under the Local Government Act 1972 or the Housing Acts or the Town and Country Planning Act 1990 (as amended), but such land is not subject to the fetters on use or disposal imposed by the Allotments Acts
5. one local authority can delegate the discharge of its functions to another
6. the 1976 order could not by a sidewind (i.e. in the absence of express provision) have transferred the statutory allotments function to the District Council or have changed the

Offices at East Horsley and Great Bookham

Members/Partners: Roger S Taylor (Notary Public) Christopher Hughes (Notary Public) Sarah E Christmas

Consultant: Ole H Lav Associates: Anne Bott Ian Davison Lewis J Hulatt Kate Jackson Conveyancer: Sonia Gould (FILEX)

Hedleys Solicitors LLP is a Limited Liability Partnership Registered in England No OC310564

Registered office at 6 Bishopsmead Parade, East Horsley, Surrey, KT24 6SR

Hedleys Solicitors LLP is regulated by the Solicitors Regulation Authority reference no.420576

A member of the International Practice Group

status of the land and no evidence has been produced to demonstrate that such transfer of function or of status has happened

7. as the Town Council's delegate the District Council is bound to observe the Allotments Acts
8. the District Council has since 1976 treated the allotments sites as held under s 120 of the Local Government Act 1972 (i.e. free from any fetters imposed by the Allotments Acts) and relatively easy (subject of course to ss 122 and 123 of the Act) to dispose of or to appropriate to another purpose and has indeed sought to change the use and possibly to dispose of the site (albeit that the land generally has continued to be let for allotments).

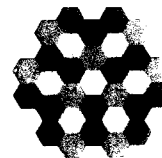
It follows that if counsel's analysis is correct, then the Town Council as the allotments authority and as delegator of the function in respect of the land has sufficient interest in protecting the land as allotments and for that purpose in applying for the restriction.

Quite apart from counsel's conclusion, the Town Council is the allotments authority, the land is used as allotments and it is the Town Council's view in the public interest that the land should continue to be so used.

Should you wish to discuss this matter, please contact me.

Yours sincerely

Ian Davison
Hedleys Solicitors LLP
Email: i.davison@hedleys-solicitors.co.uk



Hedleys
DX 141174
EAST HORSLEY

14 SEP 2010

DX

Date
13 September 2010

Your ref
IRD/RYE0011

Our ref
ESX62521/D/096/PW/A-
BRIGHTON/RO/HH

Proprietor/Applicant	Rother District Council
Title number	ESX62521
Property	Land And Buildings On The North And South Sides Of New Road, And Allotment Gardens On The South Side Of South Undercliff, Rye

Dear Sirs

I refer to your application to enter a restriction on the register of the above title.

We have received an objection from Rother District Council. I enclose a copy of their letter dated 6 September 2010.

I have looked at your application and I am not sure whether you have a sufficient interest to make the application under section 43(1)(c) of the Land Registration Act 2002. In the application you state that your client wishes the land to continue to be used as allotments. It is not clear from the application on what basis that you claim that Rother district Council has an obligation to maintain the land as allotments.

I note in a copy letter from Rother district Council that you have lodged with the application there is a reference to Counsel's opinion having been obtained. Please could you supply a copy of this or at least details of how Counsel considers that the obligation to maintain the land as allotments has been passed to Rother District Council.

If you can clarify the basis for your application then I will proceed with service of a formal notice of objection on the parties.

Please reply by 4 October 2010.

Land Registry
Portsmouth Office
St Andrews Court
St Michaels Road
Portsmouth
Hants PO1 2JH

DX 83550 Portsmouth 2

Tel 023 92768888
Fax 023 92768768
portsmouth.office
@landregistry.gsi.gov.uk

www.landregistry.gov.uk

If you would like to discuss this correspondence or require it in an alternative format please contact me, quoting our reference.

Yours faithfully

A handwritten signature in black ink that reads "Patricia White". The signature is written in a cursive style with a large initial 'P' and a long, sweeping underline.

Patricia White
Direct line 02392 768719