

**Date: September 2<sup>nd</sup> 2018**

**Commons Registration Act 1965 & Commons Act 2006 – Section 15(1)**

**CASE SUMMARY BY APPLICANT** Mr. Richard Amy  
Madryn, Hillcrest, Aberhafesp, Powys SY16 3HL

Unfortunately I am not a Solicitor and have no legal training so I apologise if this document is not particularly professional.

At the hearing I intend to demonstrate that the land in question has been used by the children of Hillcrest “as of right” for the period between October 1996 and October 2016.

The evidence given by The Objector (Landowner Mr. F. Davies) is inaccurate and therefore his objections become invalid.

I am not suggesting that Mr. F. Davies is trying to intentionally mislead the hearing, but the fact is that he has limited social connection with and knowledge of the Hillcrest estate and its population, beyond the construction side of it.

After their last construction project finished in the mid 1980’s, and prior to taking over the grass cutting in 2014 the Davies brothers were rarely ever on the estate. They took no part in the social life of the community and were only present on the estate to deliver sewage charge bills annually (usually at night), and to try to fix problems with their malfunctioning sewage system. They therefore had no way of knowing the frequency or type of usage of the green by the children or adults.

**“Significant number of inhabitants”**

Mr. Davies lack of knowledge of the families of the Hillcrest estate is demonstrated by his claims on the number of families with children living on Hillcrest. In his statement of the 7<sup>th</sup> September he states “Whilst at one point many years ago there were several children living on the estate, at the date of the application it is my understanding that there were only 2 children living there”

Completely wrong. At the time of the application there were four households with school-age children living here, and all of these used the green for recreation:

Chris & Kathryn Pugh – 2 children  
Greg Garcia-Ocana and Mel Humphreys – 2 children  
Matt & Cara Rawsthorne – 1 child  
Andrew Bromley – 1 child (not resident every day)

Since the application was submitted the Rawsthornes have left Hillcrest but they have been replaced by another family also with one school-age daughter who uses the green.

In the Objecter's summary 7<sup>th</sup> September 2018 he repeats this claim that there are only two children living on the estate, in relation to a photograph I supplied in March 2017 of him cutting the grass whilst two children play football. To gauge the credibility that should be given to Mr. Davies testimony he claims that the photograph shows his son cutting the grass, when in fact it is Mr. F. Davies himself riding the mower. Perhaps if an individual cannot recognise himself then his testimony should be taken with a pinch of salt.

Whilst there were fewer families with children at the time of the application than at any point over the previous years, there have always been families with children here, 51 of these since I have lived here. These are the families with children that my neighbours and I can recall:

Brian & Mia Poole - 3 children  
Richard & Carol Amy - 2 children  
Humphrey & Liz Davies - 3 children  
Gwyn & Trish Fleming - 1 child  
Gareth & Helen Owen - 2 children  
Tony & Cheryl Orme - 3 children  
Peggy Bound - 2 children  
Keith & Marie Turner - 3 children  
Micheal & Margaret Jones - 2 children  
Brandon & Ruth Lane - 3 children  
Jim & Cheryl Rutter - 4 children  
Charlie & Mary Lowndes - 2 children  
Margaret & Robert Jones - 2 children  
Sharon & Jason Bright - 3 children  
Donaways - 2 children  
Andy & Sandie McDonald - 2 children  
Teresa Burrows - 2 children  
Chris & Kathryn Pugh - 2 children  
Gareth & Dawn Davis - 3 children  
Tony & Lucind Barfoot - 2 children  
Marks - 2 children  
Andrew Bromley - 1 child  
Greg & Mel - 2 children  
Steve & Helen Wright - 3 children  
Matthey & Cara Rawsthorne - 1 child & 1 baby  
New Family (Beech Grove) - 1 child

In the Objecter's Case Summary (part 14) he states that "Looking at the evidence holistically, it is clear that prior to the Application being submitted the Land was primarily played on by children who were not resident on the Estate, and were not therefore inhabitants of the locality/neighbourhood".

That statement is of course entirely wrong. Over the 20 year period dozens of resident children played on the Land, and even at the time of the application 6 resident children played on the Land. It should also be noted that when grandchildren of residents are using the estate they usually have at least one resident grandparent with them supervising so the green is being used by residents.

It is correct that adult gatherings on the Land are infrequent but this is true of all Village Greens.

It is also true that there is little photographic evidence of children playing on the Land over the 20 year period of the application, but it should be remembered that the desire to photograph everything is a recent phenomenon encouraged by the growth of social media. I took photographs of my children playing on our family holidays, and school sports days, not when they were playing after getting home from school.

I started taking photographs of children and adults using the Land only since I submitted the application, and whilst they do not cover the 20 year period in question they do show the sorts of activities that occur on the land.

**“Any locality, or any neighbourhood within a locality”**

It is the case that the Land in the middle of Hillcrest has been used primarily but not exclusively by the residents of Hillcrest. In social gatherings we have sometimes had people from properties either side of Hillcrest attend. We have also had children from properties near Hillcrest join the estate children, but this is infrequent.

**“As of Right”**

I have lived here for 30 years now and have never been advised by the landowners that the Land is not available for children. There has never been any signage or fencing to discourage its use. The Objector cannot have been unaware of the land use by residents, particularly since 2014 when he took over responsibility for mowing the grass. Children have played on the grass whilst he was cutting it.

Had he objected to the use of the Land I am sure he would have constructed a fence around it and put up a sign, as he did with the small area of land on the other side of the B4568 to Hillcrest.

**“Lawful sports and pastimes”**

Throughout the 20 year period children have used the Land for recreation. In the early days when the grass was a bit long the children would make dens and camps and kick footballs about where they flattened the grass. Since the grass was shorter they have used it for Cricket, Football, Rugby practice, Frisbee throwing, flying kites, camping, and several other pastimes.

Adults have used it for occasional social gatherings.

**“Period of usage”**

The Objector claims the Land was unusable before 2003 but I intend to demonstrate that that is an incorrect claim and the land was useable from before the “start date” of October 1996

