

KENT COUNTY COUNCIL
REGISTER OF DEPOSITS



KCC Reference number: **TH/ROW4/HQ/175**

- ✓ Highways Statement
- ✓ Highways Declaration

Date Deposit application received: **27/04/2009**

Date Declaration received: **13/02/2019**

Date on which any Highways Declaration expires: **13/02/2039**

.....
Details of the land:

Districts	Thanet
Parishes	Birchington
Address & postcode of buildings on land parcels	Daryngton Avenue, Birchington, Kent, CT7 9PS
Nearest town/city	Birchington
OS 6-figure grid reference	TR 283 693

KCC Contact: Definitive Map Officer

Tel: 03000 41 71 71

Email: prow@kent.gov.uk

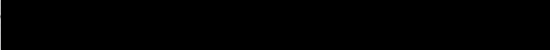
**IN THE MATTER OF
SECTION 31 (6) HIGHWAYS ACT 1980**

and

**IN THE MATTER OF
DARYNGTON AVENUE, BIRCHINGTON, KENT**

TO: KENT COUNTY COUNCIL

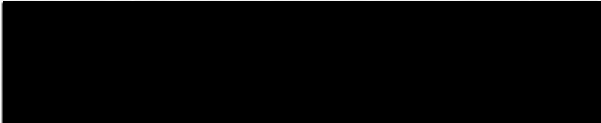
STATEMENT

I, HENRY LEWIS MILLER of  Kent as a Director of Daryngton Avenue Association Limited and duly authorised by that Company to sign this statement hereby **DENY** that any of the ways described below and shown on the accompanying plan deposited by me with Kent County Council and coloured round with red have been dedicated as a highway

DESCRIPTION OF WAY

A way on foot or by vehicle over any part of the said road footpaths or the curtilage at the South Eastern corner thereof

Dated this **27th** day of April 2009


HENRY LEWIS MILLER
For and on behalf of
Daryngton Avenue Association Limited

I, HENRY LEWIS MILLER of [REDACTED]

[REDACTED] in the County of Kent, retired Solicitor do solemnly and sincerely **DECLARE** as follows:-

- 1(a) I and my family have continuously been the owners of the Freehold of the above property since it was erected sometime in or about 1964 and since that time have continuously utilised it as a second home. I believe we are the longest residents and owners of any of the properties in the road.
 - (b) I was one of the promoters of Daryngton Avenue Association Limited (Company Number 01329644) incorporated on 12th September 1977 (hereinafter called "the Company") which is the owner of the Freehold of the road known as Daryngton Avenue aforesaid (as is further described below) and have continuously been a Director of the Company up to the present.
 - (c) The owner from time to time of each house in the road except numbers 2 and 4 is a member of the company holding 1 share per house.
 - (d) Daryngton Avenue Residents' Association (hereinafter called "the Association") which is an unincorporated body on which every house in the road with the exceptions of number 2 and 4 is represented. The function of the Association is to maintain and manage the road, which function is carried out by collecting an annual subscription from the member households.
 - (e) In consequence of the facts recited in subparagraph (a) to (d) of this paragraph. I am able to confirm on that the facts deposed to herein are all within my personal knowledge, information and belief. I am also authorised to make this Declaration on both behalf of the Company and the Association.
2. In or about September 1977 the Company acquired the freehold of the road and footpaths and land at the eastern end of the road. That land is held under title number K464364 at H.M Land Registry and is shown on the official office copy Land Registry plan exhibited hereto and marked "HLM 1".
- 3.(a) With the exception of four houses at the extreme western end of the road which had been built many years before 1960 and one or two individual houses subsequently erected on separate plots most of the properties in the road were erected in the early 1960s.
 - (b) Before the main development took place there was a gate across the road which at that

time was unmade up roughly level with "Wayfarers" (number 30) and "White Gates" (number 25) which has since been removed.

- (c) In or around 1964 at the time the houses in the road were still being constructed a gate was erected by the developer across the eastern end of the road on it the boundary of the registered site which means that number 2 was wholly outside the gate and number 4 is partially so which is why numbers 2 and 4 are not members of the Association or shareholders in the Company.
- 4.(a) Immediately the company was formed it notified the local authority on behalf of the then residents in the newly constructed houses and the owners of the 4 old houses that they did not want the road to be adopted by the local authority nor to be constructed to the authority's standards, with paved footpaths and street lighting.
- (b) Consequently the footpaths are not paved but are grassed over with the individual householders maintaining the area in front of their houses. The triangular patch at the eastern end is maintained by residents and/or a gardener employed by them.
 - (c) at the extreme western end of the road the Association has erected a fence, cutting the road off from the adjacent field and a style permitting access only on foot to the cliff top. There is also a locked narrow gate for the convenience of residents to whom the key is available on request.
5. The wooden gate at the Eastern end of the road has been continuously repaired and maintained since it was erected and replaced when required and symbolically closed periodically and notices have been placed on the gate warning that the road is a private road to which public access is prohibited.
- There is now produced and shown to me marked "HLM2" a series of photographs showing the gate and the current notices which are typical of those which have been continuously employed since the first gate was erected.
6. The surface of the road has been maintained by the Association and was given a major resurfacing on one occasion, the cost of which was fully paid by members of the Association.
- 7.(a) Access to motor vehicles not belonging to residents or their visitors has continuously and unvaryingly opposed to the extent that on the very few occasions that a clearly unauthorised motor vehicle has been detected adhesive labels have been fixed to their

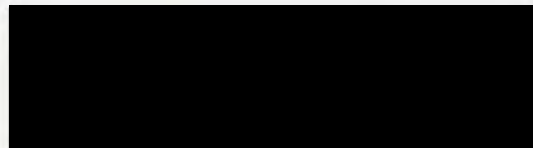
windcreens warning the drivers of the possible consequences of future acts of trespass. On two occasions the address of the vehicle was found and warning letters sent by me as Solicitor to the Association. These actions have always ensured that there has been no repetition by the drivers concerned.

- (b) since improvements were made by the Council to the public car park and the erection of notices about potential wheel clamping several years ago no trespass by vehicle has been detected.
8. I am able to confirm from my own knowledge, including as the Solicitor to the Company from its incorporation and as to Solicitor who acted on its acquisition of the title to the roadway that it has never been dedicated as a public highway either by the Company or its predecessors in title.
9. I make this Declaration conscientiously believing the same to be true and pursuant to the Statutory Declaration Act 1835.

DECLARED by the said

HENRY LEWIS MILLER

at **GUY CLAPHAM & Co.**
51 - 55 WEYMOUTH STREET
LONDON W1G 8NH
Tel: 020 7935 1095
Fax: 020 7935 9127



this ²⁷ day of April 2009
Before me,



A Solicitor/Commissioner for Oaths

G R C CLAPHAM
SOLICITOR

H.M. LAND REGISTRY		TITLE NUMBER	
		K464364	
ORDNANCE SURVEY PLAN REFERENCE	TR 2869	Scale 1/1250	
COUNTY KENT	DISTRICT THANET	© Crown copyright 1977	

HLM 1

This is the official office copy Land Registry plan marked HLM 1 referred to in the Statutory Declaration of Henry Lewis Miller

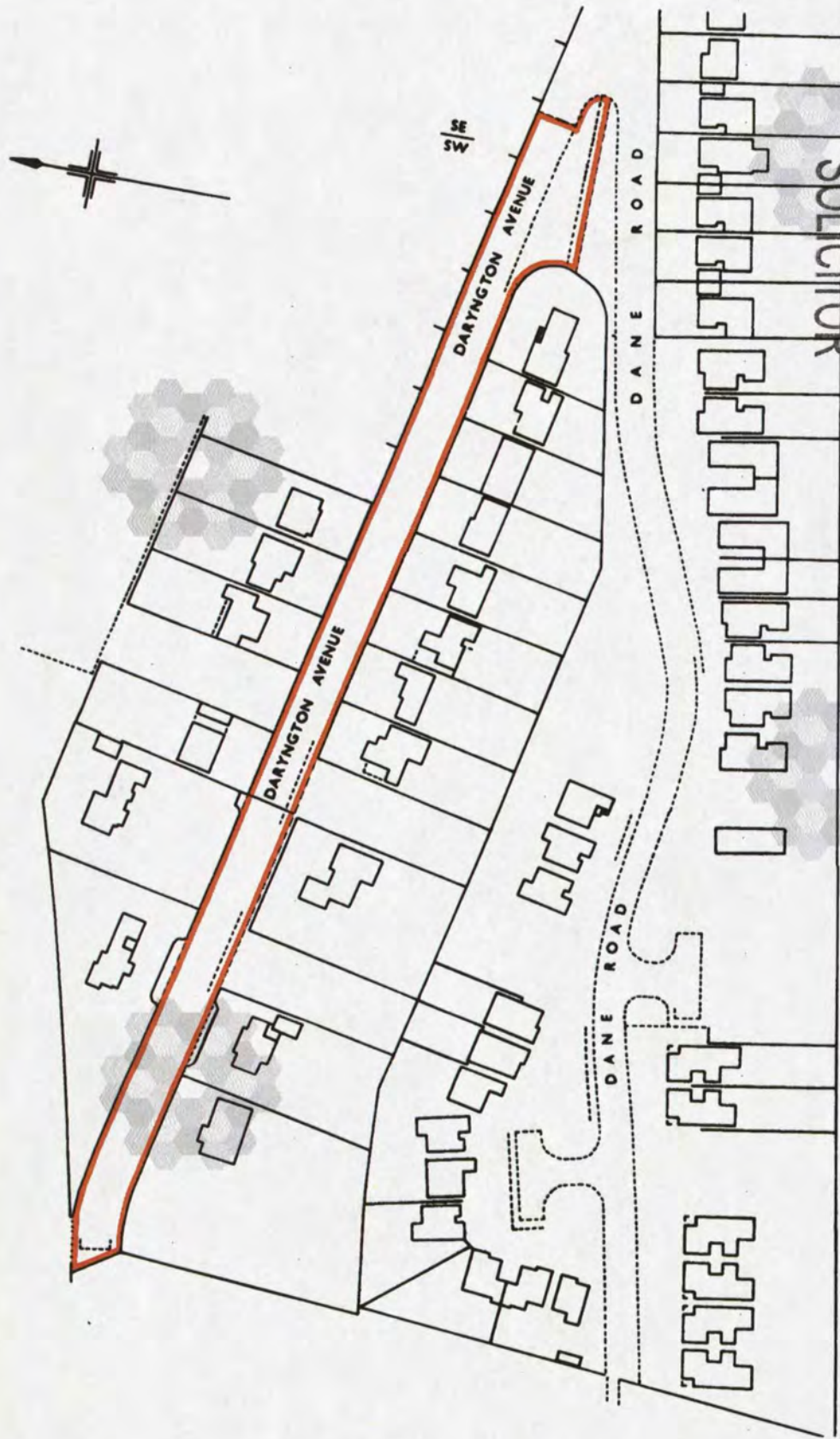
27
f April 2009

Solicitor

GRICCLAPHAM
LAWYERS

SOLICITOR

RAILWAY



Application Form

Form CA16

Application Form for deposits under section 31(6) of the Highways Act 1980 and section 15A(1) of the Commons Act 2006

Please read the following guidance carefully before completing this form

1. Further guidance relating to completion of this form is available from <http://www.defra.gov.uk/rural/protected/greens/>.

Please refer to these separate notes when completing this form.

2. **Parts A and F must be completed in all cases.**

3. The form **must** be signed and dated by, or by a duly authorised representative of, **every** owner of land to which the application relates who is an individual, and by the secretary or some other duly authorised officer of every owner of land to which the application relates which is a body corporate or an unincorporated association.

4. In the case of land in joint ownership **all** the joint owners must complete paragraphs 2 and 3 of Part A and complete and sign the application in Part F, unless a duly authorised representative completes and signs the form on behalf of all of the owners of the land. Paragraph 3 should be completed in full to clearly explain the capacity of each applicant e.g. trustee, landowner's managing agent, executor.

5. 'Owner' is defined in section 61(3) of the Commons Act 2006 and section 31(7) of the Highways Act 1980 and means, broadly, a legal owner of the freehold interest in the land.

6. Where the application relates to more than one parcel of land, a description of **each** parcel should be included in Paragraph 4 of Part A and the remainder of the form should be completed to clearly identify which statement and/or declaration relates to which parcel of land. This may require the insertion of additional wording. See separate notes for further guidance. Multiple parcels of land should be clearly identified by coloured edging on any accompanying map.

7. Where a statement or declaration requires reference to colouring shown on an accompanying map or previously lodged map, the colouring must be clearly specified and must match that shown on the relevant map. For example, if a footpath is specified in a Part C declaration as shown coloured brown, the accompanying map or previously deposited map referred to must reflect that colouring.

8. An application **must** be accompanied by an ordnance map, or (in respect of declarations under Part C or statements under Part D of this form) refer to a map previously deposited in accordance with the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declaration) (England) Regulations 2013 or (if deposited before 1st October 2013) in accordance with section 31(6) of the Highways Act 1980. Any accompanying map must be an ordnance map at a scale of not less than 1:10,560 showing the boundary of the land to which the application relates in coloured edging.

9. An application must be accompanied by the requisite fee.

10. 'Appropriate authority' means (a) in relation to a map or statement deposited or declaration lodged under section 31(6) of that Act, an appropriate council (as defined in section 31(7) of the Highways Act 1980); and (b) in relation to a statement and map deposited under section 15A(1) of the 2006 Act, a commons registration authority (defined in section 4 of the Commons Act 2006 and section 2 of the Commons Registration Act 1965). In practice, the appropriate council and commons registration authority will usually be the same body.

PART A:

**Information relating to the applicant and land to which the application relates
(all applicants must complete this Part)**

1. Name of appropriate authority to which the application is addressed:

Kent County Council

2. Name and full address (including postcode) of applicant:

**Daryngton Avenue Association Limited (Company no.01329644 whose
registered office is at 45 Weymouth Street, London, W1G 8BY**

3. Status of applicant (tick relevant box or boxes):

I am

(a) the owner of the land(s) described in paragraph 4.

(b) making this application and the statements/declarations it contains on behalf of Daryngton Avenue Association Limited (hereinafter "Company") who is the owner of the land described in paragraph 4 and in my capacity as a Director of the Company.

4. Insert description of the land(s) to which the application relates (including full address and postcode):

Land at Daryngton Avenue Birchington CT7 9PS

5. Ordnance Survey six-figure grid reference(s) of a point within the area of land(s) to which the application relates (if known):

TR 2869

6. This deposit comprises the following statement(s) and/or declarations (tick all that apply):

Part B (Highways Statement)

Part C (Highways Declaration)

Part D (Landowner Statement)

PART B:
Statement under section 31(6) of the Highways Act 1980

[I, *[insert name of owner]* am/is] the owner of the land described in paragraph 4 of Part A of this form and shown edged in *[insert colouring]* on the map accompanying this statement.
(delete wording in square brackets as appropriate and/or insert information as required)

[Ways shown..... *[insert colouring]* on the accompanying map are byways open to all traffic.]

[Ways shown *[insert colouring]* on the accompanying map are restricted byways.]

[Ways shown *[insert colouring]* on the accompanying map are public bridleways.]

[Ways shown..... *[insert colouring]* on the accompanying map are public footpaths.]

No [other] ways over the land shown edged in *[insert colouring]* on the accompanying map have been dedicated as highways.
(delete wording in square brackets as appropriate and/or insert information as required)

PART C:
Declaration under section 31(6) of the Highways Act 1980

1. Daryngton Avenue Association Limited (Company Number) 01329644) whose registered office address is 45 Weymouth Street London W1G 8BY (hereinafter "the Company") is the owner of the land described in paragraph 4 of Part A of this form and shown edged in red on the map attached to this declaration and also lodged with Kent County Council on the 27th day of April 2009.

2. On the 27th day of April 2009 the Company deposited with Kent County Council, being the appropriate council, a statement accompanied by a map showing the Company's property edged in red which stated that the ways shown edged red on that map (and on the map accompanying this declaration) had never been dedicated as a public highway by the Company or their predecessors in title.

3. No additional ways have been dedicated over the land edged in red on the map accompanying this declaration/referenced in paragraph 1 above since the statement deposited on the 27th day of April 2009 referred to in paragraph 2 above and at the present time the Company has no intention of dedicating any more public rights of way over the property.

**PART D:
Statement under section 15A(1) of the Commons Act 2006**

[I, *[insert name of owner]* am/is] the owner of the land described in paragraph 4 of Part A of this form and shown edged in *[insert colouring]* on the map [accompanying this statement/ deposited with *[insert name]* Council on *[insert day, month, year]*].

[I/..... *[insert name of owner]*] *[wish/wishes]* to bring to an end any period during which persons may have indulged as of right in lawful sports and pastimes on the whole or any part of the land shown edged in *[insert colouring]* on the [accompanying map/map referenced above].

(delete wording in square brackets as appropriate and/or insert information as required)

**PART E:
Additional information relevant to the application**

(insert any additional information relevant to the application)

PART F:
Statement of Truth
(all applicants must complete this Part)

WARNING: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS FORM ARE TRUE

Signature (of the person making the statement of truth):



Print full name: HENRY LEWIS MILLER

Date: 06-02-2019

You should keep a copy of the completed form

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