Rangers Cottage,
Ewhurst Road,
Peaslake,
Guildford,
Surrey GU5 9RW

13th October 2021

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Ms Catherine Valiant
Surrey County Council
Commons Registration Section

Dear Ms Valiant,

RANGERS COTTAGE:
Provisional Commons Registration 10/4/68; Final Commons Registration 13/9/72
Application to correct mistaken registration: Schedule 2 paragraph 6 Commons Act 2006

Thank you for your email of the 6th October.

We are not altogether convinced that the respondents demonstrate a bona fide interest in our land or provide sufficient grounds to establish locus standi in this matter. We also do not believe that their observations accurately reflect the facts as we know them and having lived in Peaslake for thirty-five years and at Rangers Cottage for twenty years we can personally attest to those facts.

We note that three of the respondents and perhaps all four are representatives of official bodies and do not live in the village and that none of our neighbours, who are the people most directly affected by our application, have raised any objection. We also note that Surrey Access Officer Mr Andrew Bowden does not in fact object to our application *per se* and recognises that one of the two paths either side of our property is unnecessary: *"It looks to me as if the villagers have access to the common land using paths either side of the property . . . One of these routes should be preserved as access land"*. We are not applying to remove the public footpath from the Commons Register and trust that Mr Bowden's concerns will be allayed by this knowledge.

With regard to the matters raised by the other respondents, we would comment as follows:

Shere Parish Council
We enclose for your convenience a further copy of our letter to the council dated 18th November 2019 submitted with our application, which should please be read in conjunction with our comments below.

There is much speculation and conjecture by the council concerning the history of the land, which regrettably obscures rather than illuminates the issues. The council has no legal interest in our land to the side of our property and we question the authenticity of its "interest" as parish council, because prior to our application it had never shown the slightest concern about the subject land or the public footpath over our property. The public footpath had in fact been strewn with the wreckage of an abandoned building for decades and was a hazard to all who used the footpath and to their dogs. The council did nothing about this situation however or make any effort to tackle the previous owners about it, and it was left to us to clear up the mess when we purchased the land. The original building is marked in our title deeds and also in maps of the area, and was clearly in existence many years before the Commons Registration Act. The council's remark therefore that it is not clear to them what the building is and that it might have been there in consequence of a "land swap" or built illegally is quite wrong, and demonstrates a sorry lack of

knowledge about the history of the area. It also reveals that the council has no genuine interest in the subject land and that its response is simply that of an official body automatically objecting as a matter of principle, without regard to the facts and practicalities of the matter. It is ironic that this official body should now be so exercised in opposing our application concerning an insignificant strip of land, which it has never maintained, which has hardly been used in the twenty years we have been at Rangers Cottage, and which is so overgrown as to make it virtually impassable for much of the year.

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The council's remark that *"there is no reason to believe that the land has ever been enclosed"* is also incorrect: there is in fact every reason to believe that the subject land was enclosed. The land is situated at our northern boundary and is separated from our neighbours' property by a formidable man-made ancient wall of earth and rubble and goodness knows what else, which is over six feet high in places and originally eight or nine feet wide at its base. The width was reduced to broaden the very narrow gap between this wall and our building, and in the process we uncovered many historical artefacts dating back centuries, including clay smoking pipes, hand-made glass, Georgian ironwork, pottery, hand-made bricks and tiles and much else. The boundary wall has clearly been there for centuries, and there are no grounds therefore for the council's reliance on an Ordinance Survey map of 1873 to contend that the land was unenclosed prior to this. We would further make the point that there was no fence or hedge dividing our garden from the subject land when we purchased our property, and it was to all intents and purposes indistinguishable from our garden as a single entity enclosed by this boundary wall.

We are astonished that the council has raised the matter of curtilage as a credible argument. It is clear on any physical observation that the land is four-square within the curtilage of our dwelling, and is integral to the functioning of our end cottage and provides the only access to the front door. The council's emphatic but entirely unsupported statement that because the land was purchased separately from Rangers Cottage this is "overwhelming evidence" that it is not within the curtilage of the building, is not a reasonable deduction of the observable facts or as a matter of common law which defines curtilage as *"the enclosed space of grounds and building immediately surrounding a dwelling house"*. The Commons Act 2006 Act contains an unqualified long-stop provision for the making of applications to rectify mistakes, and when or how the land was purchased has no bearing on the matter. The land lies between our house and this ancient boundary wall of earth and rubble as discussed above, and is barely five feet wide where it meets the front door of our end cottage. The land has therefore always been enclosed by this boundary wall, and is clearly within the *"curtilage of a dwelling"*. We can send you more photographs to illustrate the point further if required, but those we have sent clearly show the subject land hard up against our property, so much so in fact that we have had individuals actually peering through our windows and two burglaries where access was gained from the land.

It is stretching credulity for the council to cite a 19th century map purporting to show gaps between six quite unrelated cottages in another village to assert that this is *"a normal arrangement rather than anomalous in this area"*. This is hardly a sensible proposition as there must be scores if not hundreds of cottages in the area dating from this period which do not have such an arrangement. We remain firmly of the view that the land was indeed mistakenly caught up with the provisional registration of that vast area which is the Hurtwood in the first flush of provisional commons registrations in 1968. Given the monumental task of commons registration it is entirely fanciful to suggest that the Bray Estate (the owner of the land at the time) would have given even a moment's thought to registering this tiny and insignificant scrap of land as common land, particularly in view of the wide public footpath just metres away.

<u>Mr Hugh Craddock, Open Spaces Society</u>
This respondent operates from Henley-on-Thames which is over 40 miles away from Peaslake. He claims that that there is no evidence that on the date of provisional registration *"the land was covered by a building or within the curtilage of a building"*: this is manifestly wrong. We made

clear in our application that our house was built over 300 years ago, and was obviously in existence at the time of provisional registration in 1968.

Mr Milton – No address provided

This respondent does not state what his actual interest is in our land. We also do not understand the relevance of his personal reflections about the history of the Hurtwood, or his discourse on the Law of Property Act and parking on common land. We are the present owners of the land but we enjoyed prescriptive rights over the entire area of the land to the front of our property before we purchased it from Shere Manor Estate, and have therefore always been free to park on the common to the front of our property at will. As regards the respondent's comments concerning the management of the Hurtwood by the "Hurtwood Control", this is also irrelevant as the land is not part of the Hurtwood and does not come under the auspices of Hurtwood Control; however, as stated in our letter to Shere Parish Council we continue to allow Hurtwood Control free use of the tractor shed on our land as our way of supporting and assisting its aims. The respondent's reference to tenants' rights to cut wood or turf or graze sheep is not appropriate to this narrow strip of land.

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Rangers Cottage was completely derelict when we purchased the property twenty years ago. The roof of our end cottage where the subject land is located had disintegrated, and the walls had mature trees literally growing out of them that overhung the land which was buried under saplings and brambles. It is not at all surprising therefore that there is no record of a path on our title deeds or in the records of the Ordinance Survey and Guildford Borough Council.

We would appeal for a sense of proportion in this matter. We are not discussing some vital artery to the Hurtwood but a narrow, scruffy strip of land which is not maintained and has hardly been used in the twenty years we have been at Rangers Cottage, and not used at all throughout the pandemic and for some considerable time before. The land is barely five foot wide where it meets the front door of our end cottage and further narrows beyond our building to a tunnel-like, dank and unpleasant track. It is self-evident that this small strip of land is of practical value only to our property and has no recreational value whatsoever as common land, or amenity value because of the wide public footpath over our land just metres away. It is also apparent from the Ordinance Survey map that the area around our property is very well served with public footpaths and therefore the removal of the land from the Commons Register would clearly not deprive villagers of the "quiet enjoyment" of the Hurtwood, as alleged by Shere Parish Council.

It is now almost two years since our application, and we very much hope in light of the matters discussed that this matter may be resolved in the near future.

Yours sincerely,

Fleur and Chris Andreas

[redacted]

From: [redacted]
Sent: 25 October 2021 19:54
To: Catherine Valiant
Subject: Re: App1883 Rangers Cottage Peaslake
Attachments: Porch.jpg

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Thank you for your email below.

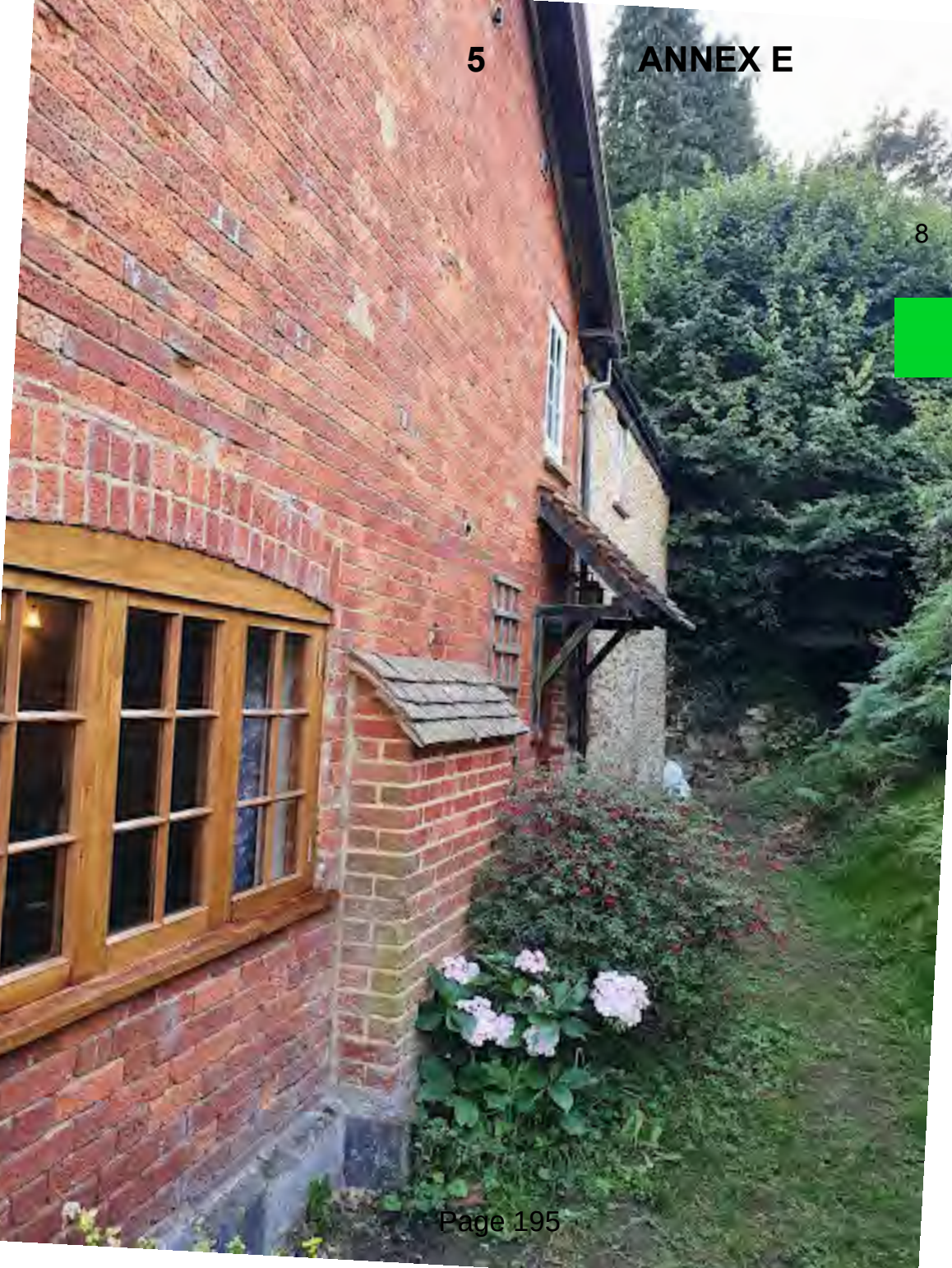
We would be grateful if your legal team could please consider two further points with regard to Shere Parish Council's assertions concerning our purchase of the subject land and the curtilage of our building.

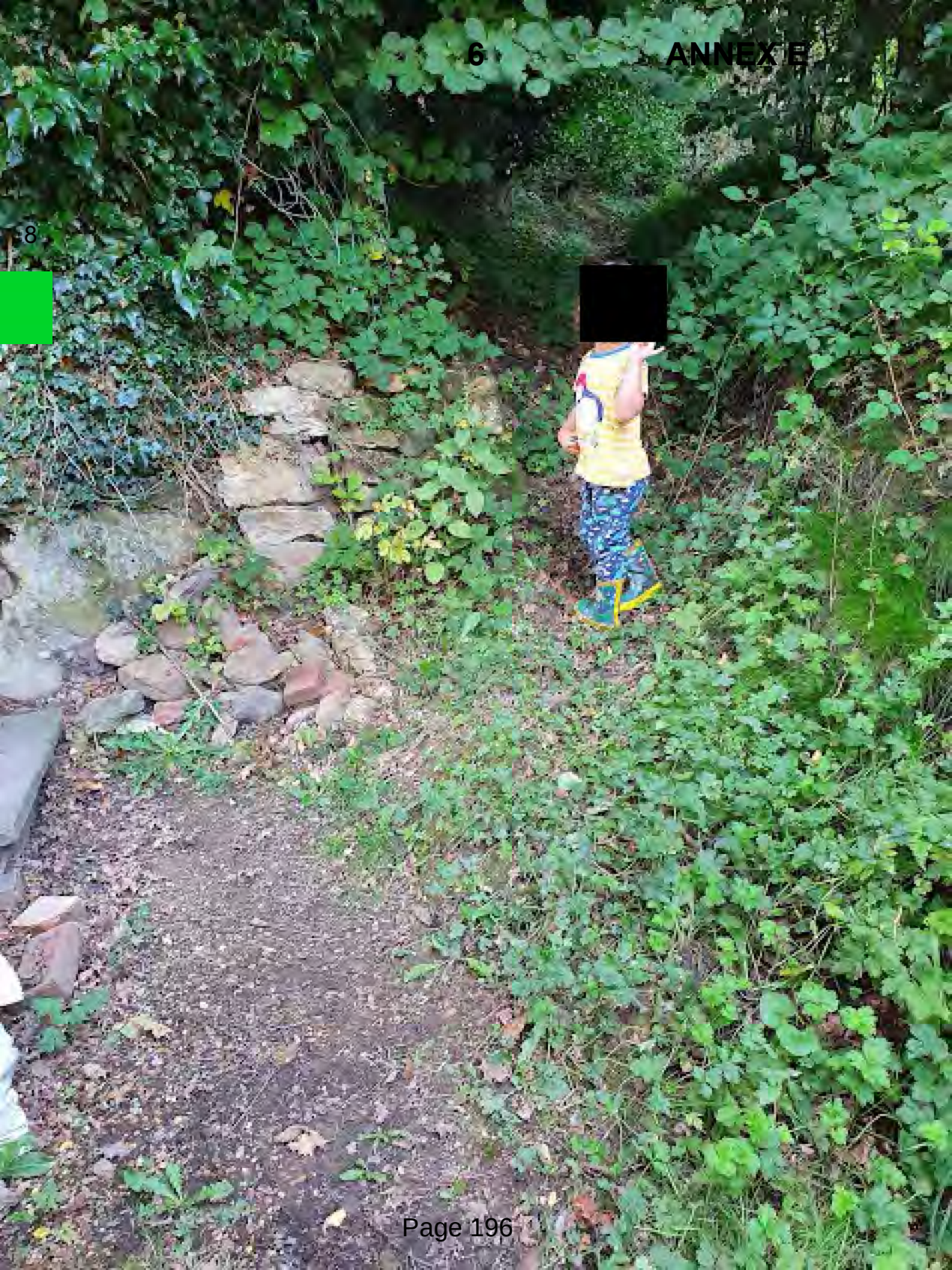
The very small strip of land which comprises the subject land was in fact part of a half-acre lot purchased from Shere Manor Estate, out of a total of 383.6 acres of the Hurtwood put up for sale by the Estate. Our lot was insignificant in the context of this sale and was baldly described in the sales particulars as *"Roadside Verge - 0.5 Acres (0.19 Hectares)*. The Estate's own evaluation of the lot as little more than manorial waste, brings into question any assertion that the subject land was ever considered important and supports our contention that the land was mistakenly caught up with the provisional registration of the Hurtwood in 1968.

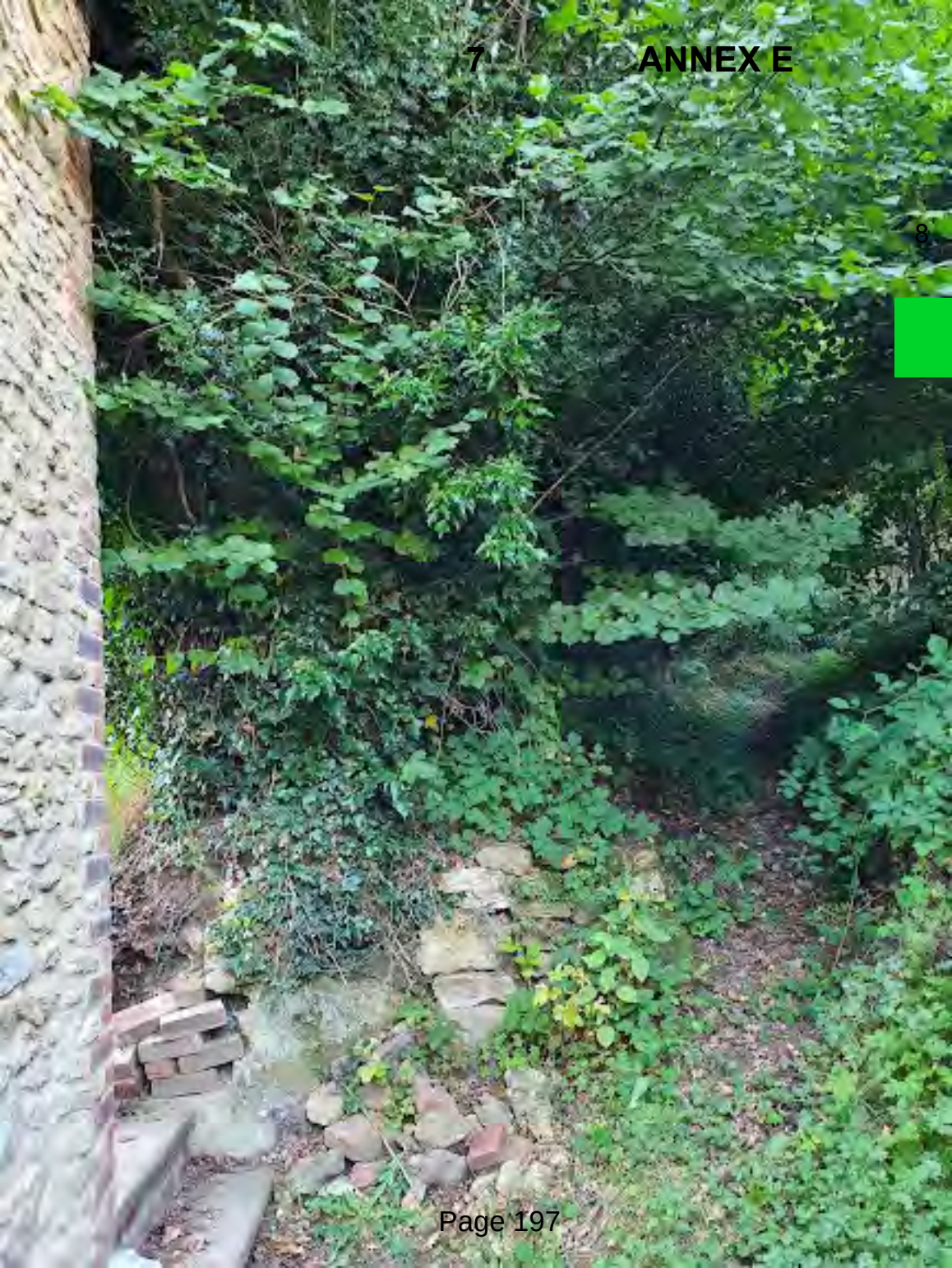
With regard to the matter of the curtilage, we attach a photograph of our porch at the front door of our end cottage. The porch is part of the original structure of the building and both it and the shoulder of a chimney breast seen in the photograph, are actually on the subject land. We fail to see therefore how it can possibly be argued that the land was at any time not within the curtilage of our building, quite apart from the fact that it now clearly is because we own the land.

Yours sincerely,

Fleur and Chris Andreas



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ANNEX E
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ANNEXE