

Application to register land at Sherwood Lake in Tunbridge Wells as a new Town Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Tuesday 26th October 2010.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Sherwood Lake, Tunbridge Wells has been accepted, and that the land subject to the application be formally registered as a Town Green.

Local Member: Mr. K. Lynes

Unrestricted item

Introduction

1. The County Council has received an application to register land at Sherwood Lake in Tunbridge Wells as a new Town Green from local resident Mr. J. Chappell on behalf of The Friends of Sherwood Lake ("the Applicant"). The application, dated 7th April 2009, was allocated the application number VGA612. A plan of the site is shown at **Appendix A** to this report and a copy of the application form is attached at **Appendix B**.

Procedure

2. The application has been made under section 15 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.
3. Section 15 of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Village Green where it can be shown that:
'a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
4. In addition to the above, the application must meet one of the following tests:
 - **Use of the land has continued** 'as of right' until at least the date of application (section 15(2) of the Act); or
 - **Use of the land 'as of right' ended no more than two years prior to the date of application**, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act); or
 - **Use of the land 'as of right' ended before 6th April 2007** and the application has been made within five years of the date the use 'as of right' ended (section 15(4) of the Act).
5. As a standard procedure set out in the regulations, the Applicant must notify the landowner of the application and the County Council must notify every local authority. The County Council must also publicise the application in a newspaper circulating in the local area and place a copy of the notice on the County Council's website. In addition, as a matter of best practice rather than legal requirement, the

County Council also places copies of the notice on site to provide local people with the opportunity to comment on the application. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

6. The area of land subject to this application ("the application site") consists of a large area of woodland of approximately 19.2 hectares (47 acres) in size situated to the east of Greggs Wood Road in the Sherwood area of Tunbridge Wells. The application site also includes a large lake.

The case

7. The application has been made on the grounds that the application site has become a Town or Village Green by virtue of the actual use of the land by the local inhabitants for a range of recreational activities 'as of right' for more than 20 years.
8. Included in the application were 58 user evidence questionnaires from local residents asserting that the application site has been available for free and uninhibited use for lawful sports and pastimes over the last twenty years and beyond. A summary of the evidence in support of the application is attached at **Appendix C**.
9. Also received in support of the application were photographs showing the lake and fish that had been caught from it. The application also included minutes of meetings of the Friends of Sherwood Lake Committee regarding public access to the lake.

Consultations

10. Consultations have been carried out as required and the following comments have been received.
11. Tunbridge Wells Borough Council wrote to confirm that it had no objection to the application. Its response included a report from the Planning Service setting out internal consultations with various Borough Council Officers. In it, a quote from the Landscape and Biodiversity Officer states "I have worked at Tunbridge Wells Borough Council since 2000 and this site and the surround land were one of the first places I had to visit in my professional capacity as Landscape Officer. At that time access, as now, was free and unrestricted with widespread informal use of the woodlands and especially Sherwood Lake".
12. Local resident Mr. R. Cobb who, along with his wife, has lived adjacent to the site for the last 27 years, wrote in support of the application. He said:
"we can attest to the fact that throughout that time the entire woodland area (Gregg's Wood, Robin Gate Wood and Coneyburrow Wood) has been criss-crossed by footpaths continually used by the public – dog walkers, family strollers, walkers and bird and animal watchers. The great 'hurricane' of 1987 caused some of the paths to be blocked by fallen trees but alternative routes were quickly established around these obstacles. As

regular walkers ourselves, we have at no time experienced any of the successive owners of the woods attempting to preclude the public from using these paths”.

Landowner

13. The application site is owned by Gleeson Strategic Land Ltd and registered with the HM Land Registry under title number K768980. The site was acquired by the current landowner in 1997 from the Secretary of State for Health. A letter of objection has been received from Wragge and Co solicitors, who act on behalf of Gleeson Strategic Land Ltd (“the objector”).
14. The objection is made on the following grounds:
- The evidence submitted relates almost exclusively to the lake since most of the recreational activities referred to are either fishing related or involve walking around the lake;
 - In 1994, the previous landowner entered into an agreement with the Sherwood Park Angling Club which permitted members of the club to have sole fishing rights and access to the lake; and
 - In 2008, a fence was erected along the boundary with Greggs Wood Road. Evidence suggests that this replaced an earlier fence. The original fence had a gate, but the current landowner removed that gate in 2008 and closed the gap with fencing.

Legal tests

15. In dealing with an application to register a new Town or Village Green the County Council must consider the following criteria:
- (a) Whether use of the land has been 'as of right'?*
 - (b) Whether use of the land has been for the purposes of lawful sports and pastimes?*
 - (c) Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?*
 - (d) Whether use of the land 'as of right' by the inhabitants has continued up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?*
 - (e) Whether use has taken place over period of twenty years or more?*

I shall now take each of these points and elaborate on them individually:

(a) Whether use of the land has been 'as of right'?

16. The definition of the phrase ‘as of right’ has been considered by the House of Lords. Following the judgement in the *Sunningwell*¹ case, it is considered that if a person uses the land for a required period of time without force, secrecy or permission (*nec vi, nec clam, nec precario*), and the landowner does not stop him or advertise the fact that he has no right to be there, then rights are acquired and further use becomes ‘as of right’.

¹ *R v. Oxfordshire County Council and another, Sunningwell Parish Council* [1999] 3 All ER 385

17. In this case, there is no evidence to suggest that the use of the land by local residents has been with secrecy, but within the documentation supplied by the parties, reference has been made to the existence of a permissive agreement, of fencing and the possible existence of notices.

Permissive agreement

18. The objector contends that the existence of a permissive agreement between the previous landowner and the Sherwood Park Angling Club ("the Club") renders any access to the shores of the land and the use of the land for fishing purposes as being with permission.

19. A copy of the permissive agreement is attached at **Appendix D**. It will be noted that the permissive agreement provides for members of the Club, their families and friends to have access to the lake for the purpose of fishing. The agreement therefore provides for a specific section of the community to use the lake for a specific purpose with the consent of the landowner. It does not confer a general right of recreation to all of the residents of the community. The agreement is therefore only effective in disproving use 'as of right' for the purposes of fishing for known members of the Club, their families and friends. Without knowledge of the Club's membership, it is impossible to conclude that the use of the land by those who have provided evidence of use in support of the Village Green application was not 'as of right'.

20. There is evidence of permission having been sought to use the application site by two witnesses. One states that he was granted permission to fish the lake by the then Estate Manager in 1940², but this is well outside of the relevant twenty-year period for the purposes of this application and only applied to fishing. Another witness refers to permission being sought for the use of the application site from the current landowner³, but there is no information from either the witness or the objector as to the nature of the permission sought so it is not possible to reach a conclusion on whether the latter witness's use has been 'as of right'.

Notice and locked gate

21. The permissive agreement refers, at paragraphs 1(d) and 1(e), to an undertaking by the then landowner (the Health Authority) to provide a lock to the gate in the boundary fencing and to erect a notice board near the gate stating that entry is permitted only to authorised persons.

22. There is no evidence that the gate was ever locked. Reference is made by one witness to the existence of a notice: "*Sherwood Angling Club (now defunct) had notices on the gate (largely ignored)*"⁴. However, there is no indication as to the actual wording of the notice, or any information regarding the date upon which they were erected and duration of their existence. None of the other witnesses recall seeing any notices on the application site.

² See user evidence questionnaire of Mr. A. Eade

³ See user evidence questionnaire of Mr. A. Edwards

⁴ See user evidence questionnaire of Mr. M. Eade

Fencing

23. It is common ground between the parties that fencing has been in existence along the boundary of the site with Greggs Wood Road. The applicant explains that part of the current fence was first installed in 2007 by the Town and Country Housing Group. These works were undertaken to prevent motorbikes from accessing the application site, but the existence of a kissing gate in the fencing meant that it did not prevent pedestrian access to the site.
24. In 2008, the objector replaced the fencing and the gate was removed. The objector is of the view that any access to the site following this date would have been with force (and therefore not 'as of right') since the fencing was broken down to gain access. The applicant states that even if use 'as of right' ceased in 2008, the two-year grace period provided by section 15(3) of the Commons Act 2006 means that the erection of the fencing is not fatal to the application.

Conclusion on 'as of right'

25. There is nothing contained within the user evidence to suggest that there have been any substantive challenges to use prior to the erection of the fencing in 2008. Whilst the permissive agreement refers to consent being granted to members of the Sherwood Park Angling Club for the use of the lake, there is no evidence that any of the witnesses who have submitted evidence were members of that Club and thus whose use would have been by virtue of that permission. The agreement does make reference to the erection of a notice and the locking of the gate but, once again, there is no evidence to suggest that this requirement was actually complied with.
26. In the absence of any evidence to suggest that the use of the land was by virtue of a permission, or that it was challenged in any way prior to the erection of the fencing in 2008, it can be concluded that the use of the land by the local residents has been 'as of right'.

(b) Whether use of the land has been for the purposes of lawful sports and pastimes?

27. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. It is not necessary to demonstrate that both sporting activities *and* pastimes have taken place since the phrase 'lawful sports and pastimes' has been interpreted by the Courts as being a single composite group rather than two separate classes of activities⁵.
28. Legal principle does not require that rights of this nature be limited to certain ancient pastimes (such as maypole dancing) or for organised sports or communal activities to have taken place. The Courts have held that '*dog walking and playing with children [are], in modern life, the kind of informal recreation which may be the main function of a village green*'⁶.

⁵ *R v. Oxfordshire County Council and another, Sunningwell Parish Council* [1999] 3 All ER 385

⁶ *R v Suffolk County Council, ex parte Steed* [1995] 70 P&CR 487 at 508 and approved by Lord Hoffman in *R v. Oxfordshire County Council, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

29. In this case, the evidence demonstrates that the land has been used for a number of recreational activities. The summary of evidence of use by local residents at **Appendix C** shows the full range of activities claimed to have taken place.
30. Criticism is made by the objector that the evidence submitted in support of the application is focused largely around the lake and, in particular, fishing. There can be little doubt that fishing is a lawful sport and pastime for the purposes of Village Green registration. The question of whether fishing was undertaken on a permissive basis has already been dealt with above and, having concluded that it was not by virtue of any permission, it is not possible to disregard the evidence of use in respect of fishing⁷.
31. Contrary to the assertions of the objector, there is plenty of evidence of use of the application site for other recreational pursuits. In particular, there is significant evidence of the use of the land for dog walking (both with and without dogs). Whilst the lake clearly provides a focal point and picturesque feature of the application site, use of the application site does not appear to have been concentrated solely around the lake itself.
32. This is demonstrated by the evidence of Mr. Cobb, who wrote in support of the application (see paragraph 12). Mr Cobb describes the entire woodland area as being 'criss-crossed by footpaths continually used by the public'. Other witnesses provided comments such as: 'there are lots of paths through the woods used for dog walking'⁸, 'paths cross woodland all the way'⁹, and 'there are paths around the lake and tracks into the woodland'¹⁰.
33. The very nature of woodland means that certain areas of the application site may, from time to time or even on a permanent basis, have been inaccessible due to undergrowth. In this respect, it should be noted that the legislation does not require applicants to be able to demonstrate use of every part of the application site. The Courts have held that "a *registration authority would not expect to see evidence of use of every square foot of a site, but they would have to be persuaded that, for all practical purposes, it could sensibly be said that the whole of the site had been so used for 20 years*"¹¹.
34. It can therefore be concluded that there has been use of the application site as a whole for the purposes of lawful sports and pastimes.

(c) Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?

35. The right to use a Village Green is restricted to the inhabitants of a locality or of a neighbourhood within a locality and it is therefore important to be able to define this area with a degree of accuracy so that the group of people to whom the recreational rights are attached can be identified.

⁷ With the exception, perhaps, of the evidence of Mr. A. Edwards as noted at paragraph 20

⁸ See user evidence questionnaire of Mr. F. Edwards

⁹ See user evidence questionnaire of F. W. Harwood

¹⁰ See user evidence questionnaire of Mr. J. Tomsett

¹¹ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 89

"locality" and "neighbourhood"

36. The definition of locality for the purposes of a village green application has been the subject of much debate in the courts and there is still no definite rule to be applied. In the *Cheltenham Builders*¹² case, it was considered that *'...at the very least, Parliament required the users of the land to be the inhabitants of somewhere that could sensibly be described as a locality... there has to be, in my judgement, a sufficiently cohesive entity which is capable of definition'*. The judge later went on to suggest that this might mean that locality should normally constitute *'some legally recognised administrative division of the county'*.
37. On the subject of neighbourhood, the Courts have held that *'it is common ground that a neighbourhood need not be a recognised administrative unit. A housing estate might well be described in ordinary language as a neighbourhood... The Registration Authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness; otherwise the word "neighbourhood" would be stripped of any real meaning'*¹³.
38. Although it is accepted that, in all probability, only those living closest to a piece of land are likely to use it for recreational purposes, there is still a requirement for the purposes of Village Green registration to show that the land has been used by the residents of a defined area or, as suggested by LJ Pill in a case known as *Steed*¹⁴, *'something more than a place or geographical area – rather a distinct and identifiable community such as might lay reasonable claim to a town or village green'*.
39. The Applicant specifies the locality by reference to a plan showing the Tunbridge Wells Borough Council electoral ward of Sherwood. The plan at **Appendix D** shows the area within which users reside in relation to the specified locality. An electoral ward is a legally recognised administrative unit for the purposes of Village Green registration¹⁵.
40. Geographically speaking, the electoral ward covers a large area, although a significant proportion of the land area is occupied for non-residential purposes (i.e. a large industrial estate and further woodland). For this reason, it is useful to consider whether there is an identifiable neighbourhood within the relevant locality.
41. It is considered that the Sherwood Estate forms a distinct and identifiable community within the locality. It consists of broadly similar housing stock (in terms of age and architecture) and is served by functions that are specific to the community, such as a Primary School and a community centre. Therefore, the Sherwood Estate would qualify as a neighbourhood within the wider locality of the electoral ward for the purposes of Village Green registration.

¹² *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

¹³ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

¹⁴ *R v Suffolk County Council, ex parte Steed and another* (1995)

¹⁵ *Leeds Group plc v Leeds City Council* [2010] EWHC 810 (Ch)

"a significant number"

42. The word "significant" in this context does not mean considerable or substantial: *'a neighbourhood may have a very limited population and a significant number of the inhabitants of such a neighbourhood might not be so great as to properly be described as a considerable or a substantial number... what matters is that the number of people using the land in question has to be sufficient to indicate that the land is in general use by the community for informal recreation rather than occasional use by individuals as trespassers'*¹⁶. Thus, what is a 'significant number' will depend upon the local environment and will vary in each case depending upon the location of the application site.

43. In this case, there appears to have been regular use of the land by a large number of local residents from the Sherwood Estate and this is evidenced by the large number of user evidence forms submitted in support of the application. The application is supported by 58 user evidence questionnaires from persons living in the locality, demonstrating use of the application site over a considerable period. It is considered that the volume of use would have been sufficient to indicate that the land in question was in general use by the local community.

(d) Whether use of the land by the inhabitants is continuing up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?

44. The Commons Act 2006 requires use of the land to have taken place 'as of right' up until the date of application or, if such use has ceased prior to the making of the application, to fulfil one of the alternative criterion set out in sections 15(3) and 15(4) of the 2006 Act (as set out at paragraph 4 above).

45. As stated above, use of the application site 'as of right' ceased with the erection of the fencing in 2008. The application was made in April 2009 (i.e. after the use 'as of right' had ceased).

46. Section 15(3) of the Commons Act 2006 provides that an application can be made once use 'as of right' has ceased, so long as it is made no more than two years from the date upon which use 'as of right' ceased. In this case, since the application was made within the specified two year period, this requirement has been met.

(e) Whether use has taken place over a period of twenty years or more?

47. In order to qualify for registration, it must be shown that the land in question has been used for a full period of twenty years. In this case, use as of right ceased in 2009 and, as such, the relevant twenty-year period ("the material period") is 1989 to 2009.

48. The user evidence summarised at **Appendix C** demonstrates that there has been use of the application site as far back as the 1940s. In particular, there is significant evidence of use during the 1990s and 2000s. Therefore, it can be

¹⁶ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

concluded that there has been use of the application site for a full period of twenty years.

Conclusion

49. From close consideration of the evidence submitted, I have concluded that the legal tests concerning the registration of the land as a Town Green (as set out above) have been met.

Recommendation

50. I recommend that the County Council informs the applicant that the application to register the land at Sherwood Lake, Tunbridge Wells has been accepted, and that the land subject to the application be formally registered as a Town Green.

Accountable Officer:

Dr. Linda Davies – Tel: 01622 221500 or Email: linda.davies@kent.gov.uk

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221511 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

APPENDIX A – Plan showing application site


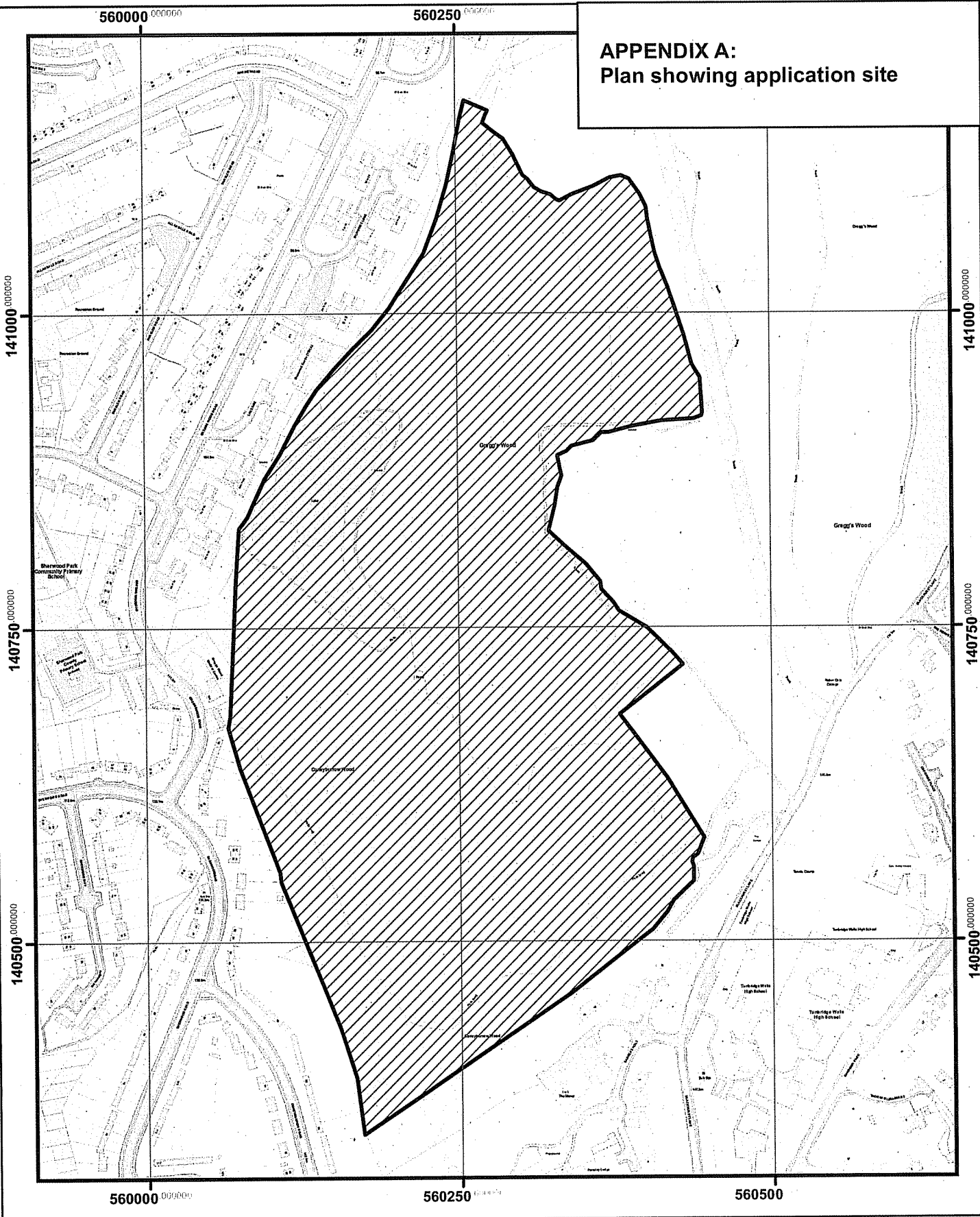
APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Copy of permissive agreement

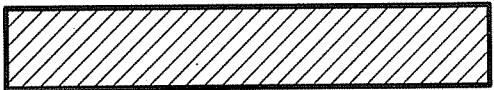
APPENDIX E – Plan showing the area within which users reside

APPENDIX A:
Plan showing application site



Scale 1:4000

**Land subject to Town Green application
at Sherwood Lake and surrounding
woodland in Tunbridge Wells**

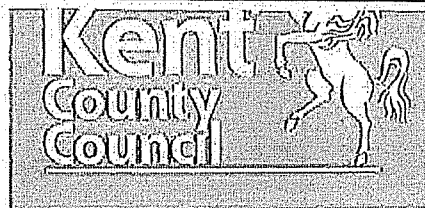


APPENDIX B:
Copy of the application form

FORM CA9

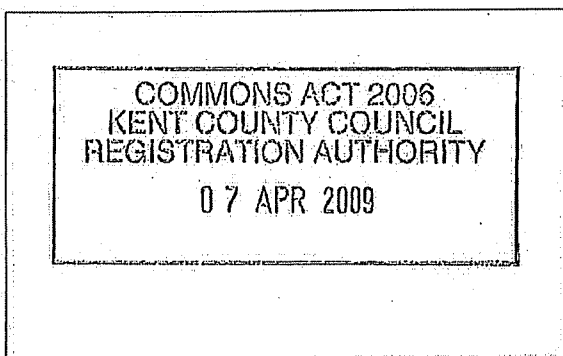
Commons Act 2006: section 15

Application for the registration of land
as a new Town or Village Green



This section is for office use only

Official stamp of the Registration Authority
indicating date of receipt:



Application number:

VG1612

VG number allocated at registration
(if application is successful):

Note to applicants

Applicants are advised to read the 'Part 1 of the Commons Act 2006 (changes to the commons registers): Guidance to applicants in the pilot implementation areas' and to note the following:

- All applicants should complete parts 1-6 and 10-12.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete parts 7 and 8. Any person can apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete part 9. Only the owner of the land can apply under section 15(8).
- There is no fee for applications under section 15.

Note 1
Insert name of Commons
Registration Authority

1. Commons Registration Authority

To the: KENT COUNTY COUNCIL
COUNTRYSIDE ACCESS SERVICE
INVICTA HOUSE, COUNTY HALL
MAIDSTONE
KENT ME14 1XX

Note 2

If there is more than one applicant, list all names. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or unincorporate. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email. If part 3 is not completed all correspondence and notices will be sent to the first named applicant.

2. Name and address of the applicant

Name: FRIENDS OF SHERWOOD LAKE
Full postal address: 44 BURSLEM ROAD
(incl. Postcode) TUNBRIDGE WELLS
KENT TN2 3TT
Telephone number: 01892-526414
(incl. national dialling code)
Fax number: 01892-614292
(incl. national dialling code)
E-mail address: FOSL@BTINTERNET.COM

Note 3

This part should be completed if a representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email.

3. Name and address of representative, if any

Name:
Firm:
Full postal address:
(incl. Postcode)
Telephone number:
(incl. national dialling code)
Fax number:
(incl. national dialling code)
E-mail address:

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 9 to the Commons Registration (England) Regulations 2008.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5. Application made under section 15(8):

If the application is made under section 15(1) of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:
Section 15(3) applies:
Section 15(4) applies:

<p><i>*Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.</i></p>	<p>If section 15(3) or (4) applies, please indicate the date on which you consider that use 'as of right' ended and why:</p> <p style="text-align: center;">N/A</p> <p>If section 15(6)* is being relied upon in determining the period of 20 years, indicate the period of statutory closure (if any) which needs to be disregarded:</p>
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<p>Note 5 <i>This part is to identify the new green. The accompanying map must be at a scale of at least 1:2,500 and shows the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where known.</i></p>	<p>5. Description and particulars of the area of land in respect of which application for registration is made</p> <p>Name by which usually known: SHERWOOD LAKE</p> <p>Location: GREGGS WOOD, TUNBRIDGE WELLS TN2</p> <p>Common Land register unit number (only if the land is already registered Common Land):</p> <p>Please tick the box to confirm that you have attached a map of the land (at a scale of at least 1:2,500): <input checked="" type="checkbox"/></p>
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<p>Note 6 <i>It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,000.</i></p>	<p>6. Locality or neighbourhood within a locality in respect of which the application is made</p> <p>Indicate the locality (or neighbourhood within the locality) to which the claimed green relates by writing the administrative area or geographical area by name below and/or by attaching a map on which the area is clearly marked:</p> <p style="text-align: center;">MAPS ENCLOSED</p> <p>Please tick here if a map is attached (at a scale of 1:10,000): <input checked="" type="checkbox"/></p>
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Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

7. Justification for application to register the land as a Town or Village Green

THE ENCLOSED COMPLETED EVIDENCE QUESTIONNAIRES PROVES THAT THERE HAS BEEN AND STILL IS LAWFUL SPORTS & PASTIMES IN THE WOODLAND AND AROUND SHEARWOOD LAKE FOR OVER 20 YEARS

SPORTS ARE MAINLY FISHING WHEREAS PASTIMES INCLUDE SOCIALISING, DOG WALKING, CHESTNUTTING & BIRD WATCHING ETC

THEREFORE, IT IS OUR INTENTION THAT THE LAND QUALIFIES FOR VILLAGE GREEN STATUS AND ONCE STATUS HAS BEEN ACHIEVED WE WILL PRESERVE THE WOODLAND & THE LAKE FOR THE COMMUNITY

PLEASE NOTE, MORE EVIDENCE QUESTIONNAIRES CAN BE OBTAINED IF NEEDED IN THE FUTURE

Note 8

Use a separate sheet if necessary. This information is not needed if a landowner is applying to register the land as a green under section 15(8).

8. Name and address of every person whom the applicant believes to be an owner, lessee, proprietor of any "relevant charge", tenant or occupier of any part of the land claimed to be a town or village green

M. J. GLEESONS
HAREDON HOUSE
LOUDDON ROAD
NORTH CHEAM
SUTTON, SURREY
SM3 9BS

Note 9

List or enter in the form all such declarations that accompany the application. This can include any written declarations sent to the applicant (i.e. a letter), and also any such declarations made on the form itself.

9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land

NOT KNOWN

Note 10

List all supporting consents, documents and maps accompanying the application. Evidence of ownership of the land must be included for voluntarily registration applications. There is no need to submit copies of documents issued by the Registration Authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

10. Supporting documentation

ALREADY ANSWERED IN NOTE 7

Note 11

List any other matters which should be brought to the attention of the Registration Authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

11. Any other information relating to the application

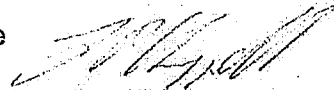
NOT KNOWN

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

12. Signature

Signature(s) of applicant(s):


JOHN CHAPPELL CHAIRMAN OF F.O.S.L

Date: 7th APRIL 2009

REMINDER TO APPLICANT.

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

Please send your completed application form to:

The Commons Registration Team
Kent County Council
Countryside Access Service
Invicta House
County Hall
Maidstone
Kent ME14 1XX

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the Commons Registration Authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.

N763980

ORDNANCE SURVEY
PLAN REFERENCE

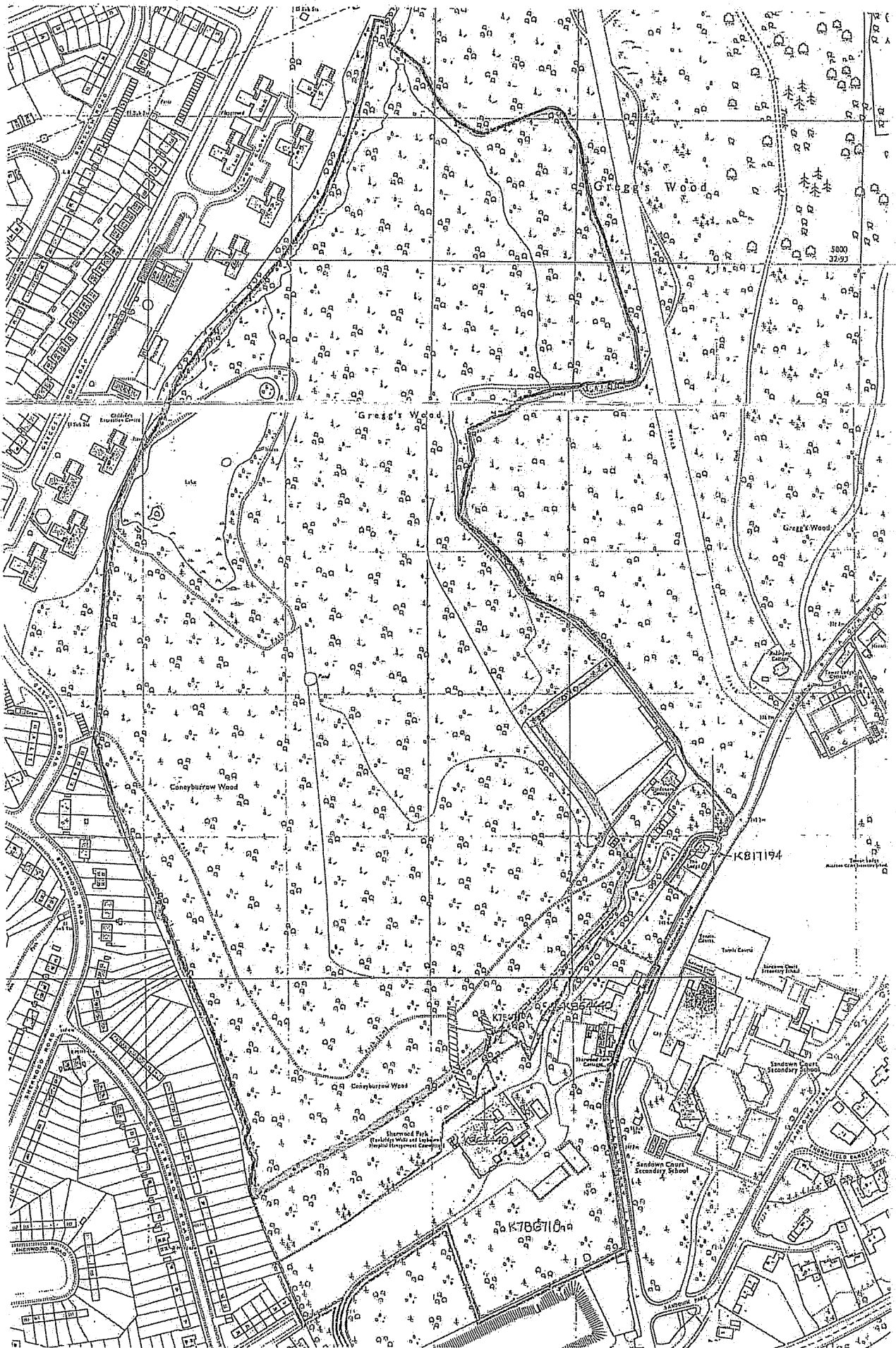
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COUNTY KENT

DISTRICT TUNBRIDGE WELLS

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**APPENDIX C:
Summary of user evidence submitted
in support of the application**

Name	Period of use	Frequency of use	Type of use		Access	Comments
			Fishing			
BAKER, L	2002 – present	daily	Y	Daily to walk to school, 3x per week for fishing	Via gate on Greggs Wood Road	
BARDEN, P	2000 – present	Occasionally	N	Walking	Via gateway	
BAYS, J	1965 – 1990	Most days	N	Took children to play, observe wildlife and birds	Gate behind Greggs Wood Road	At one time there were nine different walks on the application site
BEADLE, J	1960 – 1985	Summer only	Y	Dog walking	Through gate	
BROWN, AI	1999 – present	Twice weekly	N	Walk dogs and socialise	Through gateway	
BROWN, AV	1981 – present	Twice yearly	N	Nature walks with St. Philip's Brownies	Via gate	
BUSH, E	1961 – 2008	Regularly	Y	Walking, bird watching	Through gate	
CHAPPELL, C	2001 – present	Every other day	Y	Walking		
CHAPPELL, J	2001 – present	Daily	Y	Dog walking, socialising, bird watching	Through gate	
CHAPPELL, M	2001 – present	Weekly	Y	Walking, dog walking, socialising, bird watching	Via gate	
CHARD, O	1999 – present	Weekly	Y	Socialising	Via 'entrance to woods'	In summer 2008, fencing went up to stop motorbikes
CLIFTON, B	1990 – present	Weekly	N	Walking, socialising, feeding wildlife	'through the fence'	Fencing erected in summer 2008
COLEY, P	2003 – present	Monthly	N	Walking		Used by family for fishing
CRANE, T	1997 – present	Daily	Y	Socialising	'through fence'	
DOW, D	2001 – present	Weekly	Y	Socialising	Through gate	Site partially fenced (no date)
EADE, A	1940 – 2008	Twice weekly	Y	Walking in woods, bird watching	Via Greggs Wood Road	Granted permission from Estate Manager in 1940 to fish lake
EADE, B	1940s – present	Frequently	Y			Has seen many activities taking part on the land, including blackberrying, fishing, chestnut picking, shooting, pond dipping
EADE, M	1970 – 2008	4 weeks per year	Y			Dad had permission to fish. Sherwood Angling Club (now defunct) had notices on gate (largely ignored)
EDWARDS, A	1965 – present		Y	Bird watching	Via gate by Lakeside or by Silwood Close	Sought permission for use from Gleasons. Fence was put up in 2008 which blocked gate off
EDWARDS, F	1965 – present		Y	Playing in woods as a child, dog walking		Lots of paths through the woods used for dog walking. There is some fencing there now (previously all open) but no notices.
EDWARDS, G	1984 – present	Weekly	Y	Dog walking, picnics, socialising	'through many different entrances'	

Name	Period of use	Frequency of use	Type of use		Access	Comments
			Fishing			
ELDRIDGE, I	2007 – 2008	Weekly	N	Walking dogs	Via rear of flats	
ELDRIDGE, J	2007 – 2008		Y	Dog walking	Via rear of flats	
ELLIS, J	1988 – 2006	Several times a week	N	Walking with dog and children, nature study, feeding birds	Via path at doctor's surgery	
ELLIS, R	1988 – 2006	Twice weekly	N	Dog walking, exercise, bird watching		
GEMMELL, K	2004 – present	Daily	Y	Dog walking	'through hole in fence'	Fence erected in summer 2008
GLANVILLE, L	1976 – present	Weekly in summer	N	Walking, relaxation	Via Greggs Wood Road	Fence erected in 2008
HARVEY, A	1997 – 2002	Weekly	N	Relaxation, exercise, walking	Via path behind garages	
HARWOOD, F	1976 – present	Fortnightly	Y	Now use for walking, fishing with children (1976 – 1990), blueberry picking, bird watching		Paths cross woodland all the way
HEAD, A	2007 – 2008		Y	Walking, observing wildlife		
HEMSLEY, R	1942 – 1949		N	General recreation and sports training		Used as a child only – not during material period
HIGGINS, R	1998 – present	Weekly	N	Socialising	'through many entrances'	
HIGGINS, T	2000 - present	Weekly	Y	Dog walking, seeing friends, bike riding	'through entrances'	
HOLMWOOD, M	1986 – present	Daily	N	Dog walking		
HUTCHINSON, G	1966 – present	Daily in summer	N	Walking and relaxing		There are paths around the lake and through the woods. Has seen camping and picnics taking place. Fencing erected off Greggs Wood Road in 2008.
INGLIS, A	1997 – present	Weekly	Y	Socialising	'through fence'	
JANGAARD, A	1999 – present	Weekly	N	Walking, dog walking, collecting chestnuts	'through fence'	
JANGAARD, Z	1975 – present	Daily	N	Dog walking, socialising	'through fence'	Fencing erected in July 2008
JENNER-MARTIN, L	1997 – present	Daily during summer	Y	Litter picking		
JORDAN, D	2005 – present	Twice weekly	Y	Walking and socialising	'through gateway'	Fencing erected (no date)
KELLY, F	2002 – present	Weekly	N	Socialising, dog walking, educating child about wildlife	'several entrances scaling the length of Greggs Wood Road'	
KEMP, R	1997 – present	Twice daily	Y			

Name	Period of use	Frequency of use	Type of use		Access	Comments
			Fishing			
KERBY, P	2007 – present	Daily	N	Dog walking, chestnut picking		
KERRY, S	2007 – present		N	Enjoy woodland, walk dogs, litter picking, bird watching		
KING, S	2005 – present	Daily in summer	Y	Playing, exploring, litter picking		
LEETE, S	1984 – 2008	12 x per year	N	Nature walks, feeding ducks, walking, bird watching	Via path by garages in Greggs Wood Road	
MALYON, D	1948 – 2008	Weekly	N	Feed fish, walking	Through gateway	
MOORE, A	2006 – present	Weekly in summer	Y	Walking, bird watching	Via Greggs Wood Road	No notices but fence has been erected (no date)
PLAYFORD, G	1987 – present	Weekly	Y	Dog walking, socialising	Through a gate	Aware of use for fishing, camping, blackberrying
SCOTT, D	1949 – present	Weekly	N	See fish, chestnut picking	Through gateway	
SEYMOUR, I	1974 – 2009	Twice weekly	Y		Via Silwood Close	Fence erected in 2008
SMITH, A	1977 – present	'a lot'	Y	Chestnut picking	Via gateway	
TIERNAN, K	2006 – present		Y			Fence erected (no date)
TOMSETT, J (Mrs)	1971 – 1982, 1998 – present	Monthly	N	Walking with children and dog, chestnut picking, pond dipping	Through gate off Greggs Wood Road	Fence erected with no gate at Greggs Wood Road in last 2 years so gained access by doctor's surgery
TOMSETT, J (Mr)	1975 – 1982, 1998 – present	Mainly in summer	N	Walking, chestnut picking	Through gate on Greggs Wood Road	Fence has been erected by Greggs Wood flats (no date). There are paths around the lake and tracks into the woodland.
WALTON – EADE, P	1968 – present	Frequently	Y	Walking	Through gate when present, now gap in fence	Partial fencing and gates erected around lake (no date)
WILLIAMS, F	1981 – 2008	Monthly in summer	N	Exercise, walking, picking chestnuts	Via Greenway, Greggs Wood Road or rear of doctor's surgery	Fence erected where there had previously been a gate (no date)
WILLIAMS, K	1992 – present	Annually	N	Walking	Access from Greggs Wood Road or Blackhurst Lane	Fencing erected (no date). Used with St Philip's Brownies for pond dipping

**APPENDIX D:
Copy of permissive agreement dated
1994**

AN AGREEMENT made the 16th day of November 1994

BETWEEN South Thames Regional Health Authority and Sherwood Park
Angling Club

WHEREBY:

1. South Thames Regional Health Authority agrees with effect from 17 November
1994 for the period of 364 days

(a) to permit the members of the Sherwood Park Angling Club to exercise
sole fishing rights in the lake at Sherwood Park, Tunbridge Wells

(b) to permit members of the Club their families and friends to have access
to the lake and the shores of the lake for the purpose of fishing

(c) to permit the Club to undertake the clearance of dead wood and other
rubbish from the water of the lake and to carry out repair of the overflow
culvert of the lake all to the satisfaction of a duly authorised officer of South
Thames Regional Health Authority

(d) to provide a lock to the gate in the boundary fencing and to issue one
key on loan to the Club

(e) to erect a notice board near the gate stating that entry is permitted only
to authorised persons

2. Sherwood Park Angling Club for their part agree:

(a) to be responsible for ensuring that fishing is strictly controlled and
conducted in accordance with the Rules of the Club and that no fishing takes
place in the "closed" season

(b) to supply South Thames Regional Health Authority with a copy of the
Club's Constitution and Rules

READ WITH ORIGINAL / EXT ABSTRACT
CERTIFIED COPY


THIS 13th DAY OF NOVEMBER 1994
BY EVAN ASHFOORD, SOLICITORS, BRISTOL

(c) to ensure as far as is reasonably practicable that only persons authorised by the Club or by South Thames Regional Health Authority are admitted and that fishing is restricted to members of the Club

(d) to pay the sum of £1 per annum in advance on the signing hereof in consideration of the fishing rights granted in this Agreement

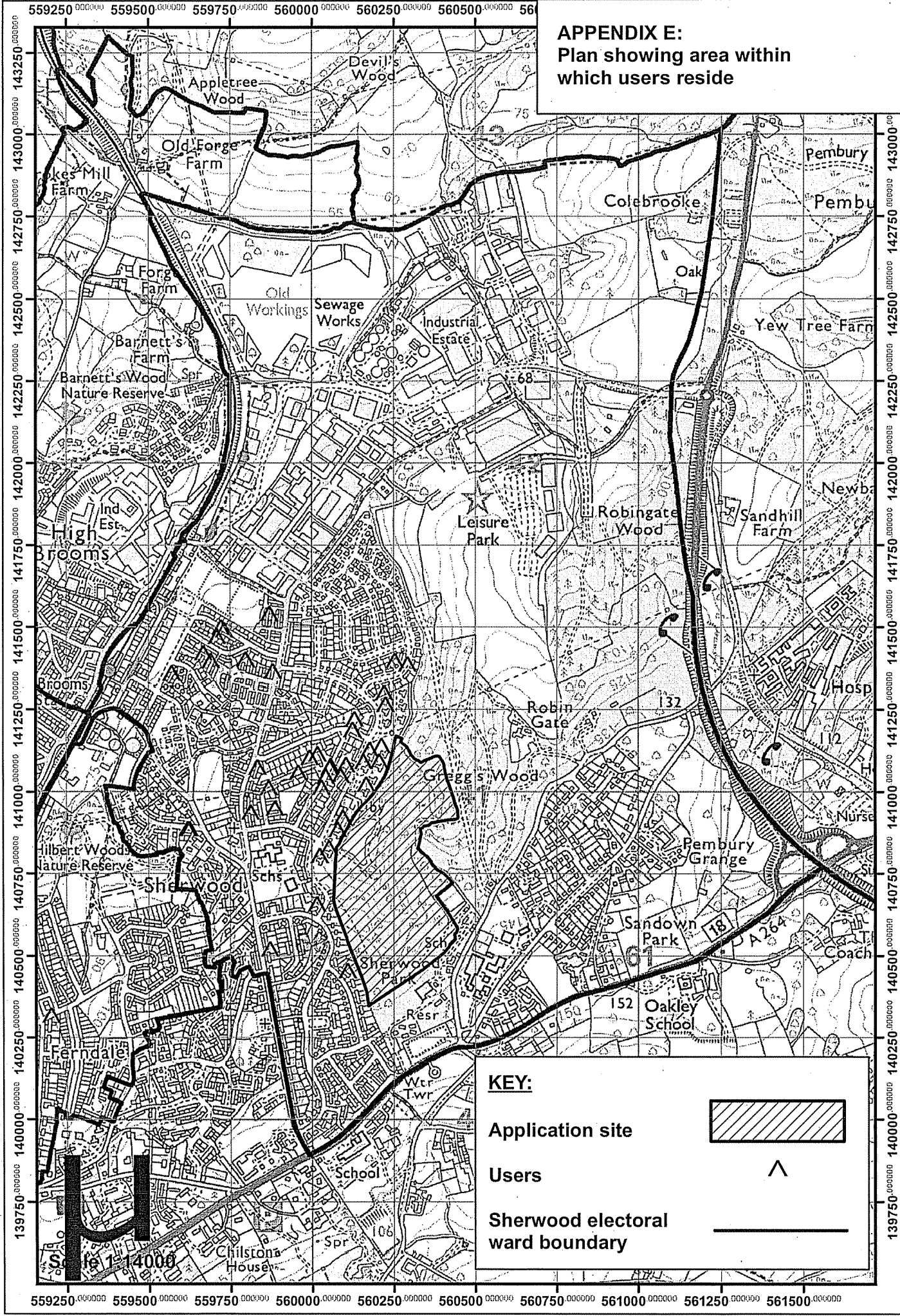
3. It is further agreed that South Thames Regional Health Authority accepts no responsibility for the safety of persons admitted by the Angling Club and that the Agreement may be terminated by three months' notice on either side.

SIGNED on behalf of Sherwood Park)
Angling Club:)

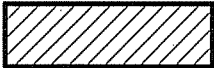




W. R. THORPE

APPENDIX E:
Plan showing area within
which users reside



KEY:

- Application site 
- Users 
- Sherwood electoral ward boundary 

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