



AGENDA

Kent County Council

REGULATION COMMITTEE MEMBER PANEL

Tuesday, 11th September, 2012, at 1.00 pm
Westgate Hall, Westgate Road, Canterbury
CT1 2BT

Ask for: **Andrew Tait**
Telephone **01622 694342**

Tea/Coffee will be available 15 minutes before the meeting

Membership

Mr M J Harrison (Chairman), Mr A D Crowther (Vice-Chairman), Mr I S Chittenden and Mr R A Pascoe

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Membership and Substitutes
2. Declarations of Interest by Members for items on the agenda
3. Application to register land known as Scrapsgate Open Space at Minster-on-Sea as a new Village Green (Pages 1 - 16)
4. Application to register land at Duncan Down, Whitstable as a new Village Green (Pages 17 - 32)
5. Application to register land known as Chaucer Field at Canterbury as a new Village Green (Pages 33 - 62)
6. Other items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services
(01622) 694002

Monday, 3 September 2012

Application to register land known as Scrapsgate Open Space and Playing Field at Minster-on-Sea as a new Village Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 11th September 2012.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Scrapsgate Open Space and Playing Field at Minster-on-sea as a new Village Green has been accepted, and that the land subject to the application be formally registered as a Village Green.

Local Members: Mr. A. Crowther

Unrestricted item

Introduction

1. The County Council has received an application to register land known as Scrapsgate Open Space and Playing Field at Minster-on-Sea on the Isle of Sheppey as a new Village Green from the Minster-on-Sea Parish Council ("the applicant"). The application, made on 8th November 2010, was allocated the application number VGA632. 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).

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. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

5. The area of land subject to this application (“the application site”) consists of an area of land of approximately 0.4 hectares (1.2 acres) in size which is situated to the west of Scrapsgate Road and occupies an area between the sewage pumping station, the Minster Marshes and Ripney Hill Farm in the parish of Minster-on-Sea. The application site is shown in more detail on the plan at **Appendix A**.
6. Part of the application site is known as ‘Scrapsgate Road Playing Field’ and is accessed via a gap from Scrapsgate Road in the south-eastern part of the application site, and the remainder of the application site is known as ‘Scrapsgate Field’ and accessed via a small car park situated off Scrapsgate Road adjacent to the sewage pumping station.

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. In support of the application, 86 standard-form witness statements from local residents were provided, all attesting to use of the application site for lawful sports and pastimes ‘as of right’ for a period of over twenty years. A summary of the evidence in support of the application is attached at **Appendix C**. Also included in the application were several photographs showing use of the application site in 1974 and a newspaper article dated 28th June 1974 reporting an annual gymkhana that took place on the application site.

Consultations

9. Consultations have been carried out as required. No responses have been received.

Landowner

10. The application site (with the exception of a small tract of land to the north of the sewage pumping station) is owned by Swale Borough Council (“the Borough Council”) and is registered with the Land Registry under title numbers K247077 and K921207. The small tract of land referred to above has no registered landowner.
11. The Borough Council has been contacted and has no objection to the application. The Borough Council confirmed that the land was registered to it on 12th January 1967 and drew attention to a reference to the Physical Training and Recreation Act 1937 contained in the Land Registry title which suggests that the land may be held for recreational purposes. However, the Borough Council has not been able to provide a copy of the original conveyance, nor has it been able to provide any

Legal tests

12. 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'?*

13. The definition of the phrase 'as of right' has been considered by the House of Lords. Following the judgement in the Sunningwell¹ 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.
14. In this case, there is nothing within the user evidence to suggest that use of the application site has been in exercise of any force or has taken place subversively. The notion that users have had free and unrestricted access to the application site is supported by the ease with which it is possible to access the application site and the lack of any evidence on the ground of fencing or gates to restrict or impede pedestrian access.
15. There are several notices on the application site, but none of these appear to seek to prohibit general recreation on the land. There are some notices erected by the Environment Agency in relation to the drainage ditch on the western edge of the site warning of a sudden drop, flash flooding and uneven ground. There is a notice at the entrance to the Scrapsgate Field warning pedestrians that the land is a horse riding area and warning riders of ground conditions. Finally, there is also a notice at the entrance to Scrapsgate Road Playing Field which does prohibit golf and camping but which does not seek to restrict any other form of access. As such, none of the notices would have had the effect of suggesting to a reasonable user that s/he their use was under protest by the landowner.
16. Nor is there any suggestion within the user evidence that use has taken place by virtue of any express permission from the landowner. The reference to the Physical Training and Recreation Act 1937 ("the 1937 Act") in the Land Registry title documentation implies that the land may be held for recreational purposes and therefore that use may have taken place by virtue of an existing right.

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

However, the Borough Council has not been able to provide any documentation to support this proposition and, in the absence of any such evidence, it is not possible to conclude definitively that the land is held under the 1937 Act.

17. Therefore, in the absence of any evidence to the contrary, use of the application site would appear to have taken place 'as of right'.

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

18. 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 activities².

19. 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*'³.

20. In this case, the user evidence statements refer to the use of the land for 'lawful sports and pastimes' as a generic category and do not make reference to specific categories. However, some users have added their own comments and suggest that the land has been used for activities including walking, playing with children and horse riding. A selection of these comments is included at **Appendix C**.

21. Therefore, it can be concluded that the application site has been used 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?

22. The definition of locality for the purposes of a Town or Village Green application has been the subject of much debate in the Courts. In the *Cheltenham Builders*⁴ 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*'.

23. 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*

² *R v. Oxfordshire County Council and another, Sunningwell Parish Council* [1999] 3 All ER 385

³ *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

⁴ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

*the land is in general use by the community for informal recreation rather than occasional use by individuals as trespassers*⁵. Thus, what constitutes a 'significant number' will depend upon the local environment and will vary in each case depending upon the location of the application site.

The 'locality'

24. On the application form, the applicant has provided a description of the location of the land rather than specifying a legally recognised administrative unit as per the legal requirements. The fact that the applicant has not specified a qualifying locality is not, of itself, fatal to the application provided that the County Council is satisfied that there exists a qualifying locality prior to the registration of the land as a Town or Village Green.
25. In this case, the application site falls within the administrative parish of Minster-on-Sea which is a legally recognised unit and thus would constitute a qualifying locality for the purposes of section 15 of the Commons Act 2006.

'significant number'

26. Having established the relevant locality, it is also necessary to consider whether use of the application site has taken place by a significant number of the residents of the locality. In this case, the application is supported by evidence questionnaires from 86 local residents living throughout the parish of Minster-on-Sea (as shown on the plan at **Appendix D**).
27. As such, it can be concluded that use has taken place by the community as a whole (rather than individuals as trespassers) and this test is therefore met.

(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)?

28. 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).
29. In this case, there is no evidence of any challenge to recreational use of the application site and such use has continued up to (and indeed beyond) the date of the application in November 2010.

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

30. 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 of the application site 'as of right' is continuing and, as such, the relevant twenty-year period ("the material period") is calculated retrospectively from the date of the application, i.e. 1990 to 2010.

⁵ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

31. The standard format of the user evidence questionnaires makes it difficult to establish precise periods of use for each individual witness. However, the wording of the statements suggests that all of the users have used the land for a period of at least 20 years and, taking into account the Borough Council's confirmation that it acquired the land in 1967 and the newspaper article reporting the gymkhana that took place on the land in 1974, it would appear that the application site has been available for recreational use well beyond the requisite twenty year period.

Conclusion

32. Although this application is unopposed, it is still necessary for the County Council to consider the application on its merits and to be satisfied that all of the requisite legal tests have been met. Indeed, DEFRA's guidance states that '*an application should be granted only if it is made in accordance with the criteria in the legislation, and the absence of opposition to its being granted must not be taken as suggestive that those criteria are met and need not be considered*'⁶.

33. In this case, the evidence demonstrates (for the reasons set out above) that the application site has been used by local residents without challenge for recreational purposes for a period in excess of 20 years. There is no evidence to suggest that such use has not been 'as of right' or that it has been challenged in any way. It can therefore be concluded that the legal tests concerning the registration of the land as a Village Green have been met.

Recommendation

34. I recommend that the County Council informs the applicant that the application to register the land known as Scrapsgate Open Space and Playing Field at Minster-on-sea as a new Village Green has been accepted, and that the land subject to the application be formally registered as a Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221513 or Email: mike.overbeke@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 Countryside Access Service, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

APPENDIX A – Plan showing application site

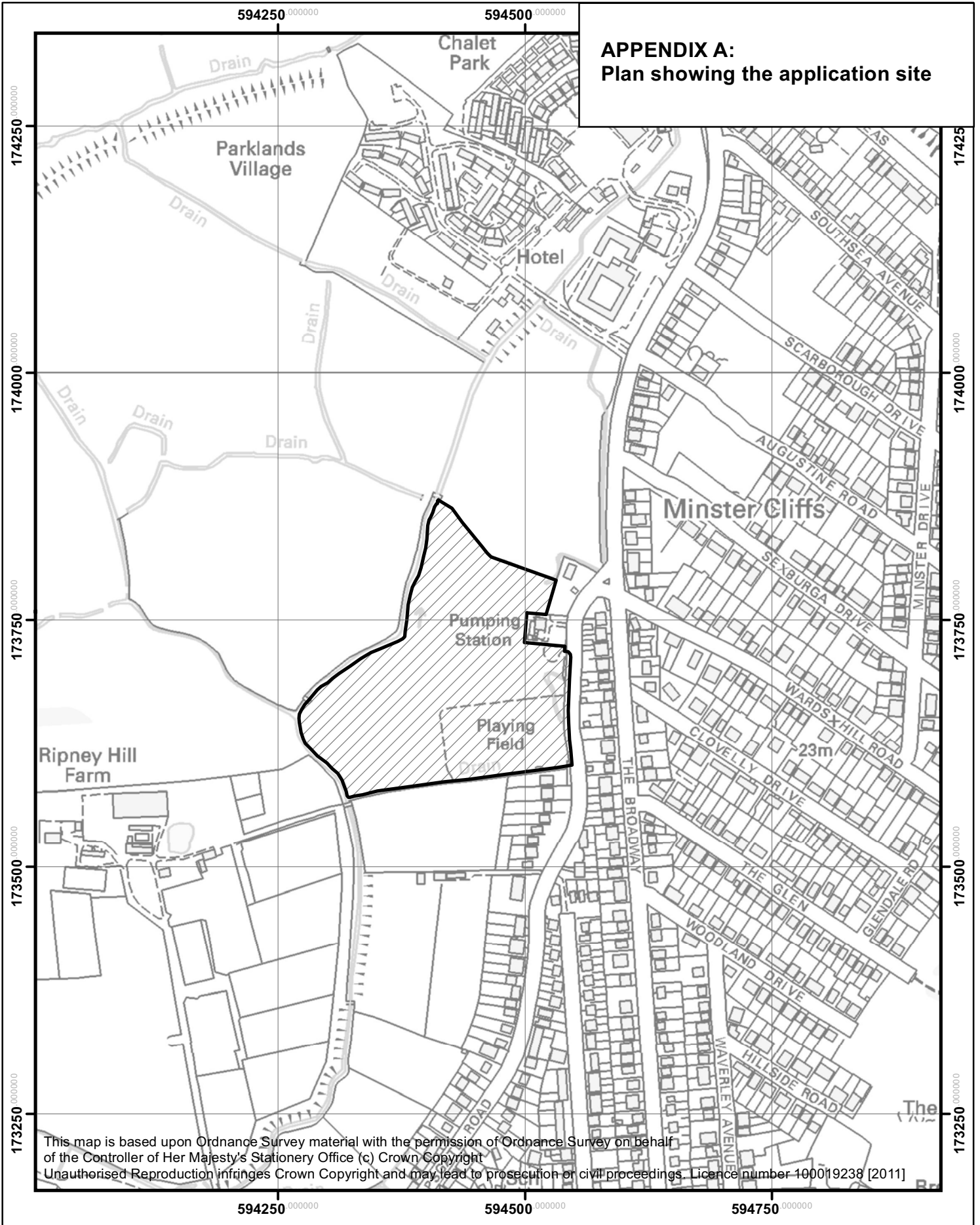
APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing locality

⁶ See section 7.17 of DEFRA's 'Guidance to commons registration authorities and PINS for the pioneer implementation' (Version 1.43, September 2011)

**APPENDIX A:
Plan showing the application site**



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Scale 1:5000

**Land subject to Village Green application at
Scrapsgate Road, Minster-on-Sea**



Page 7



FORM CA9

APPENDIX B:
Copy of the application form

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:

COMMONS ACT 2006
KENT COUNTY COUNCIL
REGISTRATION AUTHORITY
08 NOV 2010

VQA632

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: COMMONS REGISTRATION TEAM
KENT COUNTY COUNCIL
GUNTRYSIDE ACCESS SERVICE
INVICTA HOUSE
GUNTY HALL
MAIDSTONE
KENT
ME14 1XX.

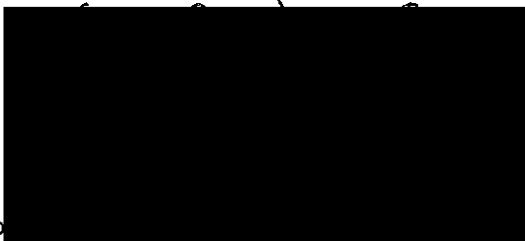
Note 2

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: MINSTER-ON-SEA PARISH COUNCIL

Full postal address:
(incl. Postcode)



Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:



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:

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

A SIGNIFICANT NUMBER OF THE RESIDENTS OF MINSTER-UW-SEA HAVE INDULGED AS OF RIGHT IN LAWFUL SPORTS AND PASTIMES ON THE LAND KNOWN AS THE 'SCRAPSGATE OPEN SPACE AND PLAYING FIELD' IN MINSTER-UW-SEA FOR A PERIOD OF MORE THAN TWENTY YEARS AND THEY CONTINUE TO DO SO AT THE TIME OF APPLICATION.

THESE RESIDENTS HAVE DONE SO WITHOUT PERMISSION, WITHOUT BEING STOPPED OR SEEING NOTICES TO STOP THEM, WITHOUT BEING SECRETIVE ABOUT IT. THEY HAVE DONE THIS FOR A CONTINUOUS PERIOD OF MORE THAN TWENTY YEARS.

THIS APPLICATION SEES AN INCLUSION IN THE REGISTER OF TOWNS AND VILLAGE GREENS OF THE LAND KNOWN AS THE 'SCRAPSGATE OPEN SPACE AND PLAYING FIELD' WHICH IS QUALIFIED FOR REGISTRATION BY VIRTUE OF THE USE OF THE LAND FOR THE PURPOSES OF LAWFUL SPORTS AND PASTIMES (AS OF RIGHT) AND WITHOUT CHALLENGE FROM THE LANDOWNER FOR A PERIOD OF MORE THAN TWENTY YEARS.

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


LEN MAYATT
LANDSCAPE OFFICER PARKS + OPEN SPACES
COMMUNITY ENVIRONMENTAL SERVICES
SWALE BROUGH COUNCIL
SWALE HOUSE
EAST STREET
SPRINGBURN
KENT
ME10 3HT

<p>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.</p>	<p>9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land</p> <p style="text-align: center;">NOT APPLICABLE</p>
<p>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.</p>	<p>10. Supporting documentation</p> <ul style="list-style-type: none"> - 86 SUPPORTING WITNESS STATEMENTS - PHOTOGRAPHIC EVIDENCE FROM 1971 ONWARDS - PRESS ARTICLE DATED 28 JUNE 1974.
<p>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.</p>	<p>11. Any other information relating to the application</p> <p>THIS INCLUDES ONE OF THE BEST FOOTBALL PITCHES ON THE ISLAND. THE REST OF THE LAND IS ALLOCATED FOR THE USE OF THE PONY CLUB, DOG WALKERS AND OUTDOOR PURSUITS.</p>

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):  TRISH GODDINGTON (Parish Clerk)
ON BEHALF OF MINSTER-IN-SEA PARISH COUNCIL

Date: 2/11/10

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.

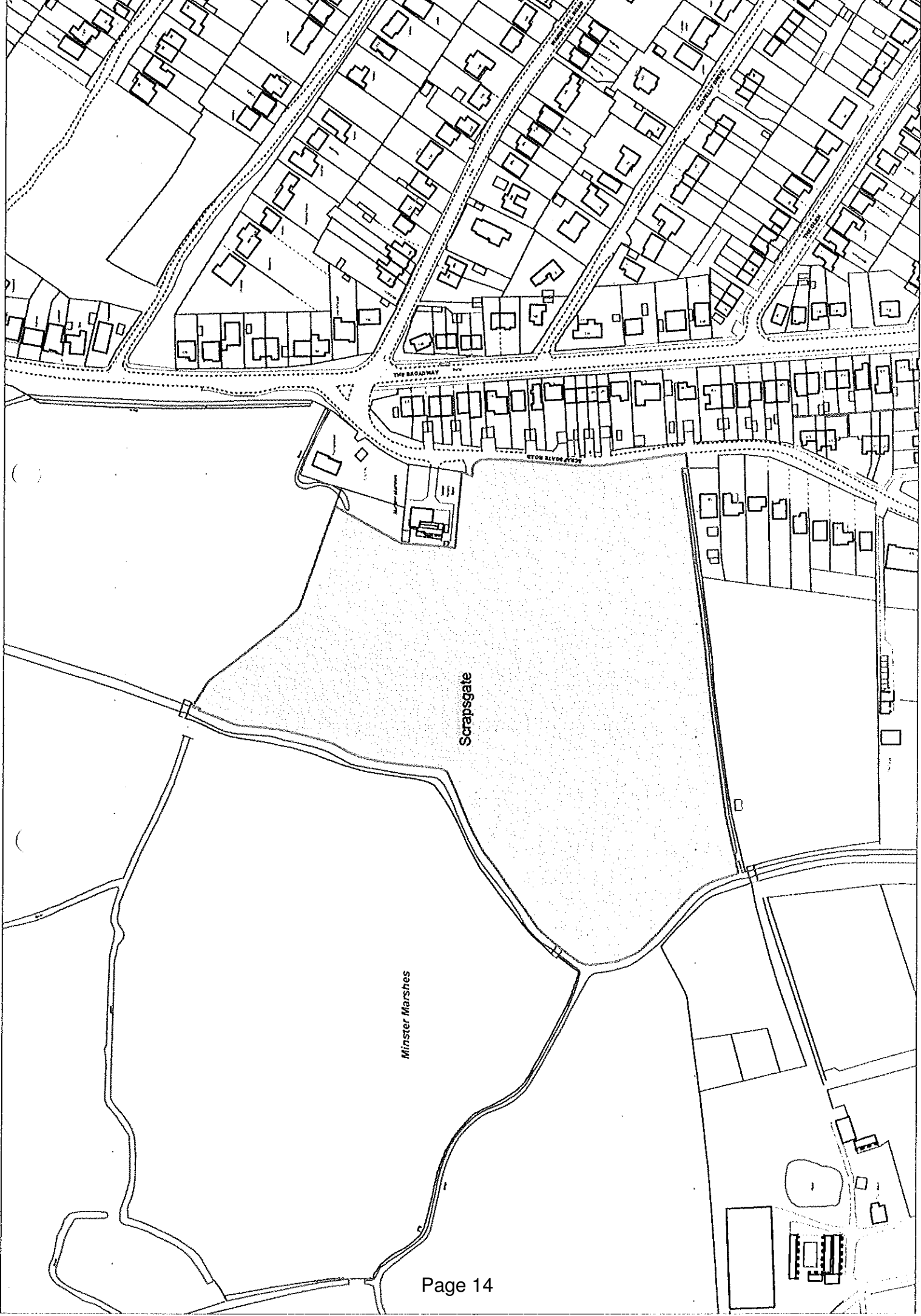
Please send your completed application form to:

**The Commons Registration Team
Kent County Council
Countryside Access Service
Invicta House
County Hall
Maldstone
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.



Scrapsgate

Minster Marshes

THE BROADWAY

STONE BLVD

APPENDIX C: Summary of user evidence

The user evidence submitted in support of this application consists of identical 'standard form' statements which have been individually signed by local residents.

The statements all read: *"As a resident of Minster on Sea, I have indulged as right in lawful sports and pastimes on the land known as 'Scrapsgate Open Space and Playing Field' in Minster-on-Sea, Sheerness, Kent for a period of more than twenty years and I continue to do so at the current time. I have done this without permission, without force or seeing notices to stop me and without being secretive about this".*

In addition, a number of people added their own comments in a space at the bottom of the form setting out their own observations and evidence of use in greater detail. A sample of these comments is reproduced below.

Mrs. L. Barton – "I have used Scrapsgate Open Space and Playing field all my life... [my children] played and rode ponies plus walked our dogs. Now their children are using this lovely open space..."

Mrs. S. Christie – "I have used this field for many years and would find it a great shame to see it used for anything other than recreational activities"

Mrs. S. Crane – "it is also a good place to walk the dog"

Mrs. M. Oates – "I use this area for dog walking and horse riding"

Mrs. R. Growsell – "This is one of the local places we use, my son has taken many nature photographs there"

Mrs. J. Harland – "I often go for a walk along there"

Mr. P. Houghton – "I have used this area for at least 40 years"

Mrs. J. Ingleton – "This has always been a place for football and sports"

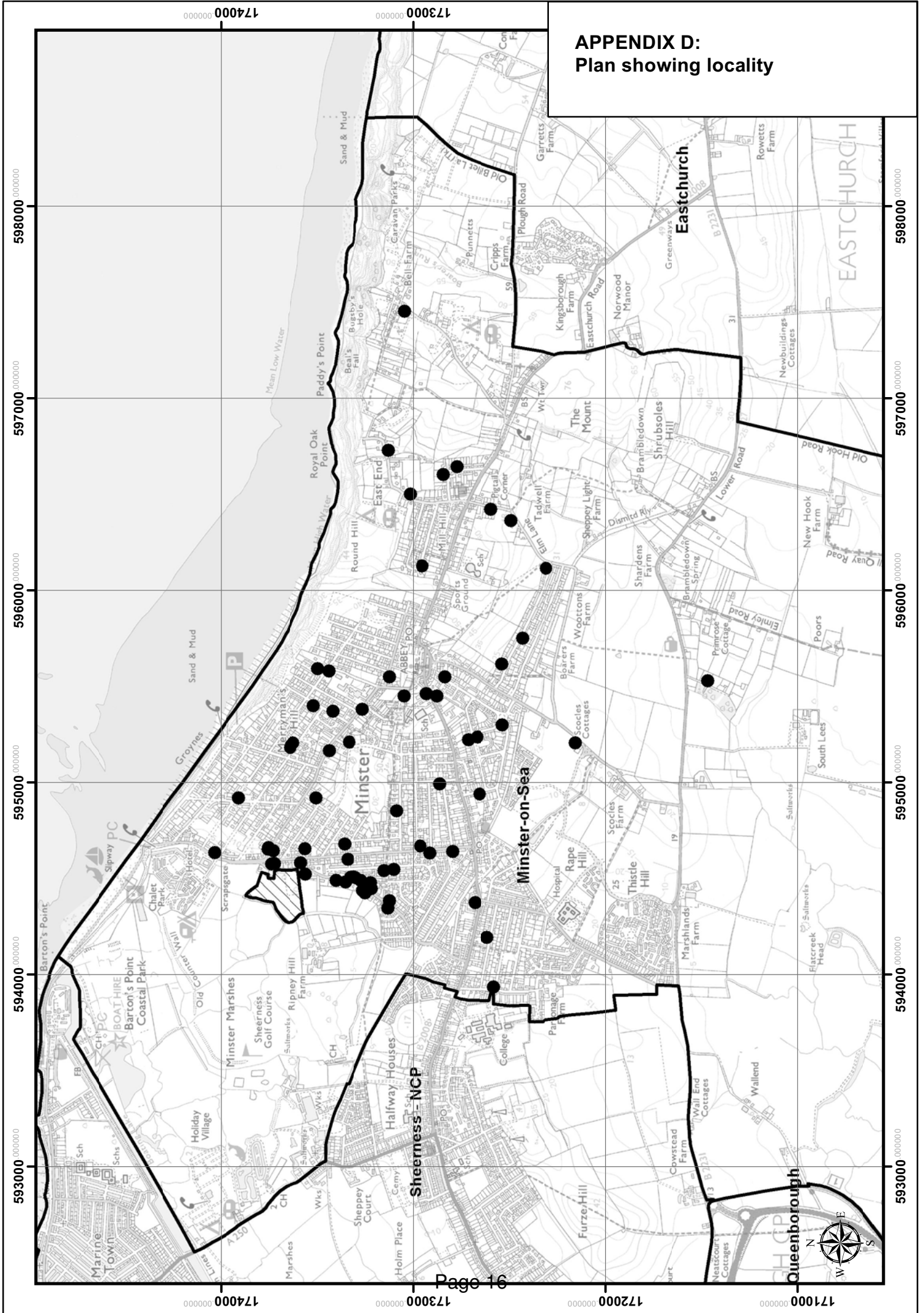
Mr. M. Ingleton – "As a local resident I have ridden across and around this field for the last 60 years... I also take my dogs there on a regular basis and enjoy the wildlife"

Mrs. A. Lawrence – "I have been using the area stated for the past 30 years for dog walking and horse riding... I use this area on a regular basis"

Mrs. B. Robinson – "This is a lovely play field. Even if lots of boys are playing football there is still plenty of space to do other things. Young children love walking round the field, to see all the horses and sometimes the ducks and the rabbits. It is also used to walk dogs."

Mrs. S. Strong – "Over 20 years ago, until 2004, my son and I rode our horses in this field (one of the few off road sites available for horse riding in this area). My children and now grandchildren played football and other games here, as well as fishing for tadpoles and newts in the ditches. I continue to use it regularly for walking my dog."

**APPENDIX D:
Plan showing locality**



Application to register land at Duncan Down at Whitstable as a new Village Green

A report by the Head of Countryside Access Service to Kent County Council's Regulation Committee Member Panel on Tuesday 11th September 2012.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Duncan Down at Whitstable as a new Village Green has been accepted, and that the land subject to the application be formally registered as a Village Green.

Local Members: Mr. M. Harrison and Mr. M. Dance

Unrestricted item

Introduction

1. The County Council has received an application to register land at Duncan Down in Whitstable as a new Village Green from Mr. A. Clark on behalf of the Friends of Duncan Down ("the applicant"). The application, made on 1st September 2011, was allocated the application number VGA637. 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).

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. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

5. The area of land subject to this application (“the application site”) consists of an area of woodland of approximately 0.05 hectares (0.14 acres) in size which is situated to the north-east of South View Farm and in the vicinity of Benacre Road at Whitstable.
6. Access to the application site is via a footbridge crossing the brook which was installed by the Friends of Duncan Down in 2010 following requests from local residents. Prior to that time, access to the application site was gained via stepping stones (i.e. lumps of concrete or logs) across the brook.
7. The application site forms part of a wider area known as Duncan Down and immediately abuts existing Village Greens VG232 and VG240, as shown on the plan at **Appendix A**.

The case

8. 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.
9. In support of the application, 42 user evidence questionnaires from local residents were provided, demonstrating use of the application site for a range of recreational activities for a period in excess of twenty years. A summary of the evidence in support of the application is attached at **Appendix C**.

Consultations

10. Consultations have been carried out as required. No responses have been received.

Landowner

11. A search with the Land Registry has revealed that the land is not registered to any known landowner.
12. As stated above, under the current Regulations, the duty to inform the landowner of the application rests with the applicant. However, the Regulations also specify that that duty does not apply where the landowner cannot be reasonably identified¹.

Legal tests

13. In dealing with an application to register a new Town or Village Green the County Council must consider the following criteria:

¹ Regulation 22(3) of the Commons Registration (England) Regulations 2008

- (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'?*

14. The definition of the phrase 'as of right' has been considered by the House of Lords. Following the judgement in the *Sunningwell*² 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.

15. In this case, there is no evidence to indicate that use of the application site has been in any way with force, in secrecy or undertaken on a permissive basis.

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

16. 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 activities³.

17. 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*'⁴.

18. In this case, the evidence demonstrates that the land has been used for recreational activities. The summary of evidence of use by local residents at **Appendix C** shows the activities claimed to have taken place.

19. The evidence of use submitted in support of the application refers predominantly to walking (with or without dogs), but there is also reference to use of the application site for the purposes of wildlife observation, nature study, photography and playing with children.

² *R v. Oxfordshire County Council and another, Sunningwell Parish Council* [1999] 3 All ER 385

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

⁴ *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

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

20. The definition of locality for the purposes of a Town or Village Green application has been the subject of much debate in the Courts. In the *Cheltenham Builders*⁵ 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’.

21. 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’⁶. Thus, what constitutes a ‘significant number’ will depend upon the local environment and will vary in each case depending upon the location of the application site.

The ‘locality’

22. The Applicant specifies the locality at Part 6 of the application form as ‘Gorrell Ward, Whitstable’.

23. The Canterbury City Council electoral ward of Gorrell is a legally recognised locality with defined boundaries and would therefore constitute a qualifying locality for the purposes of this application.

‘significant number’

24. In this case, the application is supported by evidence questionnaires from 42 local residents, although six of these do not live within the qualifying locality. Even disregarding the non-qualifying use, this leaves evidence of use of the application site from 36 local residents. The user evidence demonstrates very regular usage of the application site, with the vast majority of recreational users using the land on an at least weekly basis. Furthermore, most report seeing other people using the land on a regular basis.

25. The evidence of use submitted in support of the application suggests that the application site is in very frequent use by local residents and it would therefore have been obvious to any landowner (had there been one) that the land was in regular usage by the local community.

26. As such, it can be concluded that the application site has been used by a significant number of the residents of a defined locality.

⁵ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

⁶ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

(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)?

27. 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).

28. In this case, there is no evidence of any challenge to recreational use of the application site and such use has continued up to (and indeed beyond) the date of the application in September 2011.

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

29. 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 of the application site ‘as of right’ is continuing and, as such, the relevant twenty-year period (“the material period”) is calculated retrospectively from the date of the application, i.e. 1991 to 2011.

30. The user evidence summarised at **Appendix C** demonstrates that there has been use of the application site in excess of the last twenty years. Therefore, it can be concluded that there has been use of the application site for a full period of twenty years.

Conclusion

31. Although this application is unopposed, it is still necessary for the County Council to consider the application on its merits and to be satisfied that all of the requisite legal tests have been met. Indeed, DEFRA’s guidance states that *‘an application should be granted only if it is made in accordance with the criteria in the legislation, and the absence of opposition to its being granted must not be taken as suggestive that those criteria are met and need not be considered’*⁷.

32. In this case, the user evidence set out at **Appendix C** demonstrates (for the reasons set out above) that the application site has been used by local residents without challenge for recreational purposes for a period in excess of 20 years. It can therefore be concluded that the legal tests concerning the registration of the land as a Village Green have been met.

Recommendation

33. I recommend that the County Council informs the applicant that the application to register the land at Duncan Down at Whitstable as a new Village Green has been accepted, and that the land subject to the application be formally registered as a Village Green.

Accountable Officer: Mr. Mike Overbeke – Tel: 01622 221513 or Email: mike.overbeke@kent.gov.uk
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⁷ See section 7.17 of DEFRA’s ‘Guidance to commons registration authorities and PINS for the pioneer implementation’ (Version 1.43, September 2011)

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 Countryside Access Service, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

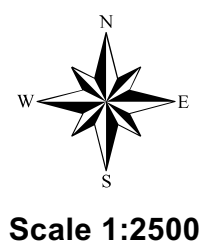
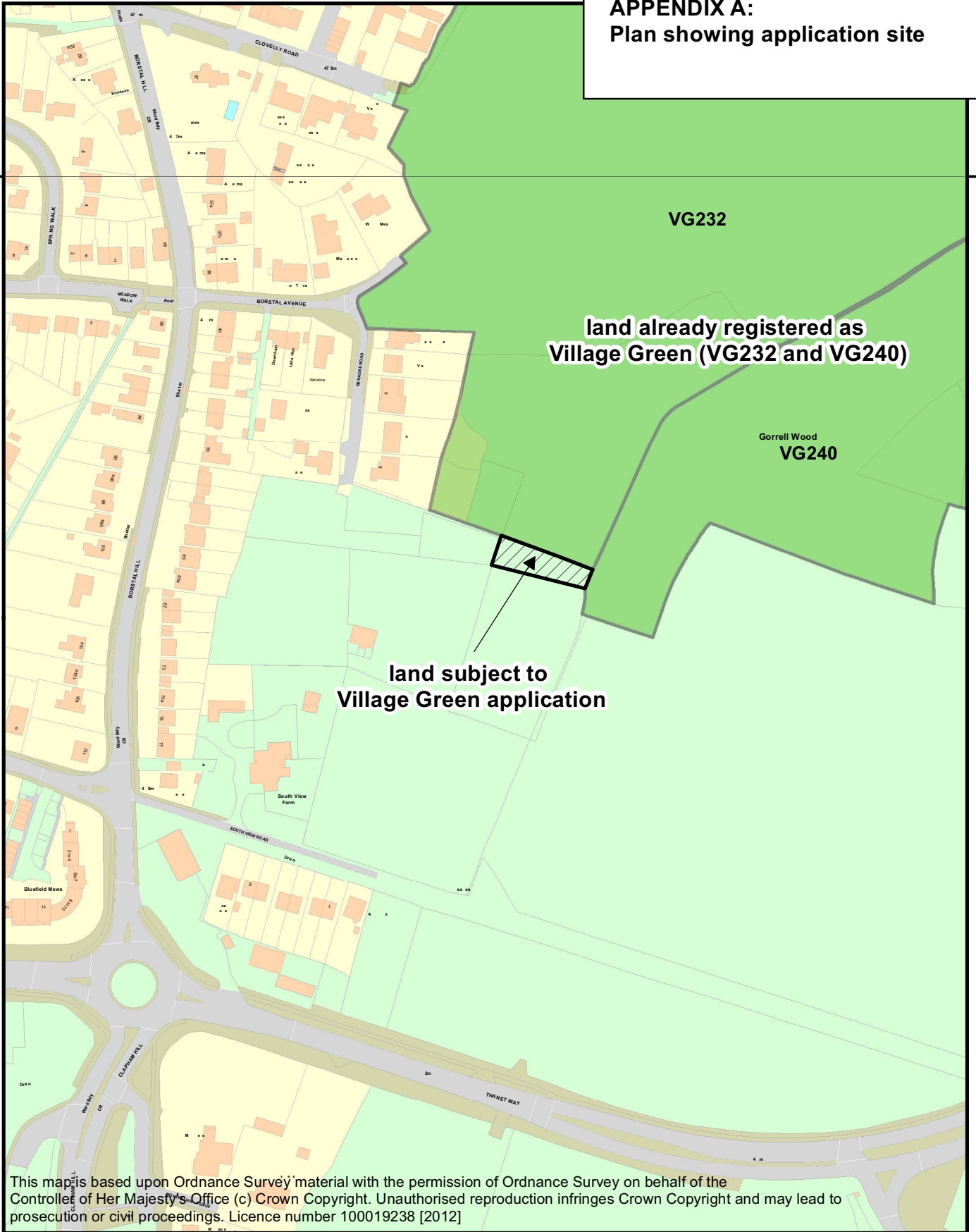
Background documents

APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

**APPENDIX A:
Plan showing application site**

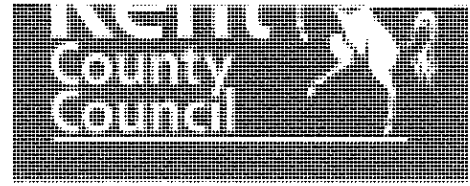


**Land subject to Village Green application
at Duncan Down, Whitstable**



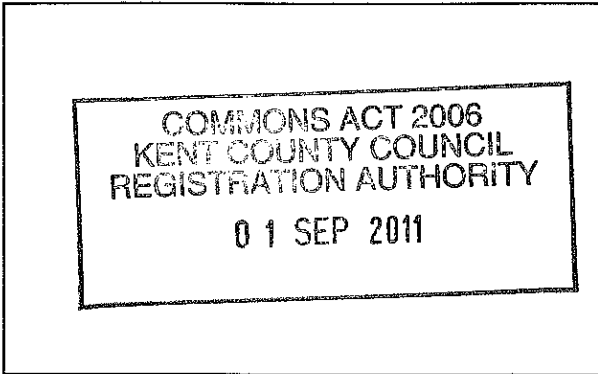
Commons Act 2006: section 15

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:

VAAG37

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
Public Rights of Way Officer - Definition Team
Invicta House
County Hall
MADSTONE
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: Ashley John CLARK
Secretary to the Friends of Duncan Down

Full postal address:
(incl. Postcode)

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

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:

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

Evidence of some 42 witnesses (there are more) that demonstrate that they and others representing a significant number of the inhabitants of the locality have indulged in lawful sports and pastimes on the land for a period in excess of 20 years as of right.

See attached statement, witness forms and exhibits as listed.

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

The land is unregistered

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

N/A

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.

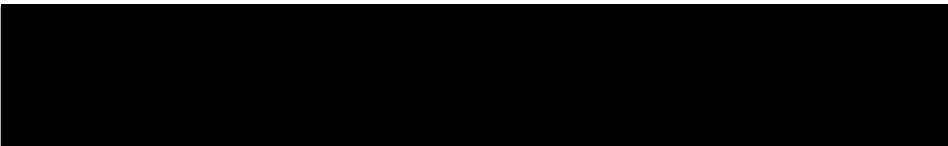
10. Supporting documentation

See attached list of witnesses and exhibits

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


claims to have an interest in the land. He has produced no evidence of this but he is related to the registered owners of plot(s) TITLE NO K 714859 notwithstanding that the owners named therein have not resided at the addresses given for many years. A check on 25th July 2011 revealed that these details had still not been updated.

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):

Date:

*15th September 2011***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.

**APPENDIX C:
Table summarising evidence of use**

Name	Period of use	Frequency of use	Type of use	Comments
Mr. G. BROWN	2006 – present	1/2 times per week	Dog walking	See others using the land for walking 'most times that I use it'.
Ms. J. BROWNING	1980 – present	Daily	Walking, bird watching, playing with children	Often see others using the land.
Mr. A. CLARK	1960 – present	Regularly	Dog walking, nature study, access to other parts of the Down, playing games as a child	Used the land periodically until 1997, then weekly until 2004, now daily. See others using the land, or going to it, on most days.
Ms. C. CLARK	1963 – present	Daily	Dog walking, childhood play	Lived away from the area 1977 – 1998. See people on the land on most days, most are regular users.
Mr. M. CLARK	2004 – present	2/3 times per week	Dog walking	See other local people using the land on most occasions.
Mr. B. CLARK	1975 – present	Monthly	Playing with children	Seen local dog walkers using the land on a regular basis over 40 years.
Ms. M. CLARK	1975 – present	Monthly	Dog walking, playing with children	Seen others using the land on a regular basis.
Mrs. F. CORNISH	1999 – present	Daily	Dog walking, litter picking	Frequently see others using the land
Mr. R. CORNISH	1999 – present	Weekly	Walking	Frequently see others using the land
Mrs. D. CROFT	1990 – present	Weekly	Dog walking	Often see others using the land
Mr. S. CROFT	1990 – present	Weekly	Dog walking	Often see others using the land
Mr. C. EDWARDS	1967 – present	Daily	Dog walking	See others using the land for dog walking every day
Mrs. D. ELLIS	1981 – present	3/4 times per week	Dog walking	Quite often see others using the land
Mr. J. ELLIS	1981 – present	3/4 times per week	Dog walking, bird watching	Often see others using the land
Ms. H. HANDFORD	2009 – present	Most days	Dog walking	Frequently see use by others
Ms. D. JOHNSTONE	1999 – present	1/2 times per month	Walking	Have seen a few other people using the land
Ms. K. LEE	1991 – present	Daily	Dog walking	Regularly see others using the land, mostly local people
Mrs. M. LERIGO	1964 – present	Not stated	Dog walking, bird watching	Frequently seen use by others. Have always regarded the land as part of Duncan Down.
Mr. V. LERIGO	1964 – present	Occasionally	Walking, photography	
Ms. K. MAGEE	2005 – present	Daily	Walking	See other people walking their dogs on the land on a daily basis
Mrs. C. MASTERS	1980 – present	Weekly	Walking	Frequently see others walking dogs
Mr. P. MASTERS	1980 – present	Twice weekly	Recreation and dog walking	Often see others using the land
Mr. S. NORCOTT	1995 – present	Fortnightly	Recreation and dog walking	Occasionally see others using the land
Mrs. J.	1992 –	Weekly	Dog walking and	See others using the land on a

NORCOTT	present		playing with children	weekly basis
Mr. C. OLSEN	2002 – present	Weekly	Walking	Occasionally see others using the land for dog walking
Mr. R. PARKER	2006 – present	1/2 times per day	Dog walking	Used the land between 1984 and 2006 when not resident in area
Mrs. P. PARKER	1961 – present	Twice daily since 2006	Nature study, walks	Did not use the land between 1976 – 1986. frequently see dog walkers on the land.
Mr. M. PEARCE	1983 – 2011	4 days per week	Dog walking	Have seen others using the land 'most times I have used it'
Mrs. S. PERCIVAL	1990 – 2005	Daily	Dog walking	Saw others dog walking on a regular basis, some recognized as living locally
Mr. C. PHILLIPS	1996 – present	2/3 times per week	Dog walking	See others using the land on every visit
Mr. S. PHILLIPS	1989 – present	Daily	Dog walking, nature walks	See others using the land for dog walking on a daily basis
Mrs. S. PHILLIPS	1989 – present	Daily	Dog walking	See others using the land for dog walking on a daily basis
Mrs. M. PIZZOTTI	1980 – present	Monthly	Dog walking	
Mrs. C. SNELLGROVE	1970s – present	Daily	Dog walking	See others using the land most days for dog walking
Mr. S. SNELLGROVE	1996 – present	Weekends	Dog walking	
Mr. A. STEWARD	2005 – present	Most days	Cycling, dog walking	See use by others for dog walking quite regularly
Mrs. S. STEWARD	2005 – 2011	Daily	Dog walking, children walking	See use by others on a daily basis. Always treated this area as part of Duncan Down
Mrs. M. TAYLOR	1970 – present	Weekly	Dog walking	Frequently seen use by others
Mr. C. WALLACE	1971 – present	Daily	Dog walking	See use by others for dog walking virtually daily
Mr. B. WEBB	1984 – present	4/5 times per week	Dog walking and wildlife observation	
Mrs. G. WEBB	1984 – present	daily	Dog walking, keeping fit, wildlife observation, meeting people, educating grandson	See use by others every day
Ms. C. WISE	1979 – present	daily	Dog walking	See use by others for walking every day

Application to register land known as Chaucer Fields at Canterbury as a new Town Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 11th September 2012.

Recommendation: I recommend that a non-statutory Public Inquiry be held into the case to clarify the issues.

Local Members: Mr. G. Gibbens

Unrestricted item

Introduction

1. The County Council has received an application to register land known as Chaucer Fields at Canterbury as a new Town or Village Green from a group of local residents, namely Mr. J. Barton, Mr. R. Norman, Mrs. P. Cherry, Mrs. S. Power and Mr. A. Pearlman ("the applicants"). The application, made on 21st April 2011, was allocated reference number VGA629. 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(1) of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Town or 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”) is situated adjacent to Chaucer College on the University of Kent campus in the city of Canterbury. The application site consists of approximately 17.6 hectares (43.5 acres) of meadow and woodland which forms a green space between the main university buildings and the residential estates in the vicinity of Salisbury Road in the St. Stephen’s area of the city of Canterbury. The application site does not have any officially recognised name, although it has latterly become known locally informally as Chaucer Field.
7. Access to the application site is via its unfenced¹ boundary along University Road¹, or via the Public Rights of Way (Public Footpaths CC5 and CC6 and Bridleway CC8) which cross and abut the site, providing access from the residential estates to the south and east of the application site. A plan showing the application site is attached at **Appendix A**.
8. Although not directly relevant to the consideration of this particular application, it should be noted that part of land at the south-western end of the application site was subject to a previous Village Green application (involving the land over which Chaucer College is now built) which was considered by the County Council and rejected by the Environment Sub-Committee at its meeting on 1st June 1990.

The case

9. 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.
10. In support of the application, 262 user evidence questionnaires were submitted detailing the recreational use of the application site by local inhabitants. A sample summary of the evidence submitted in support of the application is attached at **Appendix C**.
11. Also submitted in support of the application were detailed statements of use from each of the applicants, photographs and aerial photographs showing the application site, a map showing the locality, a newspaper article and a list of facts and figures regarding the St. Stephen’s ward in the city of Canterbury.

Consultations

12. Consultations have been carried out as required.
13. Canterbury City Council confirmed that application does not affect any land in its ownership and as such had no comment to make on the application.

¹ University Road is a private road but Public Footpath CC69 runs over it thereby providing a public right of access on foot.

14. The local County Member, Mr. G. Gibbens, responded in support of the application and stated that discussions with local residents have confirmed that the land has been used openly and freely for a period in excess of twenty years for a range of recreational activities. Residents living in the locality have confirmed that no permission has ever been sought from or given by the University for such use.
15. A large volume of letters in support of the application (85 in total) have also been received from local residents and students of the University. The letters add a significant amount of further evidence of recreational use in addition to the existing questionnaires submitted in support of the application.

Landowner

16. The application site forms part of the campus of the University of Kent (“the University”) and is registered with the Land Registry under title number K254318 as being within the University’s land ownership.
17. The University has objected to the application on the following grounds:
 - That the documentation submitted in support of the application is not sufficient to prove that a significant number of the inhabitants of the locality have indulged in lawful sports and pastimes on the land between 1991 and 2011;
 - That there is clear evidence that the use of the application site is with the permission of the University, communicated by notices positioned at each entrance to the application site throughout the relevant period; and
 - That use has not been by a significant number of the residents of the locality or neighbourhood and such use as was made was confined to footpaths and desire lines.
18. The University’s position is that there has not been 20 years’ use of the application site ‘as of right’. Between November 1989 and April 1990, following a previous Village Green application, signs were erected at each entrance to the University (including the entrance points to Chaucer Fields) stating that the land was private property and that access was by way of a revocable licence. Subject to occasional repair and replacement, the signs have remained continuously since that date. The University admits that signs were on occasion subject to vandalism, thus rendering them illegible, but asserts that the signs were repaired and legible at other times.
19. The University contends that the Chaucer Fields were not regularly used by a significant number of the residents of the locality throughout the material period, and suggests that the land was unattractive and unsuitable for lawful sports and pastimes as much of the application site is densely covered in trees and other parts have been used to take a hay crop therefore making it difficult to engage in lawful sports and pastimes.
20. The University adds that it has now applied for planning permission to construct a new 150 room hotel and conference centre on the land as well as a new college providing for 762 new student rooms. In the University’s view, the Village Green application has been made in the context of local objection to the development and a desire to continue using the land.
21. Included in support of the University’s objection were eleven statutory declarations from current and former University employees (summarised at **Appendix D**). The

substance of that evidence is essentially that there have been notices in place at various times on the application site indicating that recreational use is by virtue of revocable permission (many of which have latterly been vandalised) and that, whilst the land is used largely as a short cut to and from the University, any recreational use (which is mainly by dog walkers) has been in exercise of the existing rights of way over the application site.

Legal tests

22. 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'?*

23. The statutory scheme in relation to Village Green applications is based upon the English law of prescription, whereby certain rights can be acquired on the basis of a presumed dedication by the landowner. This presumption of dedication arises primarily as a result of acquiescence (i.e. inaction by the landowner) and, as such, long use by the public is merely evidence from which a dedication can be inferred.

24. In order to infer a dedication, use must have been 'as of right'. This means that use must have taken place without force, without secrecy and without permission (*'nec vi, nec clam, nec precario'*).

25. In this context, force refers not only to physical force, but to any use which is contentious or exercised under protest²: "*if, then, the inhabitants' use of the land is to give rise to the possibility of an application being made for registration of a village green, it must have been peaceable and non-contentious*"³.

26. In this case, whilst there is no evidence to suggest that use of the application site has been either secretive or in exercise of any physical force to gain entry to the application, it is not clear as to whether use of the application site has been by virtue of any form of permission.

Use by employees and students of the university

27. The University's evidence is that any use of the application site for recreational purposes has largely been by students of the University or by dog walkers walking along the footpaths. A number of the user evidence questionnaires submitted in

² *Dalton v Angus* (1881) 6 App Cas 740 (HL)

³ *R (Lewis) v Redcar and Cleveland Borough Council* [2010] UKSC 11 at paragraph 92 per Lord Rodger

support of the application and the letters received in support of the application are from employees of the university. Arguably, those directly associated with the University (i.e. staff and students) would have an implied permission to use University land. From the landowner's perspective, the University would have no cause to challenge such use. Therefore, use of the application site by employees and students of the University will generally be referable to an implied permission and will not be considered to be 'as of right'.

Notices

28. A significant area of dispute between the parties in this case involves notices which are said to have been in place on the application site. The application appears to have been prompted in part by the erection of permissive notices on the application early in 2011. These notices read "*The University of Kent at Canterbury hereby gives notice that the land is private property and any access by members of the public is by licence only and may be revoked at any time*". The University has confirmed that these notices were erected from February 2011. The effect of these notices was to bring 'as of right' usage of the application site to an end.
29. The University's case is that notices have been in place on University-owned land since its formation in the 1960s. Following the previous Village Green application in 1989 (which concerned land including part of and adjacent to the current application site), permissive notices were erected. It has been difficult to pinpoint a precise date for when the notices were erected, but it is thought that this took place in spring 1990. The University contends that, since that time, the notices have been consistently maintained.
30. The applicant does not dispute that such notices were erected in 1990. However, the applicant's position is that throughout the relevant twenty-year period, no attempt has been made by the University to maintain the signs, which became illegible due to graffiti.
31. There is therefore a great deal of uncertainty regarding the notices and, in particular, their effect on use. It is not at all clear from the evidence that the notices were fully legible during the early part of the twenty-year period and the evidence in support of the application is that they were not. In the absence of any evidence to prove definitively that the notices were legible during the relevant, it is not possible to conclude whether use of the application site was, or was not, 'as of right'.

Use of existing Public Rights of Way

32. Recreational use which has the outward appearance of being in exercise of an existing Public Right of Way is not qualifying use for the purposes of Village Green registration. The issue was considered by the Courts in *Laing Homes*⁴, in which the judge said that: '*it is important to distinguish between use that would suggest to a reasonable landowner that the users believed they were exercising a public right of way to walk, with or without dogs... and use that would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of the fields*'.

⁴ *R (Laing Homes) v Buckinghamshire County Council* [2003] 3 EGLR 70 at 79 per Sullivan J.

33. In this case, there are several recorded Public Rights of Way on or abutting the application site. The path running along the south-western boundary of the application site is recorded on the Definitive map of Public Rights of Way as CC5. The path running from Eliot College to the housing estates along the south-eastern boundary of the application site is also recorded as a Public Footpath (CC6). Furthermore, there is also a Bridleway which crosses the application site, known as CC8, which runs broadly parallel inside its south-eastern boundary.
34. There is also reference in the University's evidence to a linear 'desire line' running diagonally across the meadow used to take a hay crop. The University was well aware of the use of this linear route and ensured that it was mowed to facilitate access to and from the University. Although not a formally recorded Public Right of Way, the use of this desire line would have been a rights of way type user not capable of giving rise to Village Green registration.
35. The vast majority of the user evidence refers to walking. It is difficult on paper to differentiate between general recreational walking which involves wandering over a wide area, and walking which involves walking along a defined route between specific points. It is also not clear from the evidence precisely where the walking has taken place and, in particular whether it has involved walking along the Public Rights of Way on and around the application site.
36. Therefore, it is likely that at least some of the use of the application site for walking, jogging and cycling was not use that can be described as being 'as of right'. The degree of general recreational use as opposed to public rights of way type user is an issue which requires further consideration.

General conclusion on use 'as of right'

37. Therefore, it is not possible to conclude definitively whether use of the application site for recreational purposes during the relevant twenty year period has been 'as of right'. The issues of the notices, use by University employees and students, and use of the rights of way require further investigation.

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

38. 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.
39. 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, ex parte 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 and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

40. The applicant's case is that the land has been used for a range of recreational activities, including walking (with or without dogs), picnics, fishing, painting and photography. A sample summary of the evidence of use submitted in support of the application (at **Appendix C**) shows the full range of activities claimed to have taken place.
41. The University's position, based on the evidence of its employees, is that any use of the application site has been confined to the footpaths or has consisted of a linear, rights of way type use. The University denies that the application site has been used for other recreational activities, such as picnicking or family games, and suggests that the physical nature of the application site does not lend itself to such activities.
42. The University's evidence is therefore at odds the applicant's evidence and this would appear to be a further area of dispute which requires further consideration.

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

43. The right to use a Town or 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.

"neighbourhood(s) within a locality"

44. 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 Builders⁷ 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*'.
45. In cases where the "locality" is so large that it is difficult to show that the application site has been used by a significant number of people from that locality, it will also be necessary to consider whether there is a relevant "neighbourhood" or "neighbourhoods" within the wider locality.
46. 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*'⁸.

⁷ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 90

⁸ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

47. At part 6 of the application form (where the applicant is required to state his chosen neighbourhood and/or locality), the applicants state “administrative area is Canterbury, ward is St. Stephen’s ward, Canterbury and neighbourhoods are Salisbury Road estate and Harkness Drive area”. In later correspondence, the applicants state that their application relies upon the four neighbourhoods of the St Michael’s Road/Salisbury Road estate, the Harkness Drive estate, the Whitstable Road/St. Thomas Hill area and the Roper Road area within the locality of the city of Canterbury.
48. There can be little doubt that the City of Canterbury is a legally recognised administrative unit and as such constitutes a qualifying locality for the purposes of a Town Green application. In the Leeds Group⁹ case, it was held that there was no logical reason why the term ‘any neighbourhood’ should not include two or more neighbourhoods. An applicant can therefore rely upon more than one neighbourhood within a qualifying locality so the fact that the applicants in this case rely upon four neighbourhoods is not, of itself, a problem.
49. Given the recommendation, it is not necessary to go into detail as to whether the neighbourhoods relied upon by the applicant each fulfil the definition set out above. Some of the neighbourhoods cited by the applicants refer to housing estates which would appear to constitute qualifying localities, but others refer to geographical areas which may not have such a strong degree of cohesion. In many respects, it does not matter if not all of the neighbourhoods fulfil the legal criteria because all that is required for registration of the land as a Village Green to succeed is that there is at least one qualifying neighbourhood within the relevant locality. In this case, it seems likely that there would be at least one qualifying neighbourhood, although this is an issue that could be explored in further detail at a Public Inquiry.

“a significant number”

50. 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’*¹⁰. 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.
51. The applicant’s position is that use of the application site has taken place by a significant number of the residents of the neighbourhoods within the locality. This would certainly appear to be supported by the volume of user evidence submitted in support of the application but also needs to be considered in the context of the University’s assertion that use has generally been restricted to linear routes and existing public rights of way.

⁹ *Leeds Group plc v Leeds City Council* [2010] EWHC 810 (Ch)

¹⁰ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

(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)?

52. 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).
53. In this case, the applicants contend that use of the application site 'as of right' ceased in March 2011 when the University erected various notices on the application indicating that recreational use was by virtue of the University's express revocable permission. The University's witnesses confirm that new notices were erected around the University campus in the spring of 2011 after staff became aware that existing notices had been vandalised by graffiti.
54. If the recreational use of a piece of land ceases to be 'as of right' before an application for the registration of the land as a new Village Green is made, the applicant has a two year period of grace during which to make such an application (see section 15(3)). In this case, use of the land ceased to be 'as of right' in March 2011, and the Village Green application was made shortly thereafter in April 2011.
55. Therefore, the application has been made well within the prescribed two-year period of grace, and this test is therefore met.

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

56. 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. The twenty year period is calculated retrospectively from either the date of the application or, where use of the application site ceased to be as of right prior to the making of the application, the date upon which use of the application site ceased to be 'as of right'.
57. In this case, it has been established that the recreational use of the application site as a whole ceased to be 'as of right' in 2011. The relevant twenty-year period is therefore 1991 to 2011.
58. Despite the University's assertion to the contrary, the user evidence submitted in support of the application suggests that the application site has been used by local residents for recreational purposes for a period in excess of 20 years.

Conclusion

59. As has been noted above, there is a serious dispute in this case as to whether the application site has been used 'as of right' throughout the relevant period. The applicant's case is that any notices on the application site were rendered illegible through vandalism prior to the relevant material and remained so throughout that period. Furthermore, the applicant's evidence is that the site has been used for a range of recreational activities in the requisite manner.
60. The University's case, on the other hand, is that there have been permissive notices in place on the application site during the material period (albeit that it accepts that they may have been illegible during part of the relevant period) and

that any use of the application site as has taken place has largely been either in exercise of existing Public Rights of Way or has been in the form of public rights of way type use (i.e. following a defined route).

61. One of the inherent limitations of the user evidence questionnaires is that they merely offer basic information about the recreational use of the local inhabitants and, when a case turns on more detailed information as to the precise nature of that use (particularly whether this has been in exercise of existing rights of way), they are of limited assistance in establishing a detailed picture of recreational use. Indeed, it is extremely difficult to determine cases which turn on matters of fact and degree (of which this is one) on paper and, in many respect, these are best dealt with by way of more detailed examination of the evidence in a public forum.
62. Although the relevant Regulations¹¹ provide a framework for the initial stages of processing the application (e.g. advertising the application, dealing with objections etc), they provide little guidance with regard to the procedure that a Commons Registration Authority should follow in considering and determining the application. In recent times it has become relatively commonplace, in cases which are particularly emotive or where the application turns on disputed issues of fact, for Registration Authorities to conduct a non-statutory Public Inquiry¹². This involves appointing an independent Inspector to hear the relevant evidence and report his/her findings back to the Registration Authority.
63. Such an approach has received positive approval by the Courts, most notably in the Whitmey¹³ case in which Waller LJ said this: *'the registration authority has to consider both the interests of the landowner and the possible interest of the local inhabitants. That means that there should not be any presumption in favour of registration or any presumption against registration. It will mean that, in any case where there is a serious dispute, a registration authority will almost invariably need to appoint an independent expert to hold a public inquiry, and find the requisite facts, in order to obtain the proper advice before registration'*.
64. It is important to remember, as was famously quoted by the Judge in another High Court case¹⁴, that *'it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green... [the relevant legal tests] must be 'properly and strictly proved'*. This means that it is of paramount importance for a Registration Authority to ensure that, before taking a decision, it has all of the relevant facts available upon which to base a sound decision. It should be recalled that the only means of appeal against the Registration Authority's decision is by way of a Judicial Review in the High Court.
65. Therefore, for the reasons given above, it would appear that the most appropriate course of action would be for this matter to be referred to a Public Inquiry.

¹¹ Commons Registration (England) Regulations 2008

¹² The Public Inquiry is referred to as being 'non-statutory' because the Commons Act 2006 does not expressly confer any powers on the Commons Registration Authority to hold a Public Inquiry. However, Local Authorities do have a general power to do any thing to facilitate the discharge of any of their functions and this is contained in section 111 of the Local Government Act 1972.

¹³ *R (Whitmey) v Commons Commissioners* [2004] EWCA Civ 951 at paragraph 66

¹⁴ *R v Suffolk County Council, ex parte Steed* [1997] 1 EGLR 131 at 134

Recommendation

66. I recommend that a non-statutory Public Inquiry be held into the case to clarify the issues.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221513 or Email: melanie.mcneir@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 Countryside Access Service, 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

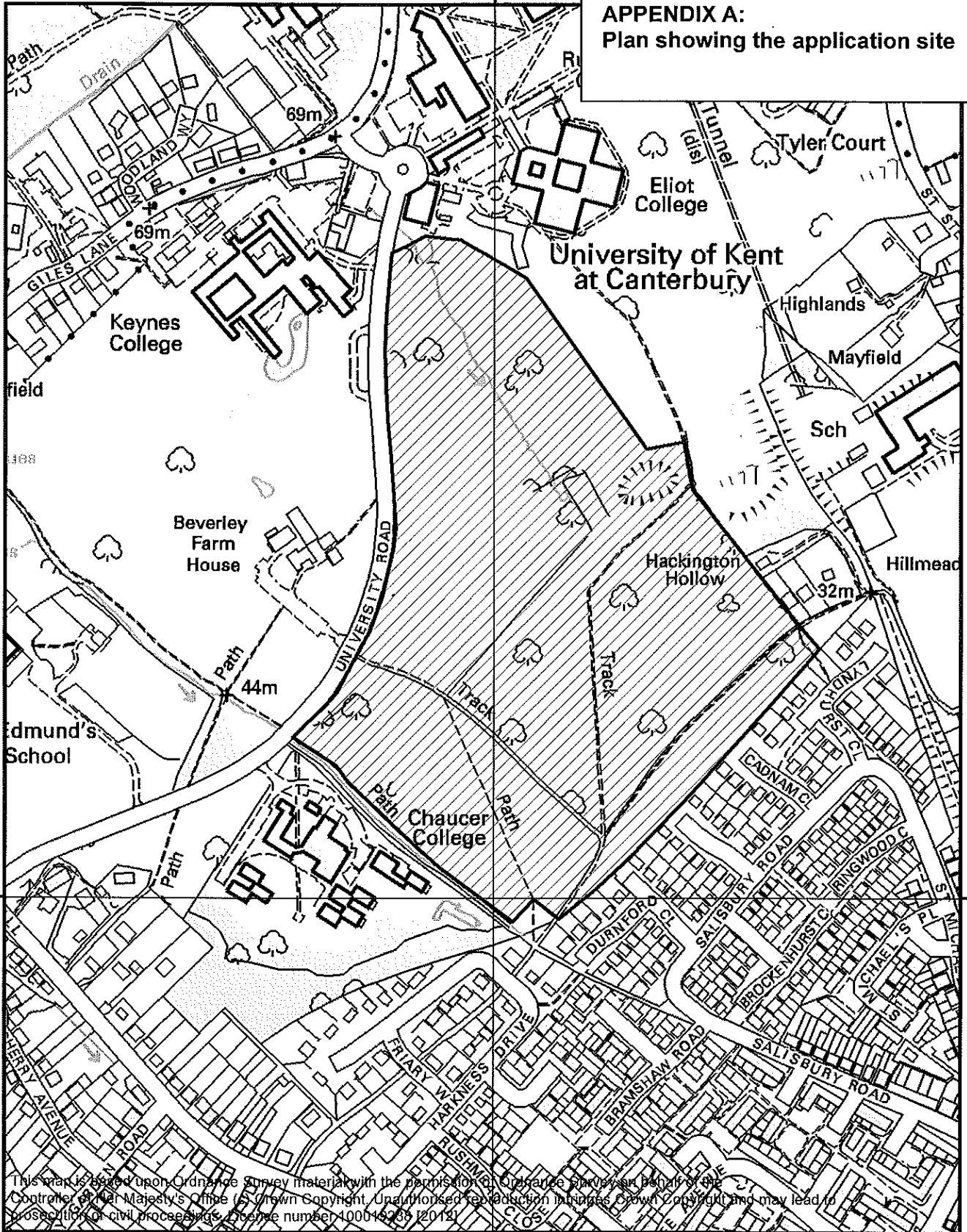
APPENDIX C – Sample summary of user evidence

APPENDIX D – Summary of University's evidence

APPENDIX E – Plan showing locality

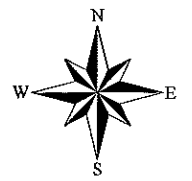
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**APPENDIX A:
Plan showing the application site**



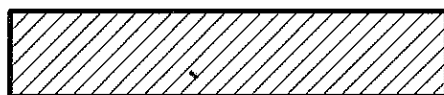
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Ordnance Survey number 100015236 (2012)

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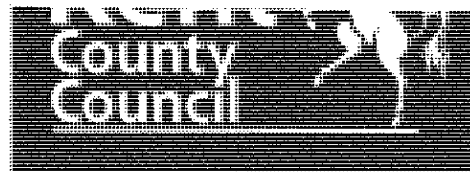
Scale 1:5000

**Land subject to Town Green application
known as Chaucer Field at Canterbury**



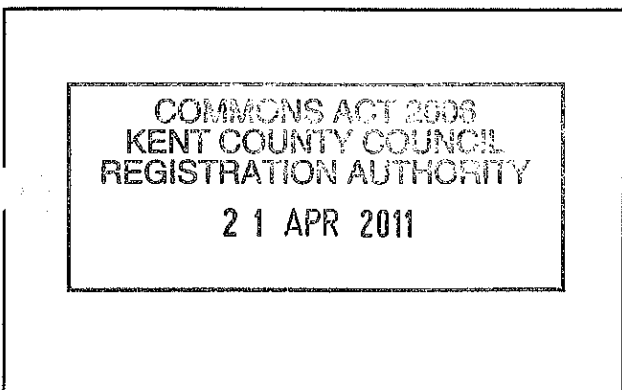
Commons Act 2006: section 15

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:

VG1635

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

[Empty box for VG number]

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,
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: Jeremy Barton

Full postal address: [redacted]
(incl. Postcode)

Telephone number: via representative
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address: [redacted]

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: Ursula Harris

Firm: n/a (local residents association)

Full postal address:
(incl. Postcode)
[redacted]

Telephone number: [redacted]
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address: [redacted]

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:

**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.*

If section 15(3) or (4) applies, please indicate the date on which you consider that use 'as of right' ended and why:

The University started consultation with residents on the planning application at the end November 2010. Objections were raised by those residents using the land.

Subsequent to this the University erected signs on the land in March 2011 indicating that usage was under licence.

It is believed use as of right may have ended at the time the signs were put up.

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:

N/A

Note 5

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.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

The Slopes, Lower Fields, The Orchards, University

Now all are agreed the area is known as Chaucer Fields

Location:

See map

Area is east of Harkness Drive/Chaucer College and North of Salisbury & St Michael's Road.

South of University Road and ending at Eliot Footpath.

Common Land register unit number (only if the land is already registered Common Land):

Please tick the box to confirm that you have attached a map of the land (at a scale of at least 1:2,500):



Note 6

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.

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).

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).

6. Locality or neighbourhood within a locality in respect of which the application is made

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:

*Administrative area is Canterbury
Ward is St Stephens Ward, Canterbury
Neighbourhoods are*

- *Salisbury Road estate (Salisbury Road and cul-de-sacs off it)*
- *Harkness Drive area (Harkness Drive and cul-de-sacs off it)*

Please tick here if a map is attached (at a scale of 1:10,000):

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

- *See evidence of users.*
- *Crucial Open Space*
- *Used by local residents for generations*
- *Protection of ancient hedgerow and local environment*

It is clear from the evidence of over 100 witnesses that collectively they and others representing a significant number of inhabitants have for generations indulged in lawful sports and pastimes on the land for a period in excess of twenty years as of right.

- *See attached statement witness forms and exhibits as listed*

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

University of Kent at Canterbury
University Road
Canterbury
Kent
CT2 7NZ

<p>Note 9 <i>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.</i></p>	<p>9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land</p> <p>N/A</p>
<p>Note 10 <i>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.</i></p>	<p>10. Supporting documentation</p> <p>See attached</p>
<p>Note 11 <i>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.</i></p>	<p>11. Any other information relating to the application</p> <p><i>Council may be aware of planning applications in progress Ref: CA/11/00528 & CA/11/00531 to Canterbury City Council.</i></p>

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):



Date: 17 April 11

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.



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NB This table is not a comprehensive summary of all of the user evidence submitted in support of the application (there are 262 user evidence questionnaires in total) but provides a non-exhaustive sample summary of that evidence.

**APPENDIX C:
Sample summary of user
evidence**

Name	Period of use	Frequency of use	Type of use (i.e. activities undertaken)	Comments (e.g. notices, challenges, use by others etc.)
Mrs. J. McKONE	1945 – 1962, 2004 - present	Occasionally	Walking	Use the path to walk to St. Stephens using the entrance Harkness Drive
Mr. L. FLISHER	Not stated	Weekly now daily	Walking	Signs now all over the place, some in the past for a short length of time
Mr. S. STEWART	1960 – present	Not stated	Walking	
Ms. S. REILLY	1960 – present	Occasionally	Walking, dog walking, running, picnics	
Mr. C. SKOULDING	1960 – present	Monthly	Walking, taking children for walks, wildlife observation, enjoy views of Canterbury	
Mrs. J. FRAPPART	1961 – present	Weekly	Walking, cycling, picnics, kite flying, sledging, ball games, football	Were signs on the land but these covered in graffiti
Mrs. B. LEWIS	1963 – present	Not stated	Not stated (dog walking in early period of use)	Notices recently erected by University
Mrs. K. BLISSETT	1964 – present	Not stated	Playing with children, sledging, wildlife observation, photography, sketching and painting, exercise	No legible signs on the land
Mrs. B. REANEY	1964 - ?	Occasionally	Dog walking, picnics, enjoying view and surroundings	
Mrs. A. REANEY	1964 – present	Occasionally	Dog walking, walking and enjoying scenery and wildlife, picnics	Worked at the University during the 1980s
Mrs. J. STAMPE	1964 – present	Daily	Dog walking, children playing, sledging	
Mr. K. STAMPE	1965 – present	Daily as a child	Played in orchards as a child, also taken own children there to play, sledging, blackberrying, hide and seek, walking, dog walking	Signs appeared in the last month or so
Mrs. A. CHARLESWORTH	1965 – present	Monthly	Walking	Signs in place 'with graffiti'
Mr. I. CORNFOOT	1965 – present	Weekly	Use of access to sports hall	
Mr. C. CHERRY	1965 – present	Variable	Walking to work, recreational walking, sledging	There have always been a few notices but never prohibitive in nature.
Prof. J. PAHL	1965 – present	Weekly	Walking, litter picking, picnics	Employed by landowner 1976 – 1990 and 1990 – 2002

Mrs. F. KNIGHT	1965 – present	Daily	Walking, running, drawing	Did not use the land 1974 – 78 and 1983 – 86.
Mrs. A. WATERS	1966 – present	Weekly	Running, walking, sledging, cycling, playing games	Small broken sign with heavy graffiti, not clear of its meaning. Observed daily use by others for a range of activities.
Mrs. J. RIDLEY	1966 – present	Weekly	Walking, playing with children	Did not use the land between 1980 and 2002
Mr. H. RIDLEY	1966 – present	Weekly	Walking, playing with children	Did not use the land between 1980 and 2006. Employed by landowner between 1966 and 1980.
Mrs. N. PARKER	1967 – present	Occasionally	Walking for exercise and with young children	Land has been a valuable, unpolluted open space for local people for over 40 years used for walks, Frisbee games, sledging, watching fireworks etc.
Mr. E. PARKER	1967 – present	Daily	Cycling to university, walking through meadow and amongst trees	A sign stating no motorcycling. Land is an important open space and green lung used by local residents for more than 40 years.
Mr. and Mrs. J. BROOKER	1968 – present	Daily	Dog walking, walking to school	Blue signs erected on the land around 16 th March 2011. Moved back to the area in 2010 specifically to be near the land.
Mrs. P. KANE	1968 – present	Daily, then weekly	Walking to university, recreational walking, playing with children, picnics, hide and seek, kite flying	Was a student at the University, then employed there 1968-9 and 1991-3. No current connection. Land is a well used local amenity for a large number of people.
Mr. and Mrs. A. TREVETT	1968 – present	Daily	Dog walking, playing ball games and flying kites with children	
Mrs. C. HOWARD	1969 – present	Several times per week	Walking, playing with children, foraging	
Mrs. J. TURNER	1969 – present	Not stated	Playing with children, picnics, kite flying, making camps, birthday parties, bike riding, walking, wildlife observation, relaxation, berry picking and cross country running	
Mrs. J. STAUNTON	1969 – present	Daily	Dog walking, cycle rides, children playing with conkers, sledging	Observed use by others on a daily basis
Mr. B. DOBSON	1969 – present	Weekly	Leisure	
Mr. S. HUTCHINSON	1970 – present	Weekly, now occasionally	Walking and running	Land used for all kinds of leisure activities, especially walking. Was a university teacher.
Ms. L. PEACHEY	1970s - ?	Daily until recent ill health	Dog walking, taking children for recreation	
Mr. J. HOWARD	1970 – present	Weekly	Walking	
Mr. C. HALE	1971 – present	Weekly	Dog walking, playing with children, sledging, collecting conkers, hide and seek, picnics	Recently signs have been erected stating access allowed under licence. Work at the University.

Mrs. J. STEVENS	1972 – present	Daily now monthly	Picnics, walking, sledging, nature observation, ball games, admiring views over Canterbury	Observed others using the land on every visit.
Mr. M. CAYLEY	1971 – present	Weekly	Walking	
Mrs. S. CAYLEY	1971 – present	Occasionally	Walking	
Mrs. H. BETHELL	1973 – present	Monthly, more in summer	Walking	
Mrs. F. BARTON	1973 – present	Daily to weekly	Dog walking, exercising, accessing university as student, kite flying, picnics, sledging, collecting conkers, apples etc.	Recently notices have appeared stating access is under licence. Earlier signs were not legible and had not been so for as many years as I can remember.
Rev'd P. DAVIE	1973 – present	Daily	Running, walking, playing with children, admiring views over Canterbury	Notices in place claiming it is private property.
Mr. C. REBUCK	1974 – present	Weekly	Walking, enjoying view, fauna and wildlife	I first saw a notice a few days ago.
Mrs. L. REBUCK	1974 – present	Several times per week	Walking, enjoying views	
Mrs. I. HARRIS	1974 – present	Weekly, now monthly	Playing with children, kite flying, walking, feeding ducks	
Mr. and Mrs. W. MARTIN	1974 – present	Occasionally	Kite flying, bird watching, practice casting with fishing tackle, drawing and painting local flora.	
Mrs. T. SHIEL	1975 – present	Daily, now occasionally	Walking with children, playing ball games, picking conkers/chestnuts	Have seen others using land mainly for walking dogs or cutting through to/from campus
Mrs. S. KENDALL	1975 – present	Weekly	Walking and enjoying views	
Mr. R. KEEN	1975 – present	Occasionally	Walking, cycling, kite flying, sledging, used extensively as playground by own children	The land has been used by numerous people for general recreational activities
Mr. I. RICHARDSON	1975 – present	Weekly	Walking, playing with children, enjoying views over city	Years ago saw a notice stating that the land was owned by the university.
Mrs. V. RICHARDSON	1975 – present	Weekly or twice weekly	Playing with children, wildlife observation, walking, enjoying views	There used to be a notice stating that the land could be used by the public but the licence could be revoked.
Mrs. J. KEEN	1975 – present	Daily, now occasionally	Dog walking, walking for exercise and recreation, sledging, playing with children, picnics, wildlife observation	Used daily 1988 – 2002 but occasionally prior to and after that time.
Mr. E.	1975 – present	Weekly	Mainly walking, occasional kite flying	Employed by University 1970 – 2007.

BASSETT						
Mr. J. EDGINGTON	1975 – present	Monthly	Walking	Walking	Have seen a notice (almost unreadable) but have noticed 3 new notices stating that the right of use could be withdrawn.	
Mrs. J. GOLDFARB	1976 – present	Twice daily	Dog walking, playing with children, relaxation	Dog walking, playing with children, relaxation		
Mr. R. GOLDFARB	1976 – present	Daily	Walking	Walking	Notices erected in the last month (March/April 2011)	
Mrs. L. ROLES	1976 – present	Variable	Walking, playing with children	Walking, playing with children	Many friends and neighbours use the land for the same purposes as myself on a daily basis.	
Mr. A. ROLES	1976 – present	Variable	Walking, kite flying	Walking, kite flying	Notices have been erected within the last week (March 2011). Currently employed by the University.	
Dr. R. MALLION	1976 – present	Weekly	Walking (mainly to the University)	Walking (mainly to the University)		
Mr. D. RIKH	1976 – present	Occasionally	Walking, sketching, children's birthday parties	Walking, sketching, children's birthday parties		
Mrs. P. CHERRY	1976 – present	Weekly	Walking, playing with children, sledging, nature walks, picnics, snowball games, enjoying views	Walking, playing with children, sledging, nature walks, picnics, snowball games, enjoying views	For years there was a sign on the public footpath at the end of Salisbury Road giving people permission to use the land, but this sign became covered in graffiti and then totally illegible. New signs erected in March 2011.	
Mr. S. UGLOW	1976 – present	Daily	Walking to work at University, leisure walking with children, sledging	Walking to work at University, leisure walking with children, sledging	Currently employed by the University.	
Ms. H. UGLOW	1976 – present	Weekly	Walking, nature trails, dog walks, jogging, picnics, sledging, cycling, building camps	Walking, nature trails, dog walks, jogging, picnics, sledging, cycling, building camps	Occasional use between 1996 – 2007. Notices have been erected since the Village Green application has been publicised. Employed by University 2006 – present.	
Mrs. J. UGLOW	1976 – present	Weekly	Walking, playing with children, sledging, photography, bird watching	Walking, playing with children, sledging, photography, bird watching	Notices have been put up since the Village Green application forms were circulated (March 2011)	
Mrs. J. PENFOLD	1944-1999	No response	Walking	Walking	Seen others walking & picnicking	
Mr. G. ANSELL	1953-present	Daily to '63, weekly to '80, now occasionally	Dog walking, pond fishing, picnicking, sketching, scrumping apples	Dog walking, pond fishing, picnicking, sketching, scrumping apples	Seen others frequently walking & enjoying land	
Mrs. J. WHITTLES	1960-present	Occasionally then 1976 on daily	Dog walking, church group picnics, bike riding with children, recreational walking	Dog walking, church group picnics, bike riding with children, recreational walking	Seen others walking, jogging, picnicking, sledging, dog walking, children playing and riding bikes. School sports. Recently notices put up re "use by licence which may be revoked".	
Ms. C. JONES	1965 – present	Several times a week	Dog walking, kite flying, picnics, toboggans	Dog walking, kite flying, picnics, toboggans	Dog walking, picnics, sunbathing, kite flying, reading, playing, tobogganing	

Mr. J. STRANGE	1966 – present	Daily	Walking for pleasure, walking to work	Notices of privacy by entrances to bridleway and footpaths. Seen others walking, running, dog walking; used for school sports
Mrs. A. STRANGE	1966 – present	Weekly	Walking for pleasure, picnics with children & grandchildren, kite flying, pond dipping	Notices up for 20 yrs+ but people still used land. Seen others walking, running, cycling, picnicking. Archbishops School use it for running.
Mrs. M. MUIR	1966 – present	Daily	Walking, ball games, sledging in winter	Seen others walking, playing, dog walking, running
Mr. J. SHIRLAND	1968-present	Daily now weekly	Walking, dog walking, playing with children, photography	University notices replaced 2010 re private property, use by licence. See others walking, sitting, children playing, jogging, nature watching, kite flying, sledging in winter
Mr KANE	1968- present	Daily or weekly depending on season	Walking, jogging, playing with children & grandchildren, kite flying, sledging in winter, blackberrying & picnics	Recently signs put up by University. Seen others in same activities plus dog walking and photography. Archbishops School use it for running.
Mr. J. BUTLER	1969-present	Several times a week	Exercise, enjoying nature, access to University	Seen others walking, dog walking, picnics, students social activities, school nature groups
Mrs. E. HIRLEMANN	1969-2009 (moved away)	Weekly, sometimes daily	Playing with children, collecting conkers, sledging in snow, recreational walks, picnics, bluebell walks	Seen others dog walking, children playing, kite flying, picnicking, sledging, running
Mr. R. ATKINS	1970-present	Several times a week now monthly	Walking, playing with children	2011 University put up signs, but over 31 years use have never been stopped or challenged. Seen others walking, exercising dogs, children playing.
Mr. S. HUTCHINSON	1970 – present	Weekly	Running, walking, photography	Seen others running, walking
Mrs. M. SHIRLAND	1972-present	Daily, weekly or monthly	Playing with children, walking and enjoying views & nature	University notices put up approx 2010. Seen others constantly : walking, picnicking, kite flying, photography, socializing, exercising, enjoying nature
Ms. J. JOHN	1972-present	Weekly or more	Walking, sledging, enjoying views	Seen others dog walking, kite flying, playing with children
D JENKINS	1972-present	Occasionally	Walking, picnics	Seen others walking & picnics
Mr & Mrs SUMMERSBY	1972-present	Daily or more	Dog walking, picnics with children, playing with grandchildren	Notices to say land use by licence & private. Seen others running, cycling, children playing, picnicking, dog walking, sledging in winter, Archbishops School sports.
Mr. H. PAGNELL	1973-present	Occasionally	Walking	University put up signs after planning application to Council. Seen others walking , with dogs,

Mr J WILLIAMS	1974-present	Monthly or more	Walking, blackberrying, enjoying views, dog walking	playing with children 2010/2011 University notices re private land and use could be revoked. Seen others walking, running, kite flying, picnicking, playing frisbee
Mr. and Mrs. EDGINGTON	1975-present	Monthly or more, now occasionally	Walking, cycling with grandchild	3 new signs re University private land & use under licence. Seen others walking, dog walking, playing
Mr PLUMRIDGE	1975-present	Monthly or weekly, varies.	Walking	Recent notices re private property. Seen others walking, playing
Mrs. R. SIMS	1975-present	Monthly, less now children left home	Walking, games with children, sledging in winter	Notices put up 2011. Seen others dog walking, families playing and walking
Mrs. J. MARTIN	1974-present	Varied over years, daily as child	Playing and walking as child, playing with own children : blackberrying, kite flying, cycling, sledging, tree climbing, picnics, dog walking, apple picking	Signs up since planning application. Seen others walking, cycling, picnicking, football, Frisbee, sledging
A STAGG	1974-present	Weekly	Walking, playing with children & grandchildren	Notices put up recently. Seen others walking, ball games, kite flying, running, rambling
Ms. K. BASSETT	1975-present	Weekly or more	Walking, kite flying	Signs up recently. Seen others walking, dog walking, cycling, kite flying, picnicking
Ms. C. CANTWELL	1975-present	Monthly in winter, fortnightly summer	Walking, relaxing, enjoying space & views with family & friends	2011 University put up signs but local community has always had access. Seen others walking, exercising, dog walking, University promoted nature trail, school sports
Ms. J. NEEVE	1975-present	2 or 3 times a week	Walking, jogging, cycling, family picnics, ballgames & Frisbee	Seen others walking, dog walking, cycling, running
Mrs S KENDALL	1876-present	Weekly	Dog walking, playing with grandchildren, recreational walking	Seen others walking, football, cycling
Mr. T. CHERRY	1976 – present	Daily as child, less now	Cycling, running, walking, exploring nature, playing as child, relaxing	Notices of University ownership in last few years. Seen others dog walking, socialising, cycling, playing
Mr. P. ROOMS	1978-present	Weekly	Leisure walking, enjoying nature with children and grandchildren	Seen others recreational use
P T ALLEN	1979 – present	Daily, now weekly	Walking, children playing, photography	Seen others walking, children playing, dog walking
Mrs. E. BIRMINGHAM	1979-present	Daily/weekly	Walking, ballgames, fungi hunting, kite flying, dog walking, sledging, tree climbing	Seen others daily.
Mr. P.	1980-present	Daily	Dog walking, recreational walking	Notices re "licence may be revoked". Others

WHITTLES				with family & friends	walking, jogging, cycling, picnicking, photography, running, children playing, relaxing. Archbishops School use it for running
Ms. K. BAILEY	1981-present	Varied over year, from daily to weekly	Walking, games with children, nature rambling, kite flying, picnics, pond dipping, sledging, collecting conkers, cycling	Walking, games with children, nature rambling, kite flying, picnics, pond dipping, sledging, collecting conkers, cycling	New signs appeared from University. Seen others walking, ball games, jogging, kite flying, sledging, tree climbing, picnics, running
M BILLINSLEY	1982-present	More than weekly	Childrens games, cycling, kite flying, blackberrying, pond dipping, picnics, dog walking, nature trail	Childrens games, cycling, kite flying, blackberrying, pond dipping, picnics, dog walking, nature trail	Signs re public use by licence reappeared. Seen others walking, exercising dogs, cycling, bird watching, tree climbing, following nature trail
J R GILL	1982-present	Weekly	Walking	Walking	Seen others walking, children playing, students use as access
Mr. J BAILEY	1982-present	Daily as child, weekly as older & now when visit 2-3times year	Cycling, walking, ball games, tree climbing, bird watching, sledging, pond dipping, picnics, socialising, kite flying	Cycling, walking, ball games, tree climbing, bird watching, sledging, pond dipping, picnics, socialising, kite flying	Recent signs re land is part of University. Seen others cycling, walking, tree climbing, picnics, kite flying. Archbishops School use for cross country running
Mr. M. NEEVE	1983-present	At least weekly	Walking, jogging, games & picnics with children	Walking, jogging, games & picnics with children	Seen others dog walking, cycling, picnics, tobogganning in winter
Mr. R. LANCASTER	1983-present	Daily/weekly	Dog walking, playing with children, cycling, walking with friends	Dog walking, playing with children, cycling, walking with friends	Seen others dog walking, cycling, running, playing with children
Mrs. R. LANCASTER	1983-present	Twice weekly	Dog walking, playing with children, cycling	Dog walking, playing with children, cycling	Seen others cycling, walking, running, playing with children
Ms. N. BECKETT	1983-present	Frequently with children, less now	Walking, playing with children, picnics, mushroom picking	Walking, playing with children, picnics, mushroom picking	Seen others walking
Mrs. S. McMACKIN	1985-present	Daily	Walk to work across fields, photography, cycling, community socializing	Walk to work across fields, photography, cycling, community socializing	Notices put up once planning application submitted re private and use under licence. Seen others kite flying, dog walking, cyclists, running, enjoying nature, sledging in winter
Mr. and Mrs. WHITE	1985-present	Daily	Walks, picnics, cycling, photography, sledging in winter, running, nature walks	Walks, picnics, cycling, photography, sledging in winter, running, nature walks	Notices in last 6 months or so. Seen others walking, cycling, dog walking, sledging in winter, playing. Archbishops School use land for running
Ms. C. MOLONY	1986-present	Weekly/monthly	Walking, children playing when young & cycling, sledging in snow, collecting conkers	Walking, children playing when young & cycling, sledging in snow, collecting conkers	Seen others walking, cycling, sledging, picnicking, kite flying, playing
Ms. C. BOARMAN	1986-present	Weekly	Walking on own & with family, bike rides with children, walking to University	Walking on own & with family, bike rides with children, walking to University	Seen others dog walking, cycling, playing

**APPENDIX D:
Summary of objector's evidence**

Below is a summary of the evidence contained in the statements accompanying the University's objection to the application.

Mr. P. Czarnomski has been the Director of Estates since 2005 and is responsible for the management of the land and buildings on the university campus. He frequently inspects the campus grounds as part of this role. There are signs at every entrance to the university indicating that access is by virtue of a revocable permission. The university does not have any formal policy regarding the notices but it is understood that they were first placed to mark university property soon after its formation in the 1960s. A plan found in the Estates archives dated 1989 shows the location of these signs. The read "The University of Kent at Canterbury hereby gives notice that the land is private property and any access by members of the public is by licence only and may be revoked at any time". It is (and has not been since 1989) possible to access land owned by the university without passing a prominent sign stating that the land is private. During a site inspection early in 2011, it was noted that some of the signs had been vandalised and Mr. Czarnomski instructed their repair. The only evidence of use witnessed on site is by students using the land to provide a short cut to and from the housing areas south of the land. Members of the public have occasionally been observed walking dogs but only on footpaths or desire lines. A hay crop grown on the land was harvested on an annual basis and access ways were mown through this to enable students to continue to use the land as a short cut. Mr. Czarnomski cannot recall any point when the whole of the land was closed. University Road is closed once a year to preserve its private status but this would not prevent pedestrian access from other points. There are parts of the land that have been effectively closed due to works on the land – e.g. in Jan/Feb 2011 heavy machinery was used to effect drilling in the lower parts of the fields and part of the land was fenced off. There are no records of any formal permission being granted and any requests have been dealt with informally; a local dog walking group sought consent to walk on the university land about 2/3 years ago.

Mr. P. Brown was employed by the university between 1984 and 2008, during which time he was responsible for Estates staff involved with the maintenance of university property. Aware that a number of dog walkers use the footpaths on a regular basis but their use is generally confined to the paths. The land is also used by students as a short cut. Mr. Brown has never seen any ball games or picnics, but when it snows there is a hollow that is used by students and members of the public for sledging. Other than in relation to the planting of memorial trees, no one has approached the university regarding permission to use the fields in any particular way. Throughout his employment at the university, Mr. Brown recalls that the fields were used to grow hay and, when the hay was high, access routes were mown through it. Users tended to stick to these routes as it would have been difficult to walk through the hay. Signs were in place when Mr. Brown began his employment in 1984. They were replaced in 1989/90 at every access point indicating that the land was private

and that use was by revocable licence. All access points have always been marked with clear signs.

Mr. J. Burton was employed by the university between 1983 and 2005 as Director of Estates. During the time of his employment, all access points in and out of university-owned land were marked with clear signs informing the public that the land was private property. Part of the fields are heavily wooded, whilst other parts are rough with trees planted and are therefore unsuitable for ball games or other similar activities. Mr. Burton has seen members of staff walking on the footpaths but no significant use by the public. He cannot recall the fields ever being used for picnics or by people other than students sitting out in the sun.

Mr. M. Woods was employed by the university between 1975 and 2011 in relation to grounds maintenance. Throughout his employment, he spent much of the working day walking around the campus. From the start of his employment, all areas of the land not too densely covered by trees were used for hay cropping. It would not have been very easy to pass over the hay in late spring or early summer as the grass would have been too tall and dense. A path was mown through a section of the field so that those using the land as a short cut did not trample the hay. During his employment, the land was regularly used by dog walkers. Both students and dog walkers kept to the footpaths and desire lines. An area of land below Eliot College is used by students for recreational purposes as the grass is kept short and it is a pleasant place to sit in fine weather. It is possible that this area is used by members of the public. By contrast, the fields are rough and uneven and though people use them as a short cut, Mr. Woods cannot recall seeing anyone sitting out in the fields. Green signs were erected in the late 1970s at university access points. Cannot recall graffiti being a major problem in the 1980s/90s but it began to increase in the 2000s. In 2001, soil drilling closed part of the application site by Chaucer College.

Mr. M. Brealey has been employed by the university since 2002 in relation to maintenance and has been responsible for ensuring that the signs remain intact, clean and clearly visible. In February 2011, his team was asked to clear graffiti and replace damaged signs. This involved the erection of temporary signs and new signs were erected in April with the same wording and locations. From late February, signs on the southern part of the field were regularly vandalised or removed and broken. No other signs on the campus suffered the same level of sustained damage. The amount of damage was such that staff were instructed to attend to the signs on a daily basis. Mr. Brealey has never seen any person playing ball games or sitting on the grass. He has only ever seen people using the land as a short cut or for dog walking. There is a lot of dog fouling over the land and as such it is not suitable for picnics or family activities. There is an alternative area of land to the south of Eliot College adjacent to the fields which students tend to use for socialising.

Ms. C. Ifill has been employed by the university since 2007 as a carpenter. During the spring of 2001, she was engaged in attending to signage along the southern side of the Chaucer Fields. From later February and early March the

signs at the bottom end of the fields were frequently damaged, removed or defaced. No other signs were damaged in this way. Ms. Ifill has only every observed people walking across the land along the footpaths or worn tracks across the fields (using as a short cut or dog walking). Students use an area to the left of the fields for socialising, but the fields themselves are rough with trees dotted about and unsuitable for lawful sports and pastimes.

Mr. A. Turner has been employed by the university since 2004 as a carpenter. He first visited the field in March 2011 on a frequent basis to repair the signs. The only people he saw using the land were dog walkers and university students who generally kept to the footpaths.

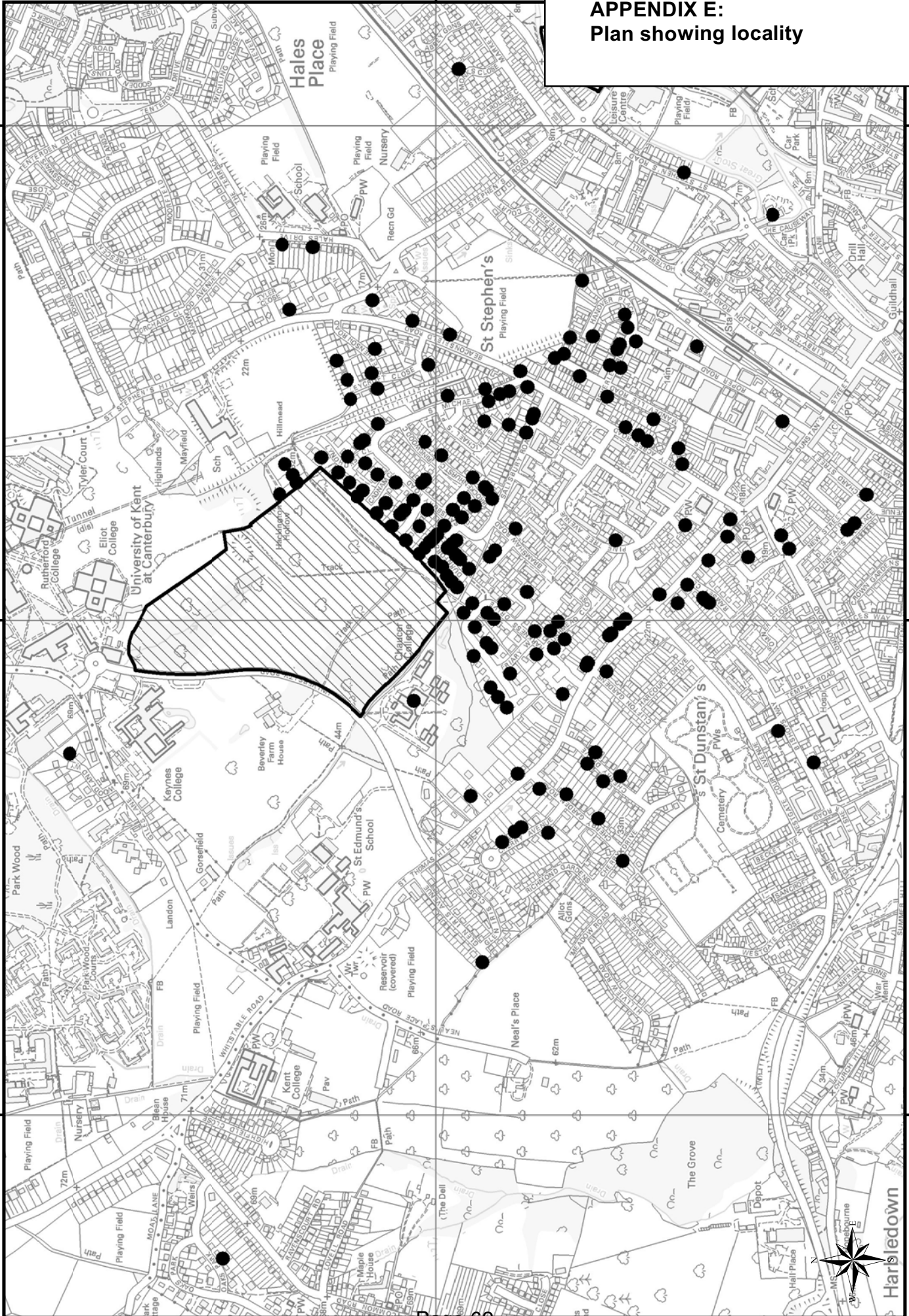
Mr. L. Stevenson has been employed by the university since 2000, initially as a security officer and latterly as security manager. Until spring 2011, there were very few reported problems on the fields. Until the Village Green application was made, the only people using the fields were dog walkers or people taking a short cut to or from the university campus. From about March 2011, he received various reports that signs were being vandalised or stolen. This has been a continued problem not experienced anywhere else on the campus.

Mr. G. Hirst is a chartered surveyor who has worked with the university since 2006. He was responsible for arranging the hay crop taken between 2009 and 2011 and this involved several visits to the site in relation to his work. He only ever saw students using the land as a short cut.

Mr. G. Ridgen is a farmer who was engaged by the university to take hay crops between 1981 to 1986 and again in 2010. In a good season, hay can grow to 2 to 3ft. As the hay grew, the university cut paths through the fields to avoid it being trampled. People respected the pathways and did not trample the hay. Whilst cutting hay in 2010, he was aware of people frequently passing every 5 – 10 minutes. These were generally dog walkers or students passing through.

Mr. J. Maxwell is a partner at the university's solicitors (Farrer and Co). he produces with his statement a copy of a letter dated 7th April 1990 from a Mr. Dickinson [who was the applicant in relation to the previous VG application] to Kent County Council quoting the wording of the notices erected after the 1989 application was made. A later letter from a local resident encloses an image of the wording of the signs and is dated April 1990 which suggests that the notices were erected in the spring of 1990.

**APPENDIX E:
Plan showing locality**



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