



AGENDA

Kent County Council

REGULATION COMMITTEE MEMBER PANEL

Tuesday, 15th October, 2013, at 11.30 am
Kingsnorth Sports Pavilion, Church Road,
Kingsnorth, Ashford TN23 3EF

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

Tea/Coffee will be available 15 minutes before the meeting

Membership

Mr M J Harrison (Chairman), Mr S C Manion (Vice-Chairman), Mr M Baldock,
Mrs V J Dagger and Mr T A Maddison

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 at Grasmere Road in Ashfoird as a new Village Green (Pages 3 - 24)
4. Application to register land at Riverside Close at Kingsnorth as a new Town or Village Green (Pages 25 - 44)
5. 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, 7 October 2013

Application to register land at Grasmere Road in Ashford as a new Town or Village Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 15th October 2013.

Recommendation: I recommend that the County Council informs the applicant that the application to register land at Grasmere Road in Ashford as a new Town or Village Green has been accepted, and that the land subject to the application be registered as a Village Green.

Local Member: Mr. J. Wedgbury

Unrestricted item

Introduction

1. The County Council has received an application to register land at Grasmere Road in Ashford as a new Town or Village Green from local resident Mrs. L. Dash ("the applicant"). The application, made on 8th January 2013 was allocated the application number VGA653. A plan of the site (as originally applied for) 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**¹, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act).
5. As a standard procedure set out in the 2008 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

¹ Note that after 1st October 2013, the period of grace will be reduced from two years to one year (due to the coming into effect of section 14 of the Growth and Infrastructure Act 2013). This will only apply to applications received after that date and does not affect any existing applications.

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 consists of an area of open space of approximately 0.94 hectares (2.3 acres) in size that is bounded by the properties in Grasmere Road and Bracken Close, in the Kennington area of the town of Ashford. The application site has a grass surface. The application site is shown in more detail on the plan at **Appendix A**.
7. Access to the application site is by the surfaced paths and pavements bordering the application site. There are no recorded Public Rights of Way on or abutting the application site.

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 over 20 years.
9. Included in support of the application were 72 user evidence forms, a statement in support of the application, various maps showing the application site and the relevant locality. A summary of the user evidence submitted in support of the application is attached at **Appendix C**.
10. The applicant's case is that the application site has been used as a recreational area and community hub since the construction of the development by Rush & Thompkins in 1974. On completion of the development, the land was handed to Ashford Borough Council by the building company. The land has provided a safe outside area for many families and extended families since its construction, and is the subject of year-round use by walkers (with or without dogs), exercisers, children playing games and other sports activities. It is regarded as a valuable social place to be for all ages of the community and many residents have bought their houses in this location because of "The Green".

Consultations

11. Consultations have been carried out as required.
12. County Member Mr. J. Wedgbury responded in full support of the application, stating that the open land is used by the local community for recreation and would be a perfect site for a Town or Village Green.

Landowner

13. Ashford Borough Council has been consulted and replied to advise that although the Council is the landowner of the site, it will not be opposing the application.

Legal tests

14. 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, if not, ceased no more than two years prior to the making of the application?*
- (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'?*

15. 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.

16. In this case, there is no evidence that any use of the application site has taken place in secrecy or in exercise of any force. It is clear from a visit to the site that access to it is free and unhindered; indeed, it would be very difficult in practice to secure the application site due to the open nature of the land and the surrounding pavements.

17. Nor is there any evidence that the landowner has granted any permission to any individual for the purpose of engaging in informal recreational use of the application site.

18. As such, recreational use therefore has taken place 'as of right'.

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

19. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. 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.

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

20. The summary of evidence of use by local residents at **Appendix C** shows the range of activities claimed to have taken place on the application site. It shows that of the 72 user evidence forms submitted in support of the application, the majority of use took place on a daily or weekly basis, with only four people admitting to using the application site on a monthly or occasional basis over the last 40 years. That use consists, as one might expect given the location, predominantly of walking (with or without dogs) and playing with children.
21. Accordingly, it can be said that the application site has been used for the purposes of lawful sports and pastimes. This test has been met.

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

22. 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.
23. 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 Builders⁴ 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'*.
24. In cases where the locality is so large that it would be impossible to meet the 'significant number' test (see below), it will also be necessary to identify a neighbourhood within the locality. The concept of a 'neighbourhood' is more flexible than that of a locality, and need not be a legally recognised administrative unit. 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'*⁵.
25. In this case, the applicant has specified the relevant locality (at part 6 of the application form) as being Grasmere Road / Bracken Close, Kennington, Ashford. A plan showing the area within which users reside is attached at **Appendix D**.
26. Whilst it may not be clear that "Grasmere Road / Bracken Close, Kennington" is a legally recognised administrative entity, there can be no dispute that the town of Ashford is a legally recognised administrative unit and therefore would be a qualifying locality.

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

⁵ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

27. The residential housing development at Grasmere Road and Bracken Close was constructed by Rush & Thompkins in 1974. In the immediate vicinity there are facilities that serve the local community; for example, there is a primary school, a library, local shops and a community centre. These are located within (and known as) the Bockhanger community.
28. As such, it is considered that Bockhanger comprises a distinct and identifiable community within the town of Ashford, which would be capable of being a qualifying 'neighbourhood' for the purposes of Village Green registration. Therefore this test is met.

"a significant number"

29. 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, it is not a case of simply proving that 51% of the local population has used the application site; 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.
30. The user evidence provides a helpful summary of the use of the land made by local residents in support of the application. It would appear that local inhabitants using the green are more or less continually visible. Dog walkers use the land several times per day, the area is used daily and year-round by children playing football, riding bikes and participating in various games of football or cricket, kite flying and Frisbee. There is evidence of families using the area to teach young children to ride bicycles and scooters, of older residents to walk and socialise and, in the summer months, friends and families gather on the application site to chat and picnic.
31. In this case there is evidence from 71 people (one person did not actually refer to any personal use of the application site) and from this evidence it is clear that the application site has been in general recreational use on a regular basis by the community. Indeed, it is regarded locally as a precious and safe asset for all ages of the neighbourhood supporting healthy community activities.
32. Therefore, the application site has been used by a significant number of the residents of the neighbourhood of Bockhanger within the locality of the town of Ashford. Therefore this test has been met.

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

(d) Whether use of the land ‘as of right’ by the inhabitants has continued up until the date of application or, if not, ceased no more than two years prior to the making of the application?

33. 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, section 15(3) of the 2006 Act provides that an application must be made within two years from the date upon which use ‘as of right’ ceased.
34. In this case, the application is made under section 15(2) of the 2006 Act and there is no evidence that actual use of the application site for recreational purposes ceased prior to the making of the application. As such, this test is met.

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

35. In order to qualify for registration, it must be shown that the land in question has been used for a full period of twenty years. In this case, use ‘as of right’ did not cease prior to the making of the application in 2013. The relevant twenty-year period (“the material period”) is calculated retrospectively from this date and is therefore 1993 to 2013.
36. In this case, the user evidence summarised at **Appendix C** demonstrates recreational use throughout the period 1993 to 2013, albeit that not all of the users have used the application site throughout the relevant twenty-year period. However, the law does not require each witness to have used the application site for this 20 year period; what matters is that the evidence as a whole demonstrates that the land has been used for the required period.
37. Therefore, this test has been met.

Conclusion

38. Although this application is unopposed, it is still necessary for the County Council to be satisfied that all of the requisite legal tests have been met.
39. Considering the evidence as a whole, the overall image presented of the application site is one of a community focal point that has been used by the local community for a range of recreational activities on a regular basis for well in excess of twenty years.
40. Accordingly, for the reasons set out in this report and from close consideration of the evidence submitted, it would therefore appear that the legal tests concerning the registration of the land as a Village Green (as set out above) have been met.

Recommendation

41. I recommend that the County Council informs the applicant that the application to register land at Grasmere Road in Ashford as a new Town or Village Green has been accepted, and that the land subject to the application be registered as a Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221568 or Email: mike.overbeke@kent.gov.uk

Case Officer:

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

The main file is available for viewing on request at the PROW and Access Service, Invicta House, County Hall, Maidstone. Please contact the Case Officer for further details.

Background documents

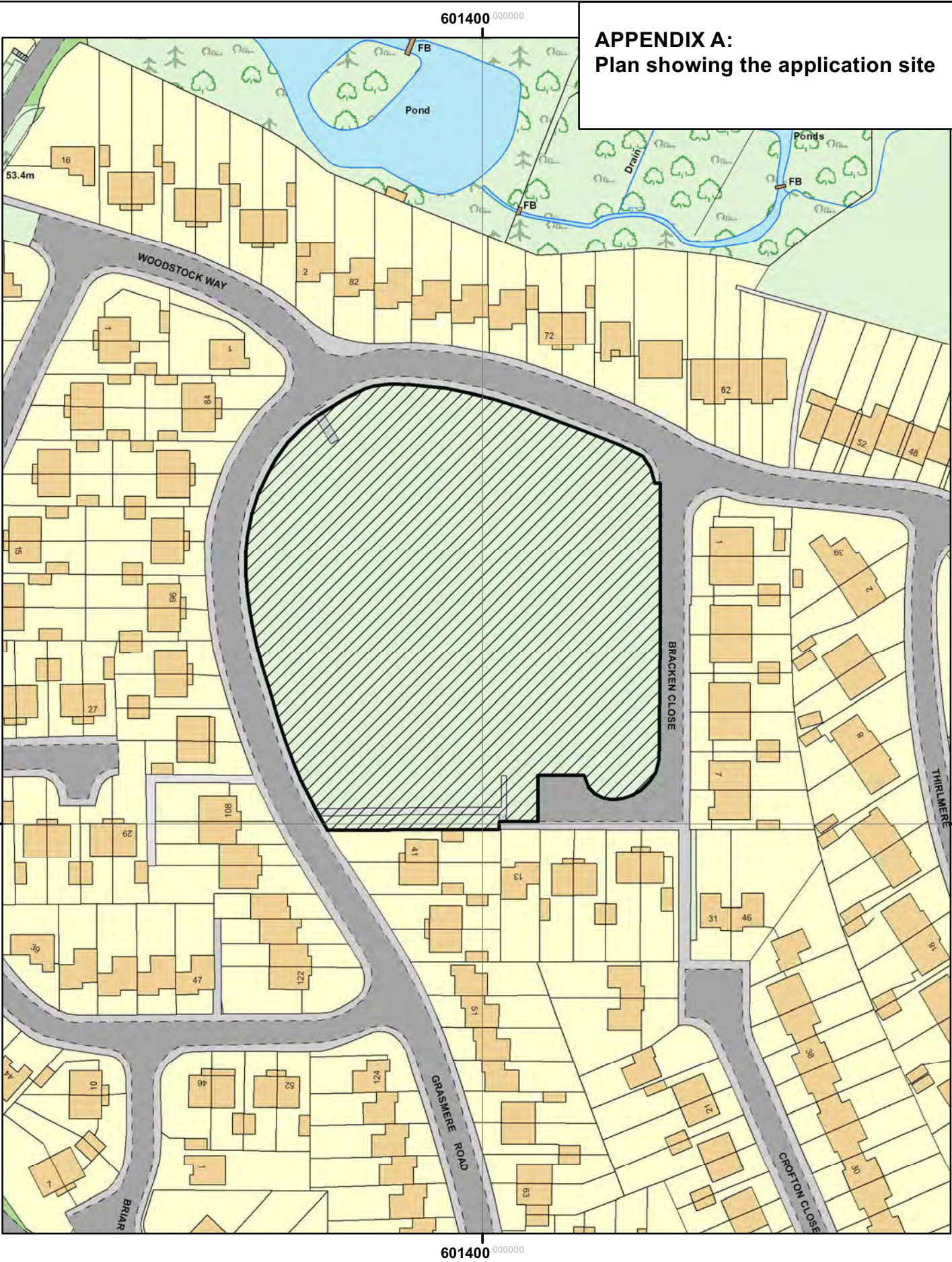
APPENDIX A – Plan showing land subject to application

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing the area within which the users reside

APPENDIX A:
Plan showing the application site



Scale 1:1250

**Land subject to Village Green application
at Grasmere Road at Ashford**



FORM CA9

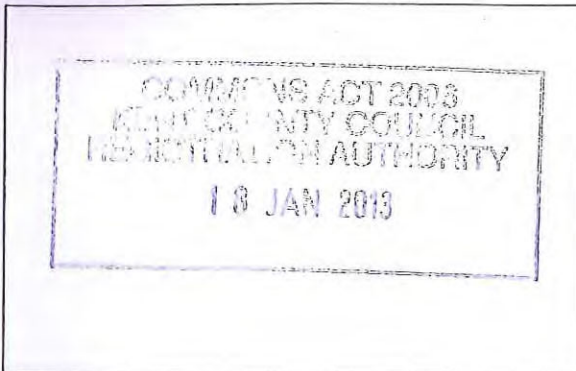
Commons Act 2006: section 15

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



This section is for office use only

Official stamp of the Registration Authority
indicating date of receipt:



Application number:

VCAG53

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:

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: **Mrs. LINDA DASH**

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

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

Fax number: [REDACTED]
(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:

Firm:

Full postal address: [REDACTED] **NONE**
(incl. Postcode)

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

Fax number: [REDACTED]
(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: ☐

APPENDIX B:
Copy of the application form

If section 15(3) or (4) applies, please consider that use 'as of right' end

N/A

**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(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 GREEN

Location: GRASMERE ROAD / Bracken Close

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.

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:

GRASMERE ROAD / BRACKEN CLOSE
KENNINGTON

Please tick here if a map is attached (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).

7. Justification for application for Village Green

The green as it is known to the Locals borders Bracken Close and Grasmere Road, and has been a valuable place for the residents and children.

Children love playing all sorts of games and other activities, while sharing with dog walkers and people taking exercise.

The green has been used on a daily basis and has been since 1974. The safe environment the green offers is ideal for growing families of all ages.

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

Ashford Borough Council
Civic Centre,
Tannery Lane,
Ashford
Kent
TN23 1PL

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 – decl relevant leaseholder of, and of charg  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

ALL evidence questionnaires
and maps enclosed

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

No knowledge of any
other matters.

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: 8.1.13

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.

145000 000000

145000 000



PERSONAL STATEMENT

Grasmere Road was a new small development built in 1974. The area of green was the place for the tractors and building equipment. When the housing estate was finished, the land was handed to the council from the builder, Rush & Thompkins. Houses and bungalows surround the perimeter of the green; the space would be perfect as a village green.

I have been a resident of Grasmere Road since June 1976, I moved here with my husband and two small girls and a baby on the way. The green was a valuable social place to be for young mums and children. It's a place where parents teach their young children to ride bikes, scooters and to skate, all in a safe environment. Games are played on a daily basis (weather permitting) i.e. football, cricket, rounders, kite flying, boomerangs. In the summer months during the evening and weekends, children gather with their friends for a game or to picnic.

The children have shared the green with dog walkers and people taking exercise for as long as I can remember till the present date. Even hot air balloons have landed there on a few occasions. Many of the residents have told me they bought their houses because of the green, and some grew up here and have also bought houses here because of the green and their parents still live here.

On my journey doing this, I have learnt just what a community I live in; even the elderly residents feel safe and love to talk to the children and dog walkers, watching them from their windows.

Now you see residents, children and grandchildren still playing, walking, talking and enjoying this very special place.

Its setting within the community is perfect and it would be lovely to be able to call it our village green.



LINDA ANN DASH.

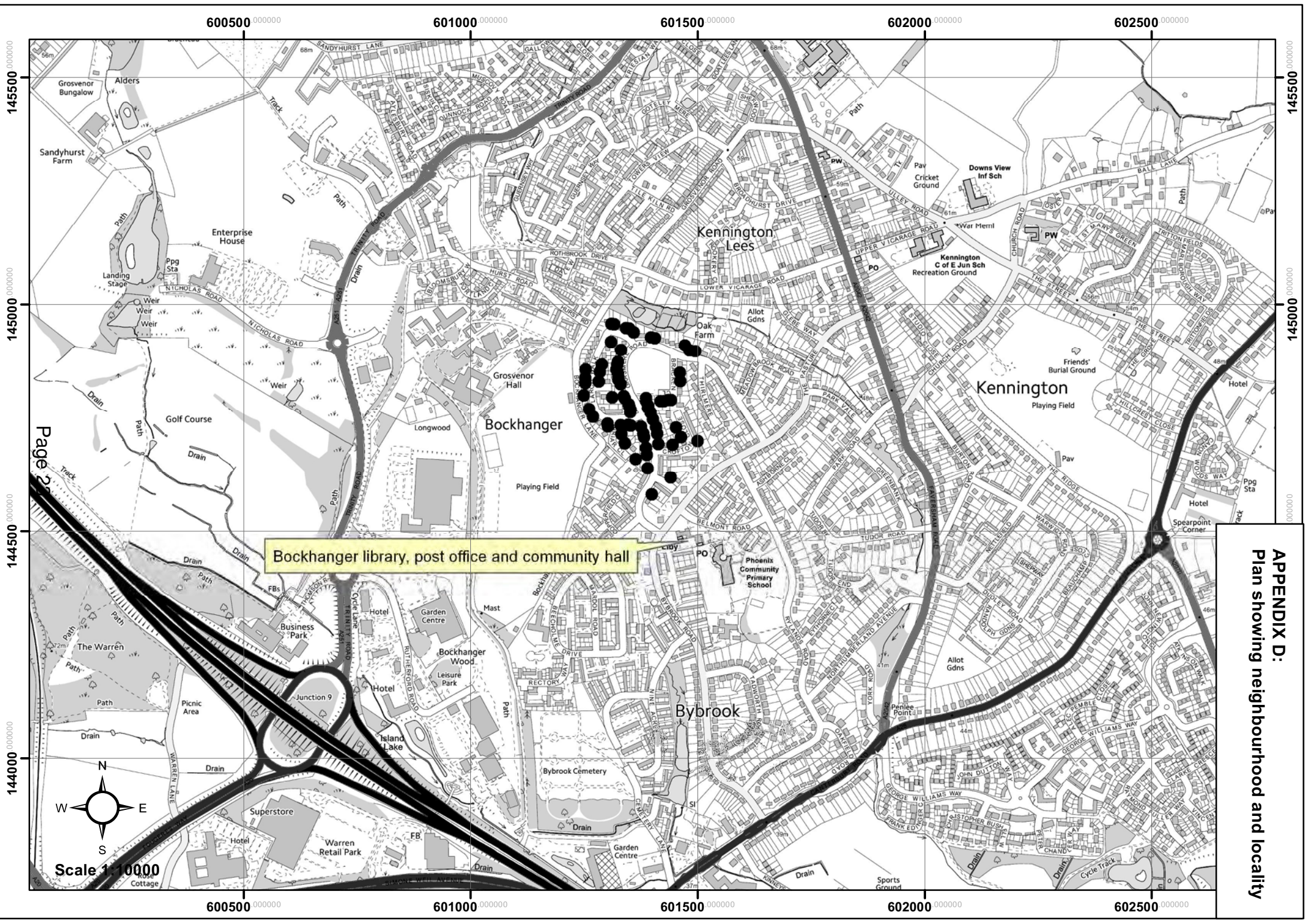
APPENDIX C:
Summary of user evidence submitted
in support of the application

Name	Period of use	Frequency	Activities	Other comments
Valerie Booth	1987-2012	Several times per week	Walking dog, family play	Other use – children playing, walking, socialising. Safe place for community well being
Derek & Sarah Standing	35 years	Regularly / daily	Dog walking, family play	Daily see other use – playing, walking
John & Linda Moore	1974-2012	Weekly	Play with grandchildren	Daily other use – children playing & dog walkers
Raymond Wratten	1984-2012	Several times per week	Running, dog walking, family play	Families playing, dog walking, kite flying, relaxing
Mrs J Brice	1982-2012	Weekly	Walking, football, rounders, snowballs in winter with family	Families playing & kids sports: bikes, kites, snowmen in winter, dog walking, community meeting point
Mrs B Pizzala	1973-2012	Daily	Dog walking, playing games with children then grandchildren	Other use daily – football, rounders, dog walking, childrens games. Safe community space.
Mr & Mrs D Thorne	1984-2012	Weekly	Football & cricket with children	Other use daily – children playing various sports, dog walking
Peter Starley	1975-2012	Daily	General family play, children learnt to ride bikes	Other use daily – children playing games. Safe area for kids
J R Collins	38 years	Daily	Dog walking	Other use daily – children playing, dog walking
KerryAnn Percival-Smith	3 years	Daily	Play with children – football, bikes, scooters	Other use daily – dog walkers, children playing
Mr & Mrs Miller	15 years	Daily	Dog walking	Other use daily – children playing, dog walking
Mr & Mrs R Bunnett	10 years	Daily	Dog walking, walking for exercise	Other use daily – children playing, dog walking, family use especially in summer. Community space
J Johnson	1979-2012	Daily/weekly	Play with children and now grandchildren	Other use daily – children and family play, dog walking
Stephen & Jackie Franklin	2005-2012	Daily	Dog walking, playing with grandchildren, friends & families	Other use daily – family play & sport, dog walking, people enjoying community space
Mr M Barham	1975-2012	Daily	Playing with children & exercising dog	Other use frequent – football, children play, dog walking
Mr & Mrs O'Dowling	17 years	Daily	Playing games & sports with children & family	Other use daily – family gatherings, children playing games, dog walkers
Mrs M Longstaff	1976-2012	Daily	Dog walking	Other use daily – dog walkers, children playing games
John Hinton	1975-2012	Originally daily with children, then grandchildren but now	Ball games, Kite flying, walking	Other use frequent – childrens games and sports – walking

		grown up less so		
Mrs D Coley	1975-2012	Now occasionally but daily when children younger	Walking, playing with children	Other use daily – kites, ball games, dog walking
James Coley	1974-2012	Occasionally	Childrens games when younger	Other use daily – games and sports, dog walking, kids cycling
Mrs S Elliott	1981 -2012	Daily	Walking	Other use daily – walking
P Wilson	1982-2012	Occasionally	Recreation	Other use daily – children playing, all ages recreation
Kathy Osmotherly	31 years	Daily now weekly	Dog walking, childrens games, family picnics	Other use daily – dog walking, rounders, picnics, games
Mrs J Malcom	1997-2012	Weekly	Walking	Other use frequent – dog walking, children playing
David Fisher	1979-2012	Frequently when kids younger, now less	Childrens games, learning to ride bikes, meeting friends, fresh air	Other use daily – children playing, all ages meeting, dog walking
Mr & Mrs G North	1974-2012	Daily (not when at University)	Sports with friends & family, dog walking, snow play in winter, socialising	Other use daily – dog walking, childrens games, bikes, socialising
Mr & Mrs S Ward	10 years	Daily	Dog walking, family play & picnics	Other use daily – children playing, family times, dog walking
Mr & Mrs Reed	1973-2012	Daily	Childrens games	
Mr & Mrs F Clare	26 years	Daily	Ball games with family, picnics	Other use daily – dog walking, childrens games, picnics, general recreation
Mr K East	2002-2012	Daily now weekly	Dog walking, ball games with grandchildren	Other use daily – children playing, dog walking. Well used area for relaxation and play
Michael Crittenden	1974-2012	Daily	Walking, playing games with children and now grandchildren	Other use daily – childrens ball games, dog walking, people socialising and relaxing
Mr R Fage	1984-2012	Most days	Dog walking, playing with children & grandchildren	Other use most days – family play, games, dog walkers
Mrs R Parks	1980-2012	Daily	Dog walking, ball games with children, picnics, socialising with other families	Other use daily for all ages general recreation
Ruby Hamilton	1976-2012	Occasionally now weekly	Playing games when family growing up, snowmen in winter	Other use daily – ball games, dog walking, kites, local kids having fun
Robert & Shirley Ling	1976-2012	Weekly	Playing with children when young, exercise	Other use daily – dog walking, children & families playing. Community space
Martin Holme	1980-2012	Monthly, more in summer	General recreation, picking mushrooms	Other use daily, kids games, dogs exercise
David Smail	1980-2012	Weekly	Children and now grandchildren play games & sport, walking	Other use daily, children playing games, dog walkers
Lesley Dutch	2008-2012	Daily	Play with grandchild, relaxing with friends	Daily see children playing & dog walking. Sign erected by ABC saying they were landowners but public could use it
Mirelle Burden	2012 -2012	Weekly	Walking, playing sports	Daily use by dog walkers

	(9 months)		with children	and childrens sports/games
Nikki Dawkins	1994-2012	Daily	Dog walking, children play games, enjoy view from house	Other use daily, family play, dog walking.
Mr & Mrs B Ivey	1974-2012	Daily when family young, less now with grandchildren	Football, rounders, kites. Friends gathering / relaxing	Other use daily, various sports, dog walking. Sign put up by Council but taken down
Caron White	1987-2012	Daily now weekly	Dog walking, playing with children, adults walking & relaxing	Daily children playing sport and games, dog walking
Mr & Mrs B Welbourn	2004-2012	Several times per week	Picnics, games with grandchildren, entertaining visitors	Not seen other use
Christopher & Carole Cole	20 years	Daily	Walking & playing with dogs	Other use daily, children playing, family time talking & playing, dog walking
Mrs J Curtis	1973-2012	Daily when children young, now weekly with grandchildren	Cricket, football, bike riding, general play	Other use daily, dog walking, children playing, hot air balloon landed
Paul Sweeney	2000-2012	Monthly	Football, Kite flying, walking, sitting	Other use daily, dog walking, cricket, picnics, bike riding, hot air balloon landed, football
Mr & Mrs M Jenness	22 years	Daily when family young, now weekly	Running, kids picnics, bike riding, football, cricket, rounders	Other use daily, childrens games, dog walking, people socialising
William Tweedie	1974-2012	Weekly	Football, tennis	Other use daily, football, cricket, dog walking
Mrs A McLellan	1978-2012	Daily when children young, now less with grandchildren	Picnics, general play, Snowmen in winter	Other use daily, dog walking, children playing
Mr & Mrs Purss	1977-2012	Weekly now, daily when children were young	Physical exercise	Not seen other use
C. Grove	1987-2012	Occasionally, more when children were young	Walking, playing games with children	Other use daily, childrens games, dog walking
Mr D Noakes	39 years	Occasionally	Grandchildren play football	(No response)
Mrs R Hayward	1991-2012	Occasionally	Snowball fights in winter, flying kites, ball games with children and friends	Frequent other use, ball games, kite flying, general enjoyment
Mr & Mrs C Norris	3 years	Daily	Dog walking, fly model helicopters	Other use daily, dog walking, football, picnics, model playing, snowmen in winter
J E Lewis	1985-2012	Weekly	Football, cricket, flying kites	Other use daily, football, picnics, dog walking & training, cricket
Mrs J Tillin	26 years	Daily when children young, now occasionally	Games, bike riding, playing with children	Frequent other use especially holidays and after school, families and children playing and walking
Mrs B Carrier	38 years	Now no use at all	-----	-----
Mr T F Groves	30 years	Daily	Sport, dog walking	Other use daily, children playing, football, cricket, kites, dog walking, dog training
Mr T Thomas	1997-2012	Daily	Dog walking, playing with children	Other use daily, children playing, dog walking

James Pronger	2002-2012	Daily	Dog walking, teaching daughter to ride bike	Other use daily, dog walking, children playing football & games
F E Wise	1998-2012	Weekly	Walking, playing with nephews & grandchildren	Other use daily, walking, kids playing
Ms Ovard	10 years	Weekly	Football & other ball games, relaxing, picnics	Other use daily, all sports and games
Nicholas Hayward	2005-2012	Weekly	Football, cricket, rounders	Other use daily, dog walking, kite flying, rounders, model planes, football, hot air balloon landed
Mrs S Willoughby	2004-2012	Daily	Football, cricket, walking, sitting in summer	Other use daily, dog walking, children playing, hot air balloon landed
C S Rolfe	1985-2012	Weekly	Football, cricket, golf, riding bikes	Other use daily, football, cricket, dog walking
Mrs S Pile	31 years	Daily	With son & grandson – football, cricket, skipping, running	Other use daily by locals
C Waine	1974-2012	Weekly now occasionally	General playing with children, winter games in snow, kite flying	Other use daily, picnics, ball games, socialising, dog exercising, cycling
Mr O Mount	1 year	Weekly more in holidays	Frisbee, football, family activities	Other use daily, children playing, dog walking
W T Clark	1978-2012	Occasionally	Walking	Other use daily, football, cricket, kite flying, dog exercising
Ian & Sharon Allcock	18 years	Daily / weekly	Children play football & cricket, socialising, dog walking	Other use frequent , dog exercise, children playing, family fun, kite flying, cricket
Brian Hodgson	1973 – 2012	Daily when children young, now occasionally (age 77)	Family cricket, rounders, football, general enjoyment of open space	Other use daily, dog walking, families playing sports, kite flying, hot air balloon landed
Mr & Mrs L Dash	37 years	Daily	Kite flying, teaching children to ride bikes, dog walking, Frisbee, football, cricket	Other use daily, children of all ages playing games, walking, socialising



APPENDIX D:
Plan showing neighbourhood and locality

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Application to register land at Riverside Close at Kingsnorth as a new Town or Village Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 15th October 2013.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Riverside Close at Kingsnorth as a new Town or Village Green has been accepted, and that the land subject to the application be registered as a Village Green.

Local Members: Mr. M. Angell

Unrestricted item

Introduction

1. The County Council has received an application to register land at Four Acres in the parish of Kingsnorth as a new Village Green from the Kingsnorth Parish Council ("the Applicant"). The application, made on 27th June 2012, was allocated the application number VGA648. 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**¹, e.g. by way of the erection of fencing or a notice (section 15(3) 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

¹ Note that after 1st October 2013, the period of grace will be reduced from two years to one year (due to the coming into effect of section 14 of the Growth and Infrastructure Act 2013). This will only apply to applications received after that date and does not apply to any existing applications.

the opportunity to comment on the application. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

6. The area of land subject to this application ("the application site") consists of an area of land of approximately 0.1 hectares (0.3 acres) in size situated to the rear of property numbers 17 to 23 Riverside Close in the parish of Kingsnorth. The site is shown on the plan at **Appendix A**.
7. The application site consists of an open area with grassed surface which is bounded by hedges and fencing from neighbouring properties. Access to the site is via an access road to garages serving properties within Riverside Close.

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 residents for a range of recreational activities 'as of right' for more than 20 years.
9. Provided in support of the application were 22 user evidence questionnaires from local residents, a supporting statement, and photographs showing use of the application site. 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. The application site is owned by Ashford Borough Council ("the landowner") and is registered with the Land Registry under title number K46814.
12. The landowner is aware of the application and has confirmed in writing that it will not be raising any objection to the village green application.

Legal tests

13. 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, if not, ceased no more than two years prior to the making of the application?*
 - (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. The evidence submitted in support of the application refers to free and unrestricted use throughout the relevant period and there is no evidence on the ground (e.g. old fencing) to suggest that access to the application site has been restricted in any way.
16. Therefore, in the absence of evidence of any challenges to use, 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?

17. 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.
18. 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.
19. In this case, the evidence demonstrates that the land has been used for a range of recreational activities, as summarised at **Appendix C**. Such activities include ball games, dog walking and picnics. The application site has been especially popular for use by local children, in part due to the play equipment on the site, but also because several of the users refer to the fact that it is a safe place for children to play (as there is only one entry point) and the nearest alternative involves crossing a very busy main road.
20. As such, it can be concluded that the application site has been used for the purpose of lawful sports and pastimes.

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?

21. When considering a Town or Village Green application, the County Council must be satisfied that the application site has been used by the residents of a specific 'locality' or of a 'neighbourhood within a locality'. This is because the right to use a Town or Village Green is restricted to the inhabitants of a locality, or of a neighbourhood within a locality. 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.
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*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*'.
23. 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 be necessary to consider whether there is a relevant 'neighbourhood' within the wider locality. 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*'⁶.
24. The County Council also needs to be satisfied that the application site has been used by a 'significant number' of the residents of the locality. 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*'⁷. 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 'neighbourhood within a locality'

25. In this case, the Applicant specifies the locality at Part 6 of the application form as 'Kingsnorth village', although no further description is provided and no map has been provided to indicate the precise extent of 'Kingsnorth village'.

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

⁶ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

⁷ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

26. Although 'Kingsnorth village' is a recognisable area, it has not been demonstrated that this area comprises a legally recognisable administrative boundary (unlike, for example, a parish or electoral ward).
27. The administrative parish of Kingsnorth is a legally recognised locality with defined boundaries. However, as shown at **Appendix D**, the parish is geographically large and includes large housing estates (such as the Park Farm development). Since the evidence of use is concentrated in a very small part of the parish, it cannot be said that a significant number of the residents of the parish as a whole have used the application site. It is therefore necessary to consider whether there is a qualifying neighbourhood within the locality of Kingsnorth parish.
28. As noted above, Kingsnorth village is a recognisable and cohesive entity within the wider parish of Kingsnorth and therefore would be a qualifying neighbourhood.
29. Therefore, the qualifying neighbourhood is the village of Kingsnorth within the locality of the administrative parish of Kingsnorth.

'significant number'

30. In this case, over half of the households in Riverside Close provided evidence in support of the application. Nearly all of the witnesses refer to observing use by others on a daily basis which suggests that the frequency of use is generally very high.
31. Such use would undoubtedly have been sufficient to indicate to the landowner that the application site was in general use by the local community.
32. Therefore, it can be concluded that the application site has been used by a significant number of the residents of the neighbourhood of Kingsnorth village within the locality of Kingsnorth parish.

(d) Whether use of the land by the inhabitants is continuing up until the date of application or, if not, ceased no more than two years prior to the making of the application?

33. 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).
34. In this case, the application was made in 2012. All of the evidence questionnaires are dated within eight weeks of the date of the application. Given the open nature of the application site and the ease of access onto it, there is no evidence to suggest that use has not continued until (and beyond) the date of the application. This test is therefore met.

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

35. 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. 1992 to 2012.

36. The application includes evidence of regular use from a number of longstanding residents (as shown at **Appendix C**) and demonstrates that there has been use of the application site well in excess of the last twenty years.

37. Therefore, it can be concluded that there has been use of the application site for a full period of twenty years.

Conclusion

38. Although this application is unopposed, it is still necessary for the County Council to be satisfied that all of the requisite legal tests have been met.

39. In this case, the evidence demonstrates that the application site has been used by local residents for a period of over 20 years for the purposes of lawful sports and pastimes.

40. From close consideration of the evidence submitted, it can therefore be concluded that the legal tests concerning the registration of the land as a Village Green (as set out above) have been met.

Recommendation

41. I recommend that the County Council informs the applicant that the application to register the land at Riverside Close at Kingsnorth 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 221500 or Email: mike.overbeke@kent.gov.uk

Case Officer:

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

The main file is available for viewing on request at the offices of the PROW and Access Service at Invicta House, County Hall, Maidstone. Please contact the Case Officer for further details.

Background documents

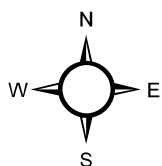
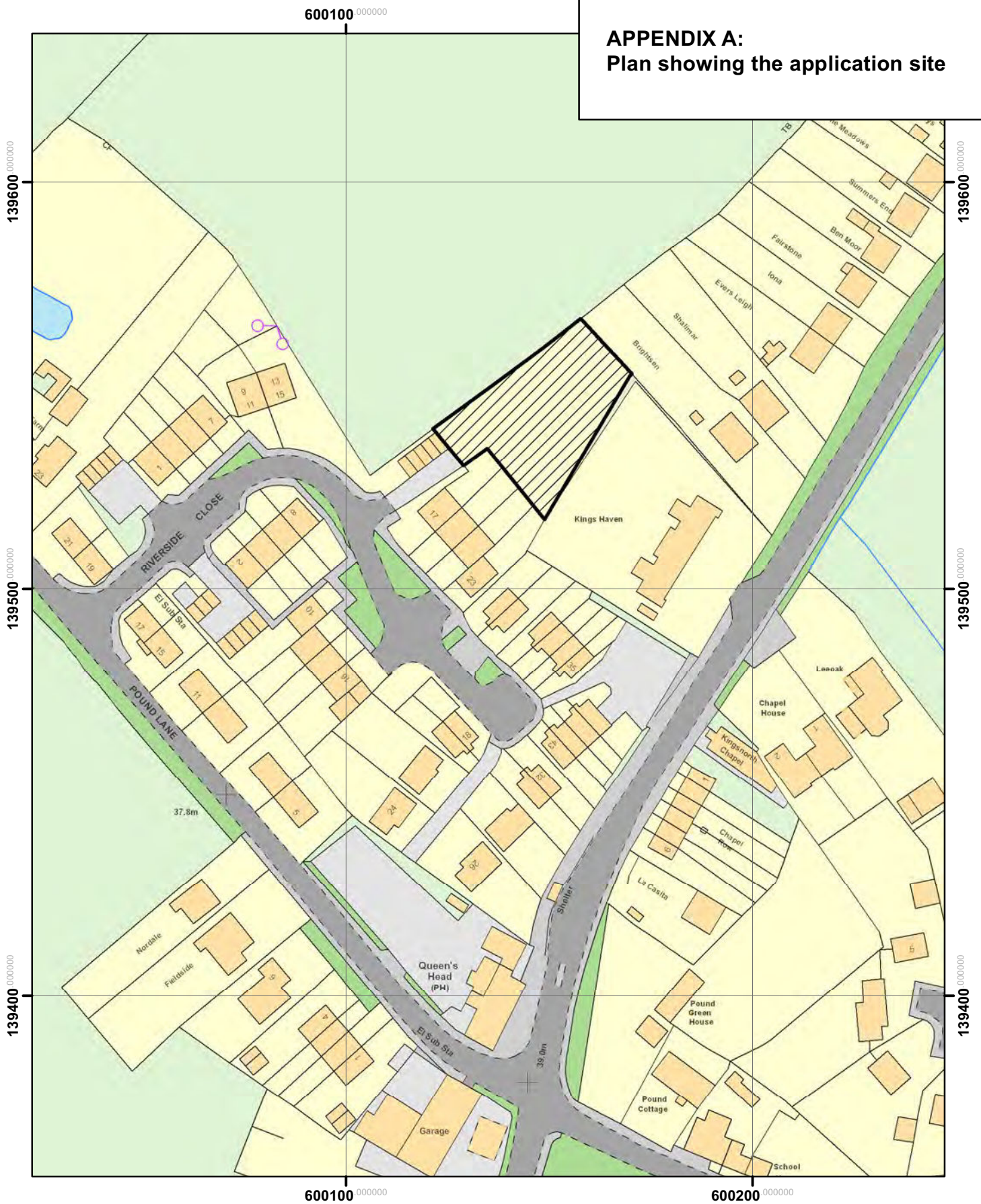
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

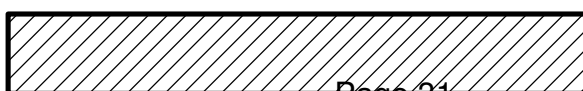
APPENDIX D – Plan showing the neighbourhood and locality

APPENDIX A:
Plan showing the application site



Scale 1:1250

**Land subject to Village Green application
at Riverside Close, Kingsnorth**



Page 31



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:

COMMONS ACT 2006
KENT COUNTY COUNCIL
REGISTRATION AUTHORITY
27 JUN 2012

Application number:

VAAG48

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

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: KINGSNORTH PARISH COUNCIL

Full postal address: KINGSNORTH RECREATION CENTRE
(incl. Postcode)

FIELD VIEW

ASHFORD, KENT

TN23 3NZ

Telephone number: 01233 502969
(incl. national dialling code)

Fax number: —
(incl. national dialling code)

E-mail address:
clerk@kingsnorthpc.kentparishes.gov.uk

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: ☐

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

**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(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:

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 GREEN**

Location: **RIVERSIDE CLOSE, KINGSNORTH, ASHFORD, KENT.**

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.

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:

KINGSNORTH VILLAGE

Please tick here if a map is attached (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).

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

The Green, Riverside Close, Kingsnorth, has been used by the residents of the close and the wider village for at least 20 years from the 1970s. The residents have, and continue to use the open space for lawful sports and pastimes, which are set out in greater detail within the accompanying evidence statements. These activities have been carried out, as of right, and in the belief that the land is a village green.

As the applicant we believe that all relevant criteria [Commons Act 2006: Section 15] have been met in order for the land to be entered in the register of village greens. I.e.

- ❖ 'as of right' (i.e. without secrecy, permission of force)
- ❖ For a period of at least 20 years
- ❖ For the purpose of lawful sports and pastimes
- ❖ By a significant number of the inhabitants of any locality, or of any neighbourhood within a locality
- ❖ Use has continued up until the date of application or, if this is not the case, use has ceased not more than five years prior to the date of application

Attached is a full justification statement along with other supporting evidence including various photographs of the green. The Evidence forms that are submitted with this application indicate how much the residents of Riverside Close, past and present, have valued using this area of open space. It is hoped that this application will ensure that future generations will also be able to enjoy The Green for many years to come.

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

Ashford Borough Council.
CIVIC CENTRE
TANNERY LANE
ASHFORD, KENT
TN23 1PL

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

Supporting Statement with attached Maps & Copy of email
 Summary of returned Evidence Questionnaires
 Original Signed Questionnaires with attached Maps
 Close Coded Map showing Properties who have returned evidence questionnaire
 Various Photographs of the green taken from ground level
 Google Satellite photographs of Riverside Close and the Green.

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

Ashford Borough Council have proposed a housing development in the close and part of this will be on the Green. A Public Consultation took place on 21st May 2012 to engage with the local residents and to hear views on the proposals.
 No Planning Permission has been sought at the moment.

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 *D Jalsop (CLERK KPC)*
Signature(s) of applicant(s):

Date: *21/6/12*

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.

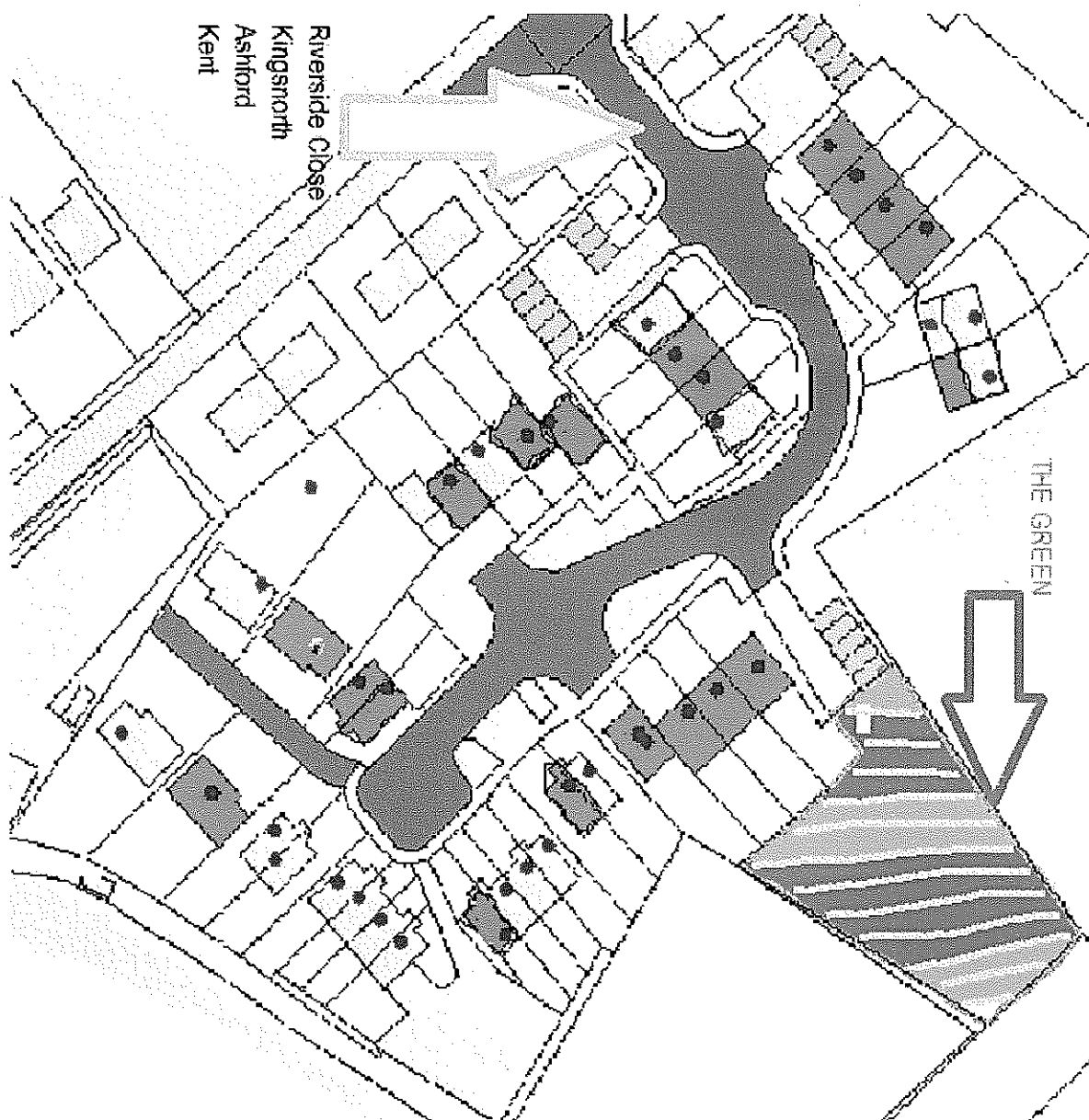
Please send your completed application form to:

**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.



Supporting Statement for 'Village Green' application. Riverside Close, Kingsnorth, ASHFORD, Kent

The following statement is submitted in support of the application to enter into the Register of Village Greens the land known as 'The Green', at Riverside Close, Kingsnorth, Ashford Kent. This application comes on the back of proposals to develop this area, of open space, with a number of houses.

The Green is situated to the west end of the main village and is located to the north of Riverside Close. I have attached two maps showing the location in relation to the village and one showing the location of The Green within Riverside Close. Entrance to The Green is gained between garage block '17-21' and house number 17 Riverside Close. The Green is approximately 46 metres at its maximum length by approximately 34 metres wide.

The Green has been used by the residents of the Close and neighbouring areas for at least 39 years for lawful pastimes, sports and other social occasions. I have attached supporting statements from residents and ex residents of the Close confirming past and continued use, **as of right**, together with other evidence to support the application for Village Green status. Please also find attached a summary of the statements giving brief details of activities The Green has played host to.

The commons act 2006 requires us to demonstrate that 5 conditions have been met before the request for 'Village Green' status can be considered:

- i. 'as of right' (i.e. without secrecy, permission of force)
- ii. For a period of at least 20 years
- iii. For the purpose of lawful sports and pastimes
- iv. By a significant number of the inhabitants of any locality, or of any neighbourhood within a locality
- v. Use has continued up until the date of application or, if this is not the case, use has ceased not more than five years prior to the date of application

as of right

The Green has been used 'as of right' since the building of the Close in the 1970s.

- i. Has been used without secrecy (*nec vi*)
- ii. Has been used without force (*nec clam*)
- iii. Has been used without permission (*ne precario*)

There are swings on The Green which have been provided and maintained by Ashford Borough, and attached is a copy of a recent email confirming that the Council do acknowledge this as at least a "play area". To date The Green is well used by young and old alike for various activities and social gatherings.

For a period of at least 20 years

The Green has been used by the residents of the Close for recreational and leisure purposes going back to the 1970s. The attached user evidence lists at least 15 names of people who have used The Green for over 20 years, and indeed over 30 years in a number of cases. It is also worth noting that Grandchildren of the long established residents also make regular use of The Green together with many other children from extended parts of families.

For the purpose of lawful sports and pastimes

The Green has played host to many different activities over the years. This use has included various sports, the walking of dogs, other walking activities, for play with younger members of the community, as a picnic area by families as well as for kite flying, blackberry picking (in season) watching of wildlife, and various other uses. These uses continue to date with heightened use during summer months, with natural fluctuations based upon seasonal usage. It is also worth noting that at one point residents of the Close pooled their resources together to provide additional play equipment for the many children residing in the Close.

By a significant number of the inhabitants of any locality, or of any neighbourhood within a locality

A significant number of the inhabitants of the Close, both past and present, have used The Green for a range of sports and pastimes which are detailed in the user evidence and summarised on separate document. To date there are at least 10 resident children that use The Green on a regular basis. During the warm months and during school holidays this increases as a result of extended families and friend visits. There are also a number of dog owners in the Close who make use of the only safe area to exercise their pets.

Use has continued up until the date of application or, if this is not the case, use has ceased not more than five years prior to the date of application

It is the case that The Green is well used to date with the pastimes previously mentioned, but not limited to these. We are not required to demonstrate every use on every occasion or that such use is exclusively by inhabitants of the locality, and therefore the evidence submitted with this application is such that it is intended to be viewed solely as examples of the use.

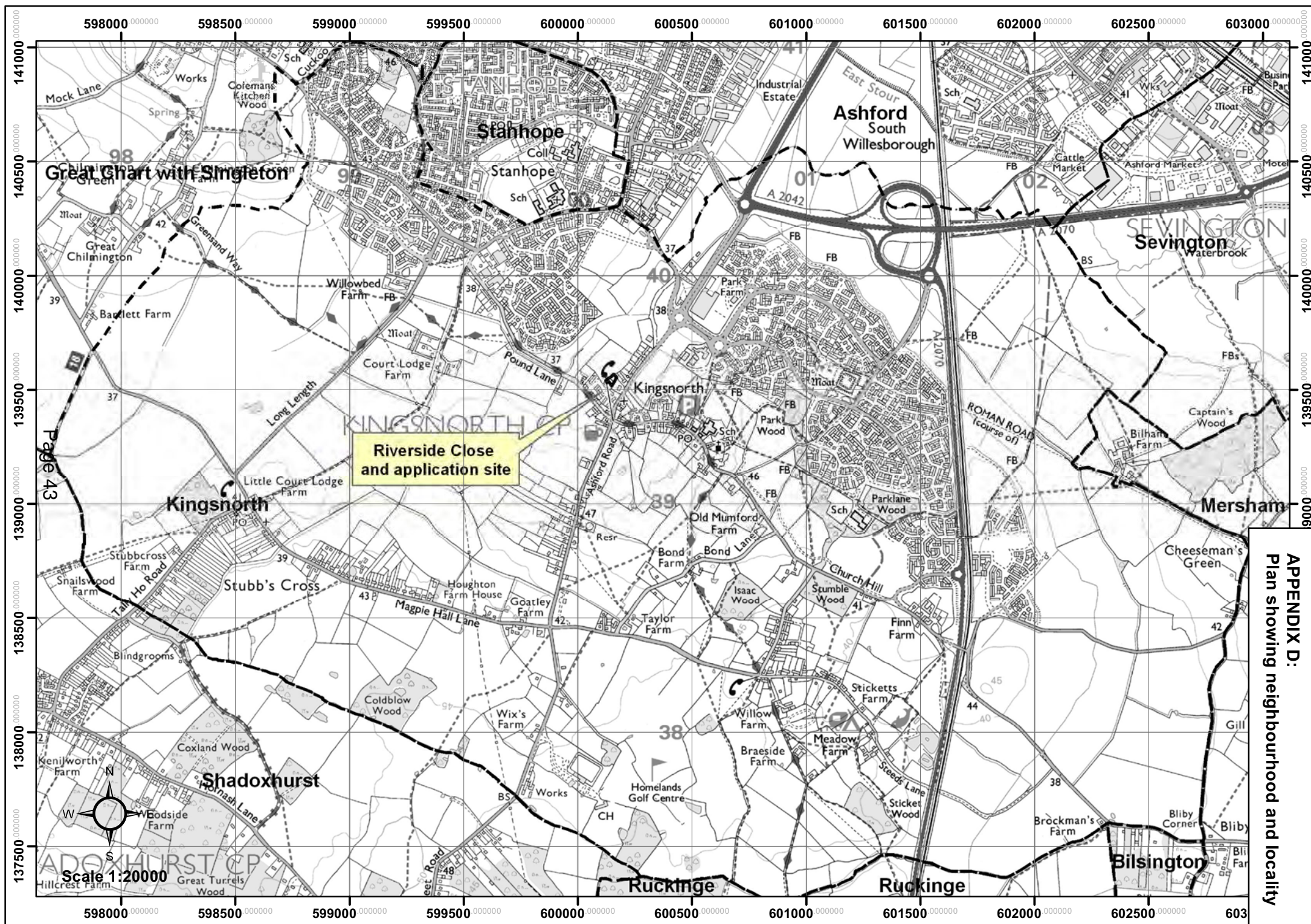
This application is as a result of tentative plans to build on this well used open space situated within an already crowded Close. The Green has provided a safe place for children to play and families to socialise over the years. These activities continue to date and with new families moving to the Close will serve this purpose in the future. With the attached evidence and statements we believe that all relevant criteria required has been demonstrated in order for the land to be officially entered in the register of Village Greens.

On behalf of
Kingsnorth Parish Council

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

Name	Period of use	Frequency	Activities	Other comments
ALDRIDGE & RELF	2002 – present	Weekly	Walking, picnics, dog walking, nature watching, playing with children	Observed use by others on a daily basis. Public space maintained by Borough Council
ALLEN, D&J	1989 – present	Occasionally	Walking, wildlife observation	Observed use by others on a weekly basis. Few alternative places locally for recreation.
BALL, H	2006 – present	Daily, weather permitting	Using play equipment, ball games, teaching daughter to ride bike, general play	Observed use by others on a daily basis.
BIDEN, C	1987 – present	Weekly	Playing with children when young, now playing with dog	
BLISS, R	1980 – present	Occasionally	Playing with children, walking	Land has been used by several generations the children living in Riverside Close.
BOURNE, T	2009 – present	Daily	Dog walking, playing with children on swings, football	Observed use by others on a daily basis.
BRIGGS, P	1985 – present	Weekly in summer, less in winter	Using play equipment with children, football, ball games, picnics	Observed use by children playing on a daily basis. Green is a safe and very valuable space for the local children.
BURBRIDGE, S	1973 – present	Daily	Playing with children, using swings, rounders, cricket, football, kiting, fireworks, boules	Observed use by others on a daily basis. Land has always been a childrens recreation ground maintained by Ashford Borough Council
CLIFTON, C&I	1973 – present	Daily	Football, cricket, picnics, childrens activities, playing with children	Observed use by others on a daily basis.
DENVER-FEDDER, R	1984 – present	Daily	Playing with children, sporting activities, general recreation	Observed use by others on a daily basis. Land has always been a play area for local residents; no other area for recreation close by
DENVER-FEDDER, J	1984 – present	Daily	Playing games with children, football, cricket, swings	Observed use by others on a daily basis. The land has always been a play area for local residents and their families for as long as I have lived here
FARRANT, R	1973 – present	Daily	Football, cricket, picnics, fireworks, using play equipment, playing with children	Observed use by others on a daily basis. In 1973, told by local Councillor that he could use the green.
FLETCHER, C	1973 – ?	Daily by our children, now weekly by our grand children	Using play equipment	No longer use the land, but my grand children continue to use it. Observed use by others on a daily basis.
HOLLAND, D	1987 – present	Weekly, weather permitting	Playing with children, football, Frisbee, swings, attending parties and other celebrations	Observed use by others on a daily basis. Only safe play area locally and well used by local children.
HYDER, S	1991 – present	Occasionally	Playing with grandchildren, exercising dog	
JONES, R	1993 – present	Daily basis (by children)	Children play on the swings and enjoy paying ball games (rounders/ football), riding bikes in the field	Observed use by others on a daily basis. The Green is vital to our community, the nearest recreation area means crossing the very busy main road.

LYNCH, K				Not used the land but observed occasional use by dog walkers and children playing
MARSH, B&M	2005 – present	Daily	Dog walking, children playing on swings or ball games, community events (e.g. fireworks, childrens' parties, royal wedding party)	Observed use by others on a daily basis. The land is an important place for local children who use the green on a daily basis for socialising and physical activity.
MILLIGAN, L	2004 – present	Daily	Dog walking, playing with children, picnics, fireworks	Observed use by others on a daily basis. Riverside Close is a family oriented cul-de-sac reliant on daily use of the green.
MOLLOY, M	1973 – present	Daily	Used as a play area by my children and others locally	Used by others on a daily basis. The land has been used for the last 39 years by children and families who live on Riverside Close as there is no where else safe for children to play
WILCOX, L	1981 – present	Weekly	Playing with children, dog walking, walking	Observed use by others on a daily basis.
WOOLNOUGH, R	2007 – present	Weekly	Playing with children, football and swings	Observed use by others on a daily basis.



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