

**REGULATION COMMITTEE**

**Tuesday, 24th January, 2023**

**10.00 am**

Council Chamber, Sessions House, County Hall,  
Maidstone





## AGENDA

### REGULATION COMMITTEE

**Tuesday, 24th January, 2023, at 10.00 am**      Ask for:      **Hayley Savage**  
**Council Chamber, Sessions House, County**      Telephone:      **03000 414286**  
**Hall, Maidstone**

#### **Membership (15)**

Conservative (12):      Mr S C Manion (Chairman),      Mrs S Hudson (Vice-Chairman),  
Mr P Cole,      Mr M C Dance,      Ms S Hamilton,      Mr D Jeffrey,  
Mr R C Love, OBE,      Mr J M Ozog,      Mrs L Parfitt-Reid,      Mr T L Shonk  
and Vacancy

Labour (1):      Mr B H Lewis

Liberal Democrat (1):      Mr I S Chittenden

Green and  
Independent (1):      Mr M Baldock

#### **UNRESTRICTED ITEMS**

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

1. Apologies and Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes of the meeting held on 21 September 2022 (Pages 1 - 4)
4. Home to School Transport Appeals Update (Pages 5 - 8)
5. Update from the Public Rights of Way and Access Service - Common Land and Village Greens (Pages 9 - 14)
6. Applications to voluntarily register land as new Village Greens at Loose and Boughton Monchelsea (Pages 15 - 22)
7. Update on Planning Enforcement Issues (Pages 23 - 28)
8. Other Items which the Chairman decides are Urgent

#### **Motion to exclude the public**

That under section 100A of the Local Government Act 1972 the public be excluded from the meeting on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.

**EXEMPT ITEMS**

*(During these items the meeting is likely NOT to be open to the public)*

9. Update on Planning Enforcement Cases (Pages 29 - 62)

Benjamin Watts  
General Counsel  
03000 416814

**Monday, 16 January 2023**

*Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.*

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**KENT COUNTY COUNCIL**

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**REGULATION COMMITTEE**

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 21 September 2022.

PRESENT: Mrs S Hudson (Vice-Chairman in the Chair) Mr M Baldock, Mr I S Chittenden, Mr P Cole, Ms S Hamilton, Mr D Jeffrey, Mr R C Love, OBE, Mr J M Ozog, Mr T L Shonk, Mr H Rayner and Mr A Brady

ALSO PRESENT: Mrs S V Hohler

IN ATTENDANCE: Mr R Gregory (Team Leader - Planning Enforcement), Mr G Rusling (Public Rights of Way & Access Service Manager), Mrs S Thompson (Head of Planning Applications), Mrs L Wilkins (Definitive Map Team Leader), Mr S Whitehead (Specialist Enforcement Officer) and Ms H Savage (Democratic Services Officer)

**UNRESTRICTED ITEMS****14. Apologies and Substitutes**

*(Item 1)*

Apologies were received from Mr Manion, Mr Lewis, and Mrs Parfitt-Reid. Mr Brady was attending as substitute for Mr Lewis and Mr Rayner was attending as substitute for Mrs Parfitt-Reid.

**15. Declarations of Interests by Members in items on the Agenda for this meeting.**

*(Item 2)*

There were no declarations of interest.

**16. Minutes of the meeting held on 9 June 2022**

*(Item 3)*

RESOLVED that the Minutes of the Committee meeting on 9 June 2022 are correctly recorded and that they be signed by the Chairman.

**17. Update from the Public Rights of Way and Access Service**

*(Item 4)*

- (1) The Definitive Map Team Leader introduced the report and provided an overview of the position related to Public Rights of Way (PROW) applications.
- (2) The Definitive Map Team Leader said reforms in relation to PROW under the Deregulation Act of 2015 were still not in force and there was no firm date when this would happen. The government had expressed its intention to repeal the 2026 cut-off date where all unrecorded rights of way created before 1949 were

to be extinguished subject to certain exceptions. Of the 87 unallocated applications, 53 were based on historic pre-1949 evidence.

- (3) In response to a question from Mr Chittenden, the Definitive Map Team Leader said a report to the January meeting of the Committee would contain a focus on village green applications.
- (4) Members discussed, in relation to the backlog of applications, capacity and resource, training and recruitment, and opportunities for joint working and shared resources.
- (5) In response to questions from Members regarding the use of technology and opportunities for information on the Council's website to be more interactive, the Public Rights of Way & Access Service Manager said he would consult with colleagues in the Council's ICT department.

RESOLVED that the report be noted.

### **18. Update on Planning Enforcement Issues**

*(Item 5)*

- (1) The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 9 June 2022.
- (2) The Head of Planning Applications introduced Mr Whitehead to the committee who had been recruited on an interim basis, two days a week, to provide dedicated resource to investigate alleged planning breaches on permitted sites.

RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

### **19. Other Items which the Chairman decides are Urgent**

*(Item 6)*

There were no urgent items.

### **20. Motion to exclude the public**

*(Item 7)*

## **EXEMPT ITEMS**

### **(Open Access to Minutes)**

*(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act)*

### **21. Update on Planning Enforcement Cases**

*(Item 8)*

- (1) The Planning Enforcement Team Leader gave an update on unauthorised (or part unauthorised) planning enforcement matters setting out actions taken or

contemplated at Raspberry Hill Park Farm, Iwade; Warden Point, Eastchurch; Surf Crescent, Eastchurch; Springhill Farm, Fordcombe; Water Lane, Thurnham; Hoads Wood Farm, Bethersden; Double Quick Farm, Lenham; Woodside East, Shadoxhurst; Ringwould Alpine Nursery, Dover Road, Ringwould; Fairfield Court Farm, Brack Lane, Brookland, Romney Marsh; Chapel Lane, Sissinghurst; Land off Maypole Lane, Canterbury; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Teston; Cobbs Wood Industrial Estate, Ashford; Old Tilmanstone Colliery, Pike Road, Eythorne; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; Unit 2, Katrina Wharf, Wharf Road, Gravesend; Mayfield Grammar School, Pelham Road, Gravesend; Trosley Country Park, Vigo Village, Gravesend; Teston Bridge Country Park, Maidstone; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham; Land to the south of Manor Way Business Park, Swanscombe.

- (2) Members discussed the activity taking place at the cliff-top at Warden Point, Eastchurch, Isle of Sheppey and the possible options available.
- (3) The Committee agreed that the Head of Planning Applications, in consultation with the Vice-Chairman, write a response on behalf of the Committee to the Cabinet Member for Economic Development to seek her assistance in:
  - (i) raising the committee's strong concern with government, the Local Government Association, and other relevant parties to the omission of the planning authority in the environmental permitting process undertaken by the Environment Agency and the consequence this had for planning enforcement such that a solution could be speedily addressed; and
  - (ii) finding a swift resolution to alleged unauthorised activity at Warden Point by fully exploring the options available to the Council.
- (4) The recommendation in respect of Raspberry Hill Park Farm site at paragraph 38(a) of the report be amended to include reference to the Warden Point site.
- (5) RESOLVED that:
  - (a) Subject to (3) and (4) above the enforcement strategies outlined in paragraphs 7 to 156 of the report be noted and endorsed.

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By: Andrew Ballard – Principal Democratic Services Officer  
 To: Regulation Committee – 24 January 2023  
 Subject: Home to School Transport Appeals update  
 Classification: Unrestricted

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Summary: To provide Members with an overview on Home to School Transport appeal statistics for the period between 1 January 2021 to 31 December 2022 and a brief comparison with transport appeals statistics from 2010 to 2021.

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## 1. Home to School Transport Appeal Statistics 2022

(1.1) For the period between 1 January 2022 to 31 December 2022 a total of 104 individual appeals were considered by Member Transport Appeal Panels of this Committee. 48% were upheld at least in part (e.g: time limited assistance) and a breakdown of these appeals on a month by month basis is set out in Appendix A along with a comparison with appeals held in 2010 to 2021. An additional 39 appeals were received/scheduled but were not heard due to them being either reassessed by the Transport Team or withdrawn by the parent.

(1.2) There are a further 23 appeals that are still waiting to be heard which are scheduled for January/February 2023.

(1.3) It is interesting to note that in 2022 the majority of the total number of appeals were heard between August – 31 December 2022 although the overall numbers compared to 2021 have reduced.

(1.4) Appeals are successful due to a variety of reasons and can include:

- Financial hardship
- Health & medical need
- No cost to the Council
- Temporary accommodation
- Family circumstances
- Circumstances of the child
- Childs safety
- Review cases

## 2. Changes to the process due to Covid

(2.1) Following Covid, revised arrangements were made in order to facilitate appeals. Parents are provided with three options as to how they wished their appeals to be heard. These options are, face to face appeals

which are held at Session House, Maidstone, virtual appeals via video conference on Microsoft Teams; and finally, paper-based appeals where Members considered the case based on the written submissions only.

(2.2) Although there are no longer restrictions in place due to Covid, parents are still able to select how they wish their appeal to be considered which best suits their circumstances. The following table provides Members with a breakdown of how appeals were facilitated during 2022 and the percentage of those being successful.

	Appeals heard	% Upheld
Paper Based Appeals	31	19%
Virtual Appeals	45	58%
Face to Face	29	65%

### **3. Transport Appeal Statistics – 2021**

(3.1) For the period between 1 January 2021 to 31 December 2021 a total of 118 appeals were considered by Transport Appeal Panels. 60% were upheld at least in part (e.g. time-limited assistance).

### **4. Local Government & Social Care Ombudsman**

(4.1) If parents remain dissatisfied and believe that they have suffered injustice as a result of maladministration by the Panel, they are advised of their rights to pursue their complaint with the Local Government & Social Care Ombudsman (LGSCO). This is not a right of appeal and has to relate to issues such as failure to follow correct procedures or failure to act independently and fairly, rather than just that the person making the complaint believes the decision to be wrong.

(4.2) During the last year, 4 complaints were received with 2 with no faults being found and two decisions still outstanding. The LGSCO provide a breakdown of their findings at <https://www.lgo.org.uk>

<b>5. Recommendation</b> Members are asked to note this report.
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Appendix A – Home to School Transport appeal table

Andrew Ballard  
Principal Democratic Services Officer  
Tel No: 03000 415809, e-mail: [andrew.ballard@kent.gov.uk](mailto:andrew.ballard@kent.gov.uk)

**TABLE 1  
HOME TO SCHOOL  
TRANSPORT APPEALS -1 JANUARY – 31 December 2022**

<b>Month</b>	<b>Total Scheduled</b>	<b>Total Heard</b>	<b>Upheld</b>	<b>Not Upheld</b>	<b>% Upheld</b>
January	10	10	6	4	60%
February	4	3	1	2	33%
March	6	6	2	4	33%
April	14	12	6	6	50%
May	5	5	4	1	80%
June	1	1	1	0	100%
July	6	6	2	4	33%
August	17	15	7	8	47%
September	13	8	2	6	25%
October	18	14	6	8	43%
November	13	9	7	2	78%
December	19	15	6	9	40%
<b>TOTALS</b>	<b>126</b>	<b>104</b>	<b>50</b>	<b>54</b>	<b>48%</b>

**TABLE 2  
HOME TO SCHOOL TRANSPORT APPEALS - 2010-2020**

<b>Year</b>	<b>Upheld</b>	<b>Not Upheld</b>	<b>Total Heard</b>	<b>% Upheld</b>
2010	38	46	84	45%
2011	23	43	66	35%
2012	26	80	106	24%
2013	33	76	109	30%
2014	76	72	148	51%
2015	67	57	124	54%
2016	72	65	137	52%

2017	102	89	191	53%
2018	87	78	165	53%
2019	89	77	166	54%
2020	76	42	118	64%
2021	75	42	118	60%

## Update from the Public Rights of Way and Access Service Common Land and Village Greens

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A report by the Public Rights of Way and Access Service Manager to Kent County Council's Regulation Committee on Tuesday 24th January 2023.

### **Recommendation:**

**I recommend that (1) Members consider this report and note its content; and (2) Members agree to the withdrawal of application CAA22.**

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### **Introduction**

1. Kent County Council is a 'Commons Registration Authority', which means that it is responsible for holding the legal records of all registered Common Land and Village Green in the county – known as the 'Registers of Common Land and Village Greens' – and for dealing with applications to amend those Registers under the Commons Act 2006 ("the 2006 Act").
  - 1.1 The majority of applications received are made under section 15(1) of the 2006 Act, which allows any person may make an application to the County Council to register land as a new Town or Village Green, where it can be shown that the land has been used:
    - As of right (i.e without force, secrecy, or permission);
    - For a period of at least 20 years;
    - For the purposes of lawful sports and pastimes;
    - By a significant number of the inhabitants of any locality or any neighbourhood within a locality; and
    - Use has continued up to the date of application or, where use has ceased to be as of right, it did so no more than one year prior to the date of application.
  - 1.2 It is also possible for applications to be made by landowners to voluntarily register land in their ownership as a new Village Green under section 15(8) of the 2006 Act (in which case it is not necessary to demonstrate any evidence of use). This can be useful in situations where, for example, local Councils wish to ensure their land is protected against possible future development, or where developers wish to formally dedicate open space within new developments.
  - 1.3 Additionally, the County Council is also responsible for dealing with other kinds of applications made under the 2006 Act to amend the Registers, for example where the extent of the registered Common Land or Village Green was incorrectly recorded on the Registers.
  - 1.4 Note that whilst the County Council is responsible for managing the legal records, it has no powers in terms of management or enforcement issues relating to Common Land or Village Green, which instead fall to either local Councils or landowners to deal with. Enforcement issues can also be raised by individuals by way of application to a Magistrates Court.

## Current Applications

2. There are currently 12 outstanding applications to record new Village Greens and these are listed at **Appendix A**. Note that four of those applications (that have been made under section 15(8) seeking voluntary dedication of the land) are the subject of a separate report before this meeting.
- 2.2 Of the remaining applications, these are all at different stages of progression and will be reported to a Member Panel as soon as they are ready for decision in the coming months. Officers are also in the process of considering the two very lengthy Inspector's reports received in relation to the Whitstable and Herne Bay applications, with a view to presenting those to a Member Panel meeting for determination in the Spring.
- 2.3 In addition to the outstanding applications relating to Village Greens, the County Council also has four outstanding applications relating to Common Land. These applications are all made on the basis that the pieces of land in question were historically Common Land, but never made it onto the Registers, and they therefore seek to have the affected pieces of land formally registered as Common Land. Two of those applications are with the Planning Inspectorate (because they are of a type for which the Inspectorate is the 'determining authority'), the third is intended to be reported to a Member Panel in the Spring and the fourth is discussed further below.

## Other matters

### Bellway Homes Ltd. v Kent County Council

3. Members will be aware of the challenge to the decision by the Regulation Committee Member Panel on 2<sup>nd</sup> December 2021 to refer the application to register land known as Two Fields at Westbere to a Public Inquiry for further consideration.
- 3.1 The dispute centres around whether the County Council has the capacity to consider the application and, in particular, whether the application site is affected by one of the 'trigger events' set out in Schedule 1A of the 2006 Act. Following changes introduced by the Growth and Infrastructure Act 2006, if an application site is affected by any one of the list of planning-related 'trigger events', then (in most cases) the County Council is not able to entertain an application for Village Green status made under the 2006 Act. One of those 'trigger events' concerns situations where land is identified 'for potential development' within a Local Plan.
- 3.2 The particular circumstances of this case are that the application site is identified in the Canterbury District Local Plan as a 'Green Gap' (Policy OS6). Having taken legal advice, the County Council ultimately concluded that Policy OS6 did not operate as a 'trigger event' because its designation as a 'Green Gap' did not have the effect of identifying the land for potential development. However, Bellway Homes did not agree with this view and challenged the County Council's decision by way of a Judicial Review in the High Court.
- 3.3 Following the two-day hearing, judgement was handed down and the claim for Judicial Review was dismissed. The Court concluded that "*properly understood in the context of its accompanying explanatory text, Policy OS6, whether read as*

*part of the [Local Plan] as a whole of in insolation, does not identify land in the Green Gaps for potential development". A copy of the judgement is available online here: <https://www.bailii.org/ew/cases/EWHC/Admin/2022/2593.html>.*

- 3.4 The effect of the judgement is that, subject to any appeal, the County Council will proceed with the process of determining the application and, in the first instance, make arrangements for a Public Inquiry to be held to consider the factual matters in dispute between the parties.

#### Application to record Common Land at Preston Parade Cliff at Whitstable (CAA22)

4. The County Council has received an application from the Open Spaces Society ("the Applicant") to register land at Preston Parade Cliff at Whitstable as Common Land. A plan of the site is attached at **Appendix B**. The application is made under Paragraph 4 of Schedule 2 of the 2006 Act, on the basis that the land was wrongly omitted from the Register of Common Land at the time of its original compilation under the Commons Registration Act 1965.
- 4.1 Advertisement of the application has generated 23 objections from local residents. Having reviewed the objections, the Applicant now agrees that the land in question is not capable of registration as Common Land and has requested withdrawal of the application.
- 4.2 Strictly speaking, there is no absolute right for an application to be withdrawn once made, and indeed both the 2006 Act and the accompanying Regulations are silent as to the process for withdrawing an application. However, in cases where an application is bound to fail, and the applicant no longer wishes to pursue it, it seems sensible and appropriate that the County Council accedes to such a request.
- 4.3 As there are no delegated powers to Officers in this area of work, the Committee's approval is therefore sought for the County Council to approve the request by the Applicant to withdraw the application.

#### **Recommendation**

5. I RECOMMEND (1) Members consider this report and note its content; and (2) Members agree to the withdrawal of application CAA22.

#### **Contact Officer:**

Graham Rusling – Public Rights of Way and Access Service Manager  
Public Rights of Way & Access Service  
Tel: 03000 413449 - Email: [graham.rusling@kent.gov.uk](mailto:graham.rusling@kent.gov.uk)

#### **Appendices:**

**APPENDIX A:** List of outstanding Village Green applications

**APPENDIX B:** Plan showing the land subject to CAA22 at Preston Parade, Whitstable

**APPENDIX A:  
Schedule of Commons Act 2006 applications**

**Outstanding Village Green applications (under section 15)**

<b>Description</b>	<b>Parish</b>	<b>Member(s)</b>	<b>Status</b>
The Downs (VGA614)	Herne Bay	Mr. D. Watkins	Considering Inspector's report – refer to Member Panel in Spring
Whitstable Beach (VGA658)	Whitstable	Mr. M. Dance	Considering Inspector's report – refer to Member Panel in Spring
Land known as Two Fields (VGA681)	Westbere	Mr. A. Marsh	To be referred to Public Inquiry
Land at Hoplands Farm ( <i>voluntary dedication</i> ) (VGA682)	Hersden	Mr. A. Marsh	Awaiting information from developer
Land at Bybrook Road (VGA684)	Kennington	Mr. P. Bartlett	To be referred to next panel meeting
Land known as Salts Wood ( <i>voluntary dedication</i> ) (VGA685)	Loose	Mr. S. Webb	To be considered at Regulation Committee 24/01/2023
Land at Boughton Green ( <i>voluntary dedication</i> ) (VGA686)	Boughton Monchelsea	Ms. L. Parfitt-Reid	To be considered at Regulation Committee 24/01/2023
Land at Bunyards Farm (VGA687)	Aylesford	Mr. A. Kennedy	Awaiting further comments from parties
Land at Quantock Drive (VG688)	Ashford	Mr. P. Bartlett	Under investigation – trying to trace landowner
Land known as Brooks Field ( <i>voluntary dedication</i> ) (VGA689)	Loose	Mr. S. Webb	To be considered at Regulation Committee 24/01/2023
Land known as Walk Meadow ( <i>voluntary dedication</i> ) (VGA690)	Boughton Monchelsea	Ms. L. Parfitt-Reid	To be considered at Regulation Committee 24/01/2023
Land at West Cliff Bank ( <i>voluntary dedication</i> ) (VGA691)	Whitstable	Mr. M. Dance	Received Dec 2022, awaiting investigation

**Other outstanding applications to amend the Registers**

<b>Description</b>	<b>Parish</b>	<b>Member(s)</b>	<b>Status</b>
Application to amend 16 pieces of Common Land in the Sevenoaks area (CAA19)	Seal and Sevenoaks Weald	Ms. M. McArthur Mr. R. Gough	Awaiting further comments from parties
Application to register missed Common Land at Greenway Forstal (CAA21)	Harrietsham	Ms. S. Prendergast	With the Planning Inspectorate for decision
Application to register missed Common Land at Preston Parade (CAA22)	Whitstable	Mr. M. Dance	Withdrawal to be considered at Regulation Committee 24/01/2023
Application to register missed Common Land at Radfall Road (CAA23)	Blean	Mr. R. Thomas	With the Planning Inspectorate for decision



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# APPENDIX B

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KEY:



Land subject to application

Application to correct non-registration of Common Land (application reference CAA22)

Land known as Preston Parade Cliffs at Seasalter  
(provisionally registered as CL100)



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## **Applications to voluntarily register land as new Village Greens at Loose and Boughton Monchelsea**

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A report by the PROW and Access Service Manager to Kent County Council's Regulation Committee on Tuesday 24<sup>th</sup> January 2023.

**Recommendation: I recommend that the County Council informs the applicants that the applications to register the lands known as:**

- 1) Salts Wood at Loose;**
- 2) Boughton Monchelsea Green;**
- 3) Brooks Field at Loose; and**
- 4) Walk Meadow at Boughton Monchelsea;**

**have been accepted, and that those lands be formally registered as Village Greens.**

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### **Introduction**

1. The County Council has received four applications to register various pieces of land in the parishes of Boughton Monchelsea and Loose as new Village Greens. The applications have been made under section 15(8) of the Commons Act 2006 ("the 2006 Act"), which allows a landowner to apply to the County Council to voluntarily register their land as a Village Green, without the need to demonstrate the usual tests relating to usage (i.e. use for recreational purposes for a period in excess of twenty years).
2. Land that is voluntarily registered as a Town or Village Green under section 15(8) of the 2006 Act enjoys the same level of statutory protection as that of all other registered greens and local people will have a right to use the land for informal recreational purposes in perpetuity. This means that once the land is registered it cannot be removed from the formal Register of Town or Village Greens (other than by statutory process) and must be kept free of development or other encroachments.

### **The applications**

#### Salts Wood at Loose (application reference VGA685)

3. The application to register the land known as Salts Wood has been made by the Boughton Monchelsea Amenity Trust. The land subject to the application comprises a large area of approximately 33 acres (13.4 hectares) in size situated to the west of Hubbards Lane and Salts Lane, and extending westwards to the rear of properties in Loose Road and south to the rear of properties in Salts Avenue in the parish of Loose, near Maidstone. Until recently the land has been leased for arable farming, but it is now in the process of being turned into community woodland.
4. A plan showing Salts Wood is attached at **Appendix A**.



Boughton Monchelsea Village Green (application reference VGA686)

5. This application, made by the Boughton Monchelsea Parish Council, seeks to register a small parcel of land adjacent to the existing Village Green, but which (for reasons unknown) was not included within the original process for registration under the Commons Act 1965. The land to be registered comprises approximately 0.16 acres (0.06 hectares) in size situated to the south of the existing Boughton Monchelsea Village Green (registered as VG1).
6. A plan showing the land to be registered, along with the existing Village Green, is attached at **Appendix B**.

Brooks Field at Loose (application reference VGA689)

7. The application to register Brooks Field has been made by the Loose Parish Council. The application site consists of a parcel of land of approximately 3.4 acres (1.4 hectares) in size situated to the north of the Loose Stream and extending west towards the public highway known as Kirkdale and east to Old Loose Hill, in the Loose Valley. Formerly agricultural land, it was acquired by the Parish Council and now comprises a public open space, including a community wood, pond and wildflower meadow.
8. A plan showing Brooks Field is attached at **Appendix C**.

Walk Meadow at Boughton Monchelsea (application reference VGA690)

9. The application to register the land known as Walk Meadow has also been made by the Boughton Monchelsea Amenity Trust. The land subject to the application comprises a parcel of land of approximately 12.2 acres (4.95 hectares) in size, situated to the south of Cliff Hill Road and to the east of Bottlescrew Hill in the village of Boughton Monchelsea. The land is already managed as a public open space and consists of a mix of open areas, trees, paths and a wildflower meadow.
10. A plan showing Walk Meadow is attached at **Appendix D**.

**Procedure**

11. The legal test set out in section 15(8) states:  
*“(8) The owner of any land may apply to the Commons Registration Authority to register the land as a town or village green.  
(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.”*
12. The Commons Registration (England) Regulations 2014 require that Notice of the application be advertised on the County Council’s website and served on local Councils. In addition, the County Councillors have also been informed of the applications. No adverse comments have been received.

13. Land Registry searches have also been undertaken to confirm that the applicants all own the lands in question, and that there are no relevant charges affecting the application sites.

### **Conclusion**

14. As stated above, the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the 2006 Act requires only that the County Council is satisfied that the land is owned by the applicant. There is no need for the applicant to demonstrate use of the land 'as of right' for the purposes of lawful sports and pastimes over a particular period.

15. It can be concluded that all the necessary criteria concerning the voluntary registration of these lands as Village Greens have been met.

### **Recommendation**

16. I recommend that the County Council informs the applicants that the applications to register the lands known as:

- 1) Salts Wood at Loose;
- 2) Boughton Monchelsea Green;
- 3) Brooks Field at Loose; and
- 4) Walk Meadow at Boughton Monchelsea;

have been accepted, and that those lands be formally registered as Village Greens.

### **Contact Officer:**

Graham Rusling – Public Rights of Way and Access Service Manager

Public Rights of Way & Access Service

Tel: 03000 413449 - Email: [graham.rusling@kent.gov.uk](mailto:graham.rusling@kent.gov.uk)

### **Appendices:**

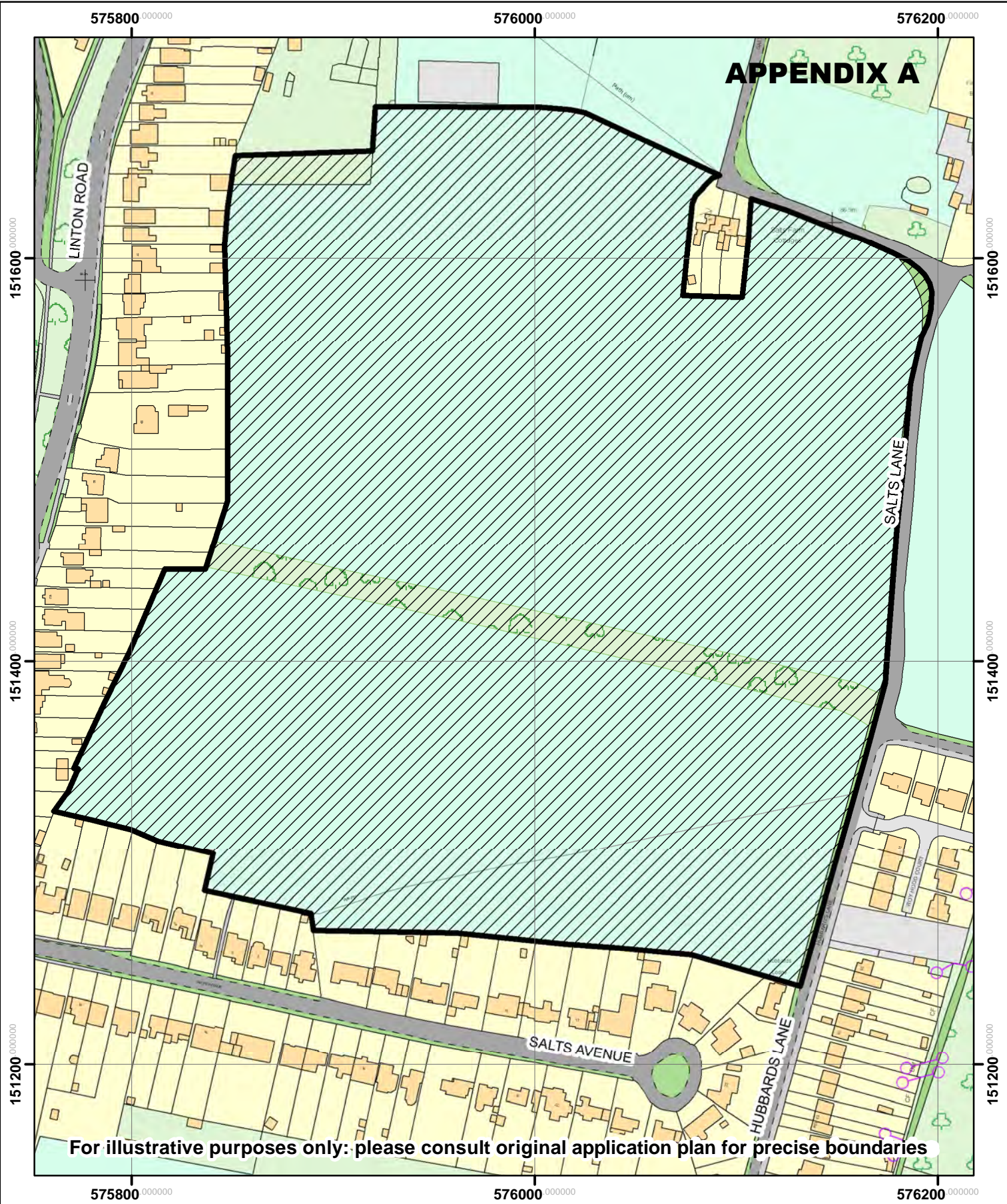
APPENDIX A – Plan showing Salts Wood at Loose

APPENDIX B – Plan showing Boughton Monchelsea Green

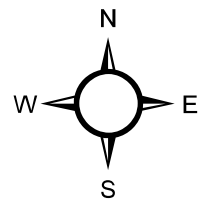
APPENDIX C – Plan showing Brooks Field at Loose

APPENDIX D – Plan showing Walk Meadow at Boughton Monchelsea

# APPENDIX A



For illustrative purposes only: please consult original application plan for precise boundaries



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Land subject to Village Green application known as Salts Wood, Loose (VGA685)

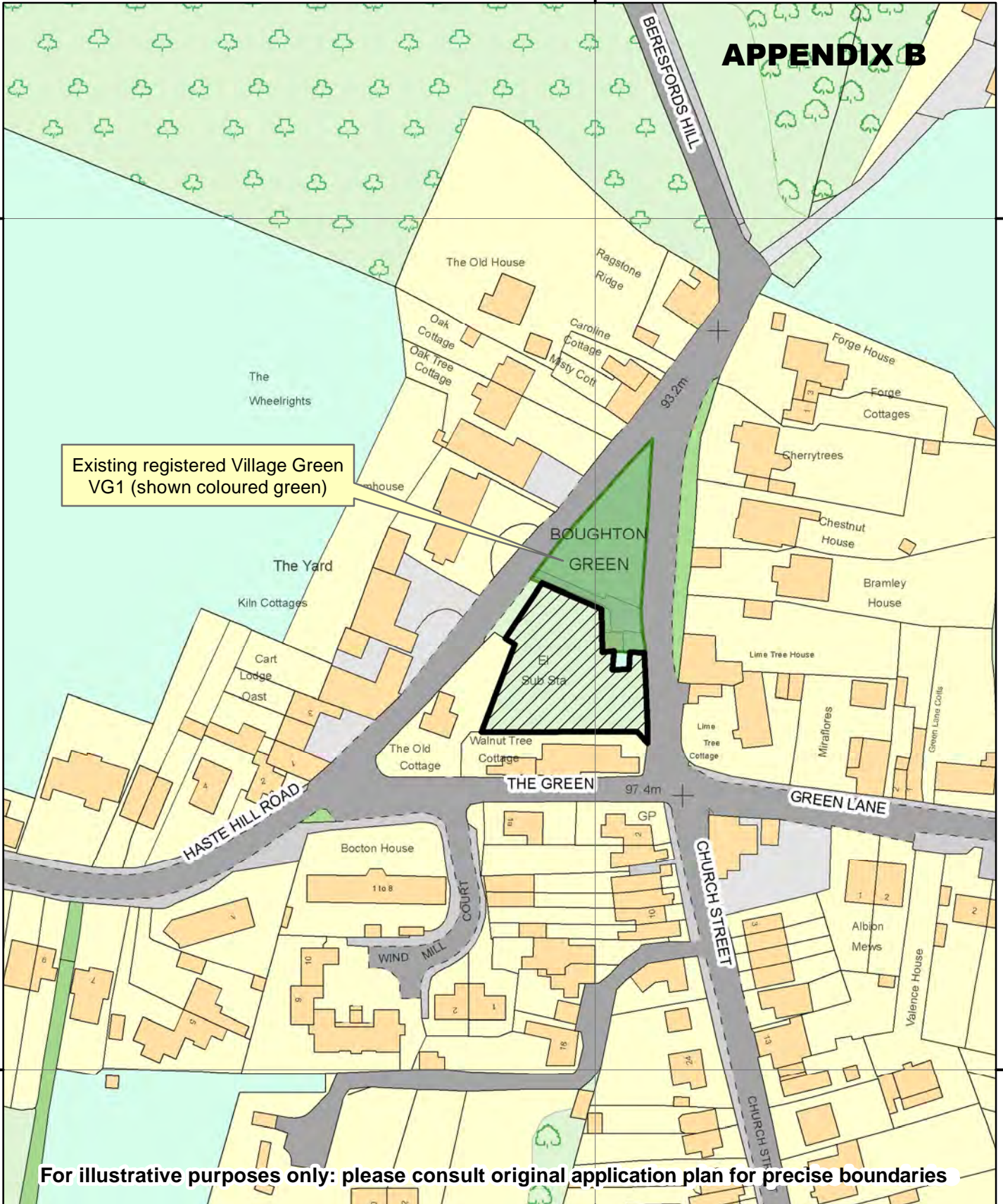


Page 18



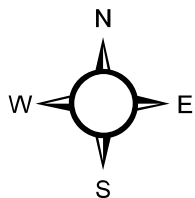


# APPENDIX B



Existing registered Village Green VG1 (shown coloured green)

For illustrative purposes only: please consult original application plan for precise boundaries



Scale 1:1250 @ A4

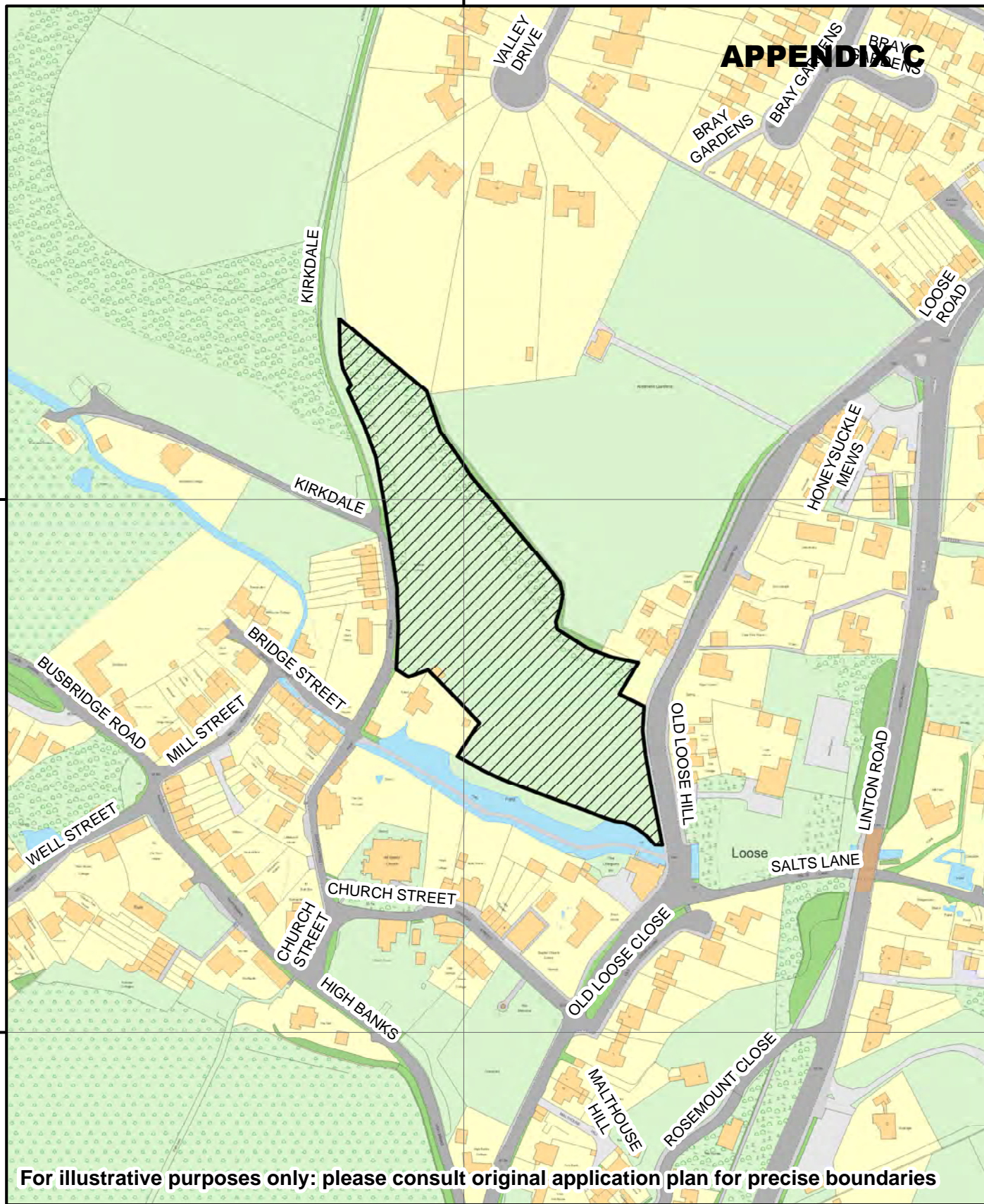
Land subject to Village Green application comprising the south side of Boughton Green at Boughton Monchelsea (VGA686)





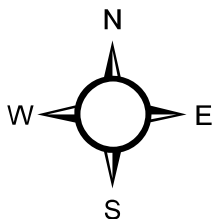
575750

# APPENDIX C



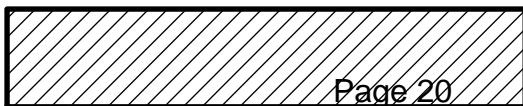
For illustrative purposes only: please consult original application plan for precise boundaries

575750



Scale 1:2500  
@ A4

Land subject to Village Green application  
(known as Brook's Field)  
at Loose, nr Maidstone (VGA689)





577000

577250

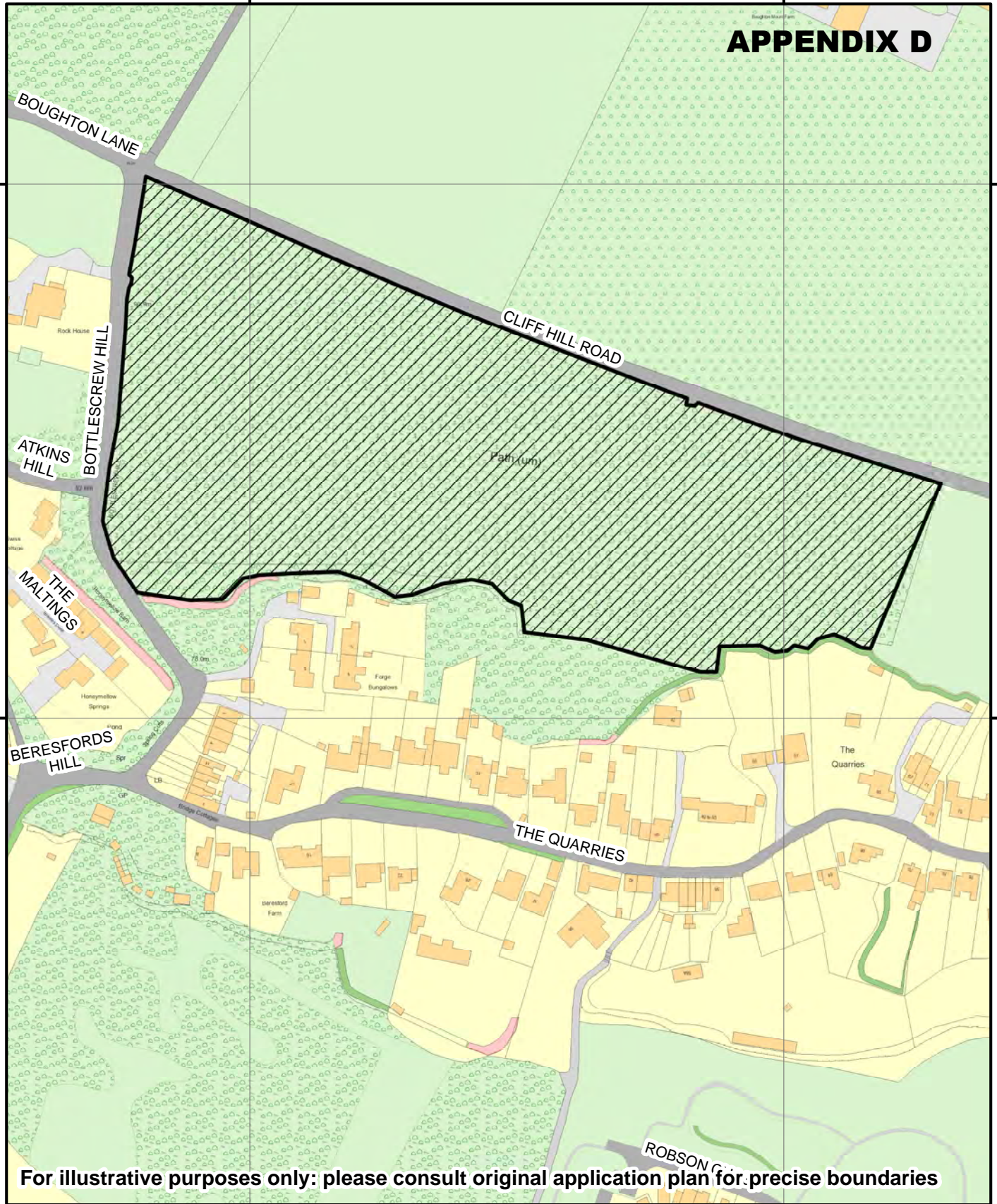
# APPENDIX D

152000

152000

151750

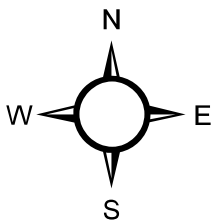
151750



For illustrative purposes only: please consult original application plan for precise boundaries

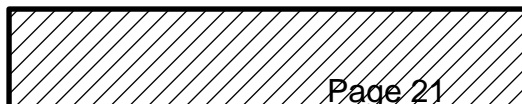
577000

577250



Scale 1:2500  
@ A4

Land subject to Village Green application  
(known as Walk Meadow) at Boughton  
Monchelsea, nr Maidstone (VGA690)



Page 21



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## Update on Planning Enforcement Issues

## Item 7

Report by Head of Planning Applications Group to the Regulation Committee on 24th January 2023.

Summary: Update for Members on planning enforcement matters.

Recommendation: To endorse the actions taken or contemplated on respective cases.

Unrestricted

### Introduction

1. This report gives an insight into events, operational matters and recent activities of the County Planning Enforcement service. The period covered starts from the previous Regulation Committee of 21st September 2022, to date.
2. The planning enforcement service has continued to adapt to a difficult working context, both in financial climate and resourcing terms. Cases continue to be complex with a number stemming from an Environmental Permit in the absence of a planning permission and a small number of cases involving an alleged criminal aspect. Joint working with other regulatory bodies continues and this collaboration allows an integrated approach and strategic advantage in the more complex and multi-site cases.
3. Joint working takes place with other local planning authorities, the Environment Agency (EA) and the police. We have also forged closer operational links with His Majesty's Revenue and Customs (HMRC) which offers a new range of powers to add to our traditional planning enforcement armoury.

### Report Format

4. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
5. The first being this 'open' report, summarising in general, our findings and observations relating to enforcement matters, for discussion. In addition, it includes the nature of the alleged unauthorised activities and types of responses, incorporating as much as can be released on operational matters without prejudicing any action that the Council may wish to take, or in relation to team actions with other regulatory bodies. Data security in this field of work is particularly important.
6. The second is the 'closed' or 'exempt' report (within Item 9 of these papers) containing restricted details of cases. These emphasise the work that has been achieved, in priority order, with the strategic level cases first (with a County Council interest / remit). These are followed by district referrals, including those

where issues of jurisdiction remain and ‘cross-over’ work with partner bodies, and finally alleged compliance issues at permitted sites.

7. That format (Item 9) provides a more in-depth analysis of alleged unauthorised activities. Its confidential nature is to protect the content and strategy of any proposed planning enforcement action that may be taken and any gathered evidence, which may subsequently be relied upon at Public Inquiry or in court as part of any legal proceedings.
8. Data protection and security is paramount. It is important in case management terms but also concerning the personal safety and security of all the parties involved. Hearing the details of cases in closed session allows for uninhibited discussion, in seeking Member endorsement, on our own or joint enforcement strategies with other regulatory authorities (who have their own need for confidentiality). In this context and especially with live cases, great care has to be taken in handling any related and sensitive information. Also, in striking the right balance against operational needs and the outcome being sought in the wider community interest and those operating in compliance with planning procedures.
9. Part of this balancing exercise is to provide a list, under paragraph 10 below, of the cases that will be covered in the exempt report. This covers those sites currently active or requiring investigation. Those previously reported and inactive, remain on a ‘holding / monitoring’ database to be brought back to the Committee, should further activity occur, or as an update on site restoration and after-uses. That particularly now includes, with Member’s agreement, sites close to completion, allowing a revised balance of attention towards live activities. Forward momentum on the restoration of affected sites will still continue.
10. Our current and immediate operational workload, qualified by remit and with resource priority (with other cases on a ‘holding’ database) is as follows:

**County Matter cases** (complete, potential, forming a significant element or as a regulatory group contribution)

- 01 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne (and related multi-site investigations further afield).
- 02 **Warden Point and Surf Crescent**, Eastchurch, Isle of Sheppey
- 03 **Water Lane, North of M20**, Thurnham, Maidstone.
- 04 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford
- 05 **Land off Maypole Lane**, Hoath, Canterbury

06 **Manor Farm, Willow Lane**, Paddock Wood

**District or EA referrals** (or those district or EA cases of potential interest)

07 **Knowle Farm**, Malling Road, Teston, Maidstone

11. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council, unless it is clearly not for KCC planning enforcement. That is a pre-requisite for any formal action. Among the cases are those that may ultimately be handled by other authorities and agencies or where we contribute within multi-agency settings.

12. A further workload area relates to alleged compliance issues at permitted sites. These mainly relate to alleged breaches of planning conditions.

**Permitted sites** (compliance issues)

01 **Cobbs Wood Industrial Estate**, Ashford.

02 **The Old Tilmanstone Colliery**, Pike Road, Eythorne.

03 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone.

04 **RS Skips**, Apex Business Park, Shorne.

05 **Mayfield Grammar School**, Pelham Road, Gravesend

06 **Trosley Country Park**, Waterlow Road, Vigo, Vigo Village, Gravesend.

07 **Teston Bridge Country Park**, Teston Lane, Maidstone

08 **East Kent Recycling**, Oare Creek, Faversham

09 **Borough Green Sandpits**, Platt, Borough Green

10 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling

11 **H&H Celcon**, Ightham

### **Meeting Enforcement Objectives**

*Resourcing & skills base*

13. Resourcing, maintaining and developing capacity and expertise within the



Planning Enforcement Service remains a key challenge and is reflected across the country. The recent findings of a national representative survey of 103 Local Authorities, by the Royal Town Planning Institute (RTPI) entitled: 'Planning Enforcement Resourcing', makes for sombre reading. It confirms that the problems experienced in Kent relating to recruitment, retention and development of new officers are generic within the country.

14. A key challenge in planning enforcement is that there is no 'one size fits all' type of solution to the many and varied enforcement scenarios. The complexity of cases now often requires cross-agency working and a multi-disciplinary approach with a pooling of powers and resources. KCC Planning Enforcement has sought to be at the vanguard of these new enforcement trends, embracing allied powers to supplement and enhance our core controls. We are also mindful of the need to seek improvements in current planning enforcement practice by highlighting procedural concerns to the attention of Government, supported by our peer groups.

*EA Permitting issue*

15. Members may recall from previous Committees their concern of waste cases coming forward with the benefit of an Environment Agency Waste Management Permit in advance of any planning application and therefore a decision on the suitability of the site and surrounding location in land use planning terms. Planning enforcement action is then required to address the absence of this fundamental requirement. This disconnect between the planning and environmental permitting processes is potentially detrimental to all parties, including any local communities affected by the alleged unauthorised activities and creates an uneven playing field for those operating in accordance with the planning process. It is also an inefficient use of public resources.
16. This preventable situation accounts for a growing part of our planning enforcement workload. Following the resolution at the September 2022 Regulation Committee, Derek Murphy as Cabinet Member responsible for planning and enforcement matters wrote to various interested parties to raise this Committee's strong concern with Government (Defra, DLUHC and Planning), the Environment Agency, the Local Government Association, County Council Network and Kent MPs drawing attention to the omission of the planning authority in the environmental permitting process undertaken by the Environment Agency and the consequence this has for planning enforcement. A number of simple solutions were suggested which are being considered further by the above parties.

*Other considerations*

17. An integral function of planning enforcement is to respond to new cases, in a meaningful way, as soon as feasibly possible. That applies from establishing a

foothold in cases (and developing enforcement strategies) to dealing with activities outside of the planning system, to monitoring / compliance work at permitted sites.

## **Monitoring**

### **Monitoring of permitted sites and update on chargeable monitoring**

18. In addition to general visits to sites, we also undertake monitoring visits on permitted sites. They provide useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. Those within the statutory monitoring charging scheme are currently restricted in favour of other work priorities, although investigation of alleged breaches that are drawn to the Council's attention have continued to be investigated. Alleged planning contraventions at permitted sites are currently being addressed with additional support from agency staff.

### **Resolved or mainly resolved cases requiring monitoring**

19. Alongside the above monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to reoccur. Under normal circumstances, this accounts for a significant and long-established pattern of high frequency site monitoring. Cases are routinely reviewed to check for compliance and where necessary are reported back to the Committee. For the moment, this initiative has also been reduced to allow a diversion of resources to more immediate and pressing duties.

## **Conclusion**

20. Planning enforcement work is challenging with a national shortage of enforcement staff. Notwithstanding this, good progress has been made on a number of cases and we continue to pool resources and work closely with other regulators to achieve mutual community benefits. In addition, we have made good progress in raising awareness of the disconnect between planning and environmental permitting which is at the heart of a number of waste cases. I am hopeful of a solution to this procedural concern.

## **Recommendation**

21. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated in this report.

Case Officers: KCC Planning Enforcement  
413384

03000 413380

Background Documents: see heading.



By virtue of paragraph(s) 5, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 9

Document is Restricted

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