

Application to register land known as Weaverling Heath at Grove Green (in the parish of Boxley) as a new Town or Village Green

A report by the PROW and Access Service Manager to Kent County Council's Regulation Committee Member Panel on Wednesday 24th February 2021

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Weaverling Heath at Grove Green (in the parish of Boxley) has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Local Member: Sir. P. Carter (Maidstone Rural North) Unrestricted item

Introduction

1. The County Council has received an application to register a piece of land known as Weaverling Heath at Grove Green in the parish of Boxley as a new Town or Village Green. The application, made on 1st April 2020, was allocated the application number VGA683. A plan of the site is shown at **Appendix A** to this report.
2. The application has been made by Maidstone Borough Council ("the applicant"), to whom the land subject to the application was transferred by the developers of the Grove Green estate in 1982 under the terms of a planning agreement. In 2019, concerned by other development locally, the local residents petitioned the Borough Council to apply to register Weaverling Heath as a Village Green in order to protect it as an open space in perpetuity. The current application has therefore come about as a result of a resolution by the Borough Council's Policy and Resources Committee (at its meeting of 22nd January 2020) that the Borough Council should apply, in its capacity as landowner, to register the land as a Village Green as requested by the petitioners.

Procedure

3. Traditionally, Town and Village Greens have derived from customary law and until recently it was only possible to register land as a new Town or Village Green where certain qualifying criteria were met: i.e. where it could be shown that the land in question had been used 'as of right' for recreational purposes by the local residents for a period of at least 20 years.
4. However, a new provision has been introduced by the Commons Act 2006 which enables the owner of any land to apply to voluntarily register the land as a new Village Green without having to meet the qualifying criteria. Section 15 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."

5. Land which is voluntarily registered as a Town or Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of statutory protection as that of all other registered greens and local people will have a guaranteed 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.
6. In determining the application, the County Council must consider very carefully the relevant legal tests. In the present case, it must be satisfied that the applicant is the owner of the land and that any necessary consents have been obtained (e.g. from a tenant or the owner of a relevant charge). Provided that these tests are met, then the County Council is under a duty to grant the application and register the land as a Town or Village Green.

The Case

Description of the land

7. The area of land subject to this application ("the application site") consists of an irregular shaped piece of land with an area of approximately 19.3 acres (7.8 hectares) in size, known locally as Weaverling Heath. The application site is situated on the northern edge of the residential development known as Grove Green and extends roughly northwards from Shepherds Gate Drive to Bearsted Road, and roughly eastwards from New Cut Road to the rear of properties in Exton Gardens.
8. Unrestricted access to the application site is available along its open frontage with Shepherds Gate Drive, with informal access points also available from Henley Fields and Exton Gardens. From Bearsted Road, access to the site is available via Public Footpaths KH46 and KH47 which both cross the site.
9. A plan of the application site is attached at **Appendix A**, with photographs of it at **Appendix B**.

Notice of Application

10. As required by the regulations, Notice of the application was published on the County Council's website, but no representations have been received.

Ownership of the land

11. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number K890499.

12. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The 'locality'

13. DEFRA's view is that once land is registered as a Town or Village Green, only the residents of the locality have the legal right to use the land for the purposes of lawful sports and pastimes. It is therefore necessary to identify the locality in which the users of the land reside.

14. A locality for these purposes normally consists of a recognised administrative area (e.g. civil parish or electoral ward) or a cohesive entity (such as a village or housing estate).

15. In this case, the entirety of the application site and adjoining properties fall within the civil parish of Boxley and therefore it would seem appropriate for the relevant locality to be Boxley parish.

Conclusion

16. As stated at paragraph 4 above, the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the Commons Act 2006 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.

17. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

Recommendations

18. I recommend that the County Council informs the applicant that the application to register the land known as Weaverling Heath at Grove Green (in the parish of Boxley) has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Accountable Officer:

Mr. Graham Rusling – Tel: 03000 413449 or Email: graham.rusling@kent.gov.uk

Case Officer:

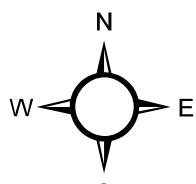
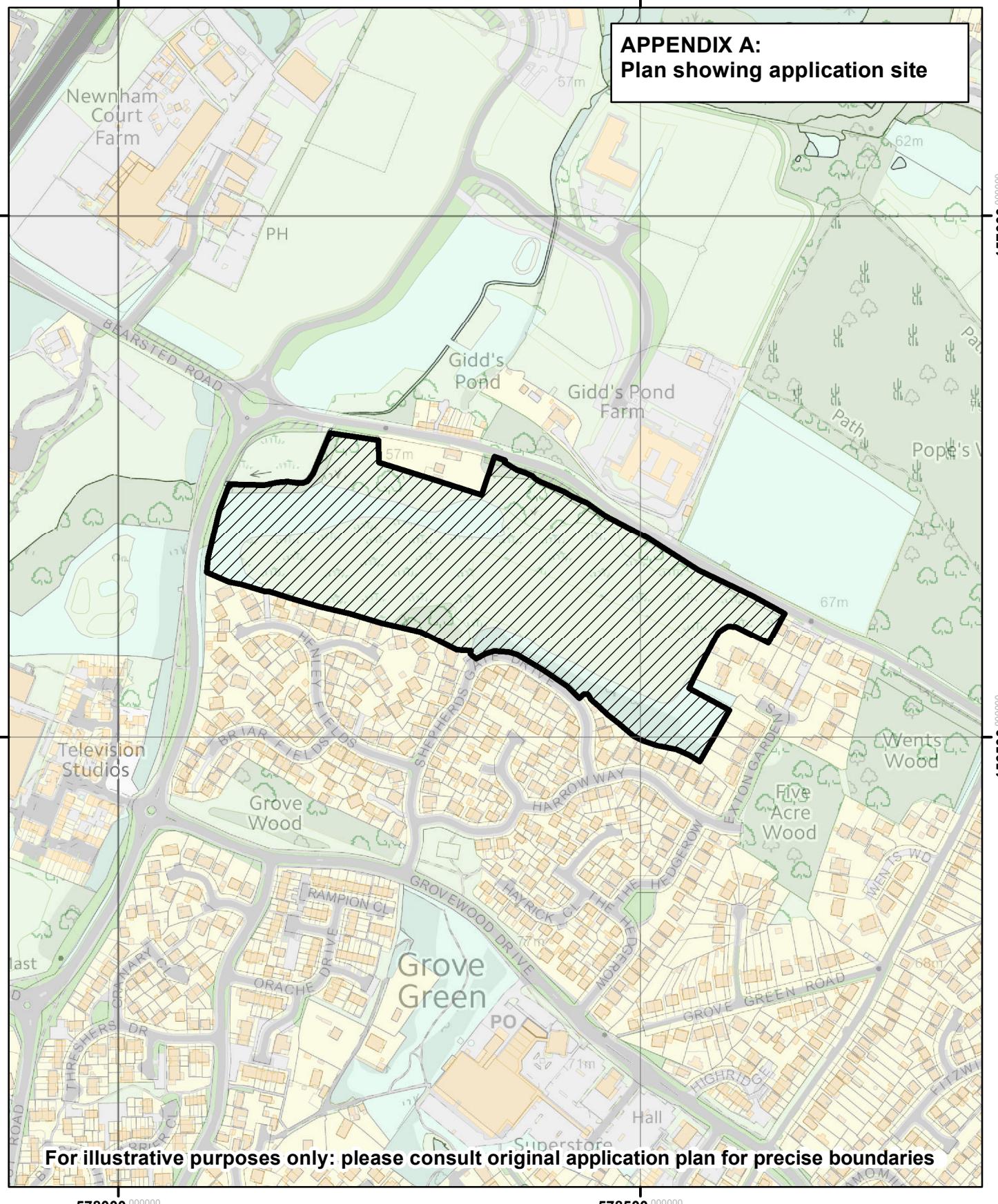
Ms. Melanie McNeir – Tel: 03000 413421 or Email: melanie.mcneir@kent.gov.uk

Appendices

APPENDIX A – Plan showing application site

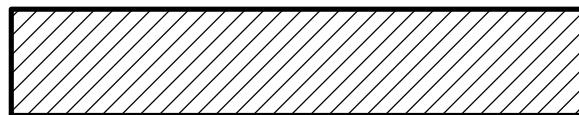
APPENDIX B – Photographs of the application site

APPENDIX A:
Plan showing application site



Scale 1:5000

**Land subject to Village Green application
at Grove Green, Boxley**



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APPENDIX B:
Photographs of the application site



2015 aerial photograph



Google Streetview image from Shepherd's Gate Drive

