

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

A report by the Head of PROW and Access Service to Kent County Council's Regulation Committee Member Panel on Monday 1st December 2025.

Recommendation: I recommend that the Applicant be informed that the application to register the land at Duncan Down at Whitstable has been accepted, and that the land subject to the application (as shown at Appendix A) be formally registered as a Town or Village Green.

Local Member: Mr. S. Heaver (Whitstable West)

Unrestricted item

Introduction

1. The County Council has received an application to register land at Duncan Down at Whitstable as a new Town or Village Green from Hyde Housing Association Ltd. ("the Applicant"). The application, made on 18th October 2024, was allocated the application number VGA699.

Procedure

2. 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.
3. 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.*"
4. 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.

5. 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

6. The land subject to this application (“the Application Site”) consists of an area of mixed grassland and woodland, of approximately 31.5 acres (12.7 hectares) in size, known locally as part of Duncan Down at Whitstable.
7. A plan of the Application Site is attached at **Appendix A**, with photographs of it at **Appendix B**.

Background

8. The area of land subject to the current application forms part of a much wider area of undeveloped downland, the majority of which is already registered as Village Green (as a result of successive applications over many years from local residents). This land provides both a valuable recreational facility for the local community and an important wildlife habitat. The area as a whole is managed by a voluntary group established in 1992 known as the Friends of Duncan Down, who work in partnership with Canterbury City Council.
9. The latest application seeks to register the majority of the remaining area of downland so that it can be afforded the same protections against future development as the areas already registered as Village Green, and has come about as a result of longstanding negotiations between the Friends of Duncan Down and the developer of the neighbouring ‘Whitstable Heights’ residential estate (to the east of the Application Site). These negotiations culminated in the developer being required, as part of the planning permission, to provide some 40 acres of land for community use, of which a small area was to be used for amenity purposes, car parking and allotments, and the remaining land was to be formally registered as a Village Green.

Notice of Application

10. As required by the regulations, Notice of the application was published on the County Council's website.

11. In response to the consultation (which took place prior to the 2025 elections), the previous County Councillor for the area (Mr. M. Dance) wrote in support of the application, as did Mr. A. Clark on behalf of the Friends of Duncan Down.

Ownership of the land

12. The entirety of the Application Site is registered to Hyde Housing Association Ltd. under land Registry Title TT96256.
13. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title in respect of the Application Site.

The 'locality'

14. 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.
15. 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).
16. In previous applications involving land at Duncan Down, the Canterbury City Council electoral ward of Gorrell has been used as the qualifying locality for the purposes of Village Green registration. This is a legally recognised administrative unit with defined boundaries that would, similarly, constitute a qualifying locality for the purposes of this application.

Conclusion

17. As stated at paragraph 3 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.
18. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

Recommendation

19. I recommend that the Applicant be informed that the application to register the land at Duncan Down at Whitstable has been accepted, and that the land subject to the application (as shown at **Appendix A**) be formally registered as a Town or Village Green.

Accountable Officer:

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Appendices

APPENDIX A – Plan showing application site

APPENDIX B – Photographs of the application site