

Application to register land at Mill Lane in the parish of Preston as a new Village Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Tuesday 8th February 2011.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Mill Lane in Preston has been accepted, and that the land subject to the application be formally registered as a Village Green.

Local Member: Mr. L. Ridings

Unrestricted item

Introduction

1. The County Council has received an application to register land at Mill Lane in Preston, near Canterbury as a new Village Green from Mrs. E. Robinson ("the applicant"). The application, dated 1st April 2010, was allocated the application number VGA626. 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. 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 area of land subject to this application (“the application site”) consists of a grassy meadow of approximately 1.2 acres (0.5 hectares) in size situated opposite Hardacre House on Mill Lane in the parish of Preston. The application site is bordered by fencing and hedges, and includes a small pond. Photographs of the site are attached at **Appendix C**.

Notice of Application

7. As required by the regulations, Notice of the application was published on the County Council’s website. In addition, copies of the notice were displayed on the application site itself. The local County Member was also informed of the application.
8. The local County Member, Mr. L. Ridings wrote to confirm that he, along with the Parish Council, were both fully supportive of the application.

Ownership of the land

9. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number K174149. A copy of the Register of Title is attached at **Appendix D**.
10. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The ‘locality’

11. 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.
12. 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).
13. In this case, the reason for the application is that the applicant is a former resident of the village of Preston and wishes to present the land as a gift to the villagers on the understanding that it is used as a place of peace and relaxation in perpetuity.

It is her also wish that the land be kept as a natural open space in order to continue to give pleasure to and benefit future generations of Preston villagers. The intention is to transfer the ownership of the land to the Preston Parish Council once the relevant procedures in relation to the Village Green application have been completed.

14. As such, it seems appropriate that the relevant locality in this case should be defined as the civil parish of Preston.

Conclusion

15. 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.

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

Recommendations

17. I recommend that the County Council informs the applicant that the application to register the land at Mill Lane in Preston has been accepted, and that the land subject to the application be formally registered as a Village Green.

Accountable Officer:

Dr. Linda Davies – Tel: 01622 221500 or Email: linda.davies@kent.gov.uk

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221628 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

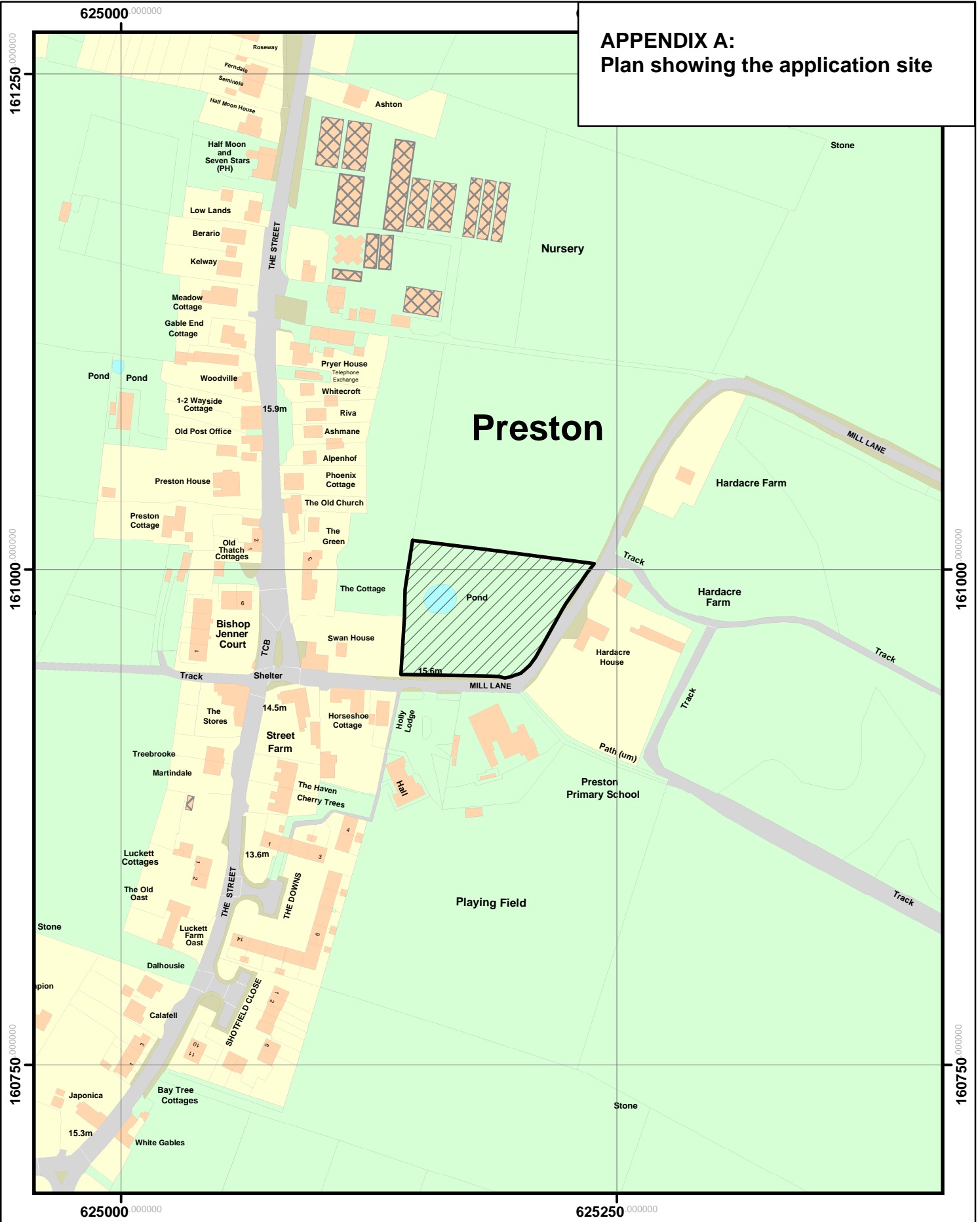
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Photographs of the application site

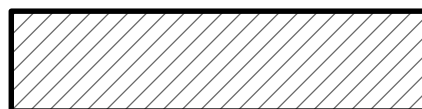
APPENDIX D – Copy of the Register of Title from Land Registry

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



M
Scale 1:2500

**Land subject to Village Green application at
Mill Lane in Preston (near Canterbury)**



FORM CA9

Commons Act 2006: section 15

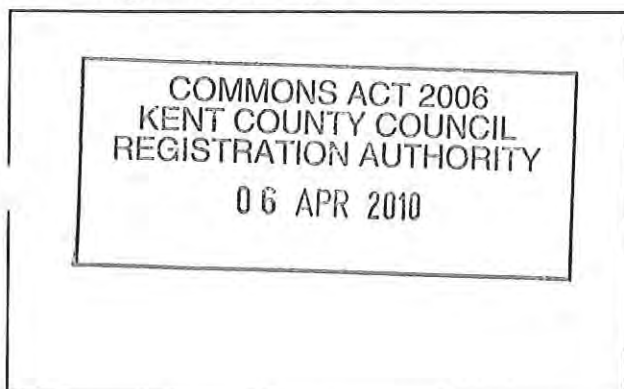
**Application for the registration of land
as a new Town or Village Green**

APPENDIX B:
Copy of the application form



This section is for office use only

Official stamp of the Registration Authority
indicating date of receipt:



Application number:

VGA626

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: THE COMMONS REGISTRATION TEAM
KENT COUNTY COUNCIL
COUNTRYSIDE ACCESS SERVICE
INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

Note 2

If there is more than one applicant, list all names. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or unincorporate. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email. If part 3 is not completed all correspondence and notices will be sent to the first named applicant.

2. Name and address of the applicant

Name: Mrs. E. J. ROBINSON

Full postal address: (incl. Postcode) Apt. 26, CLOS DES MARGUERITES

38 RUE DE LA MARGUERITE

81600 GAILLAC FRANCE.

Telephone number:

(incl. national dialling code) 0033 (0) 5 63 53 96 48

Fax number:

(incl. national dialling code)

E-mail address:

Note 3

This part should be completed if 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: Mrs. SHEILA GOSLING (DAUGHTER)

Firm:

Full postal address: (incl. Postcode)

LA BONNETTE

10 RUE DES PAVILLONS

81600 SÉNOUILLAC FRANCE

Telephone number:

(incl. national dialling code)

0033 (0) 5 63 53 96 47

Fax number:

(incl. national dialling code)

E-mail address:

sheila.gosling@orange.fr

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 9 to the Commons Registration (England) Regulations 2008.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5. Application made under section 15(8):

If the application is made under section 15(1) of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

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

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

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

DOCUMENTS ISSUED BY LAND
REGISTRATION AUTHORITY.

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

I ATTACH A COPY OF MY LETTER TO
PRESTON PARISH COUNCIL together with
THEIR RESPONSE.

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:

1/4/10

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

Please send your completed application form to:

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

NATIONAL GRID PLAN

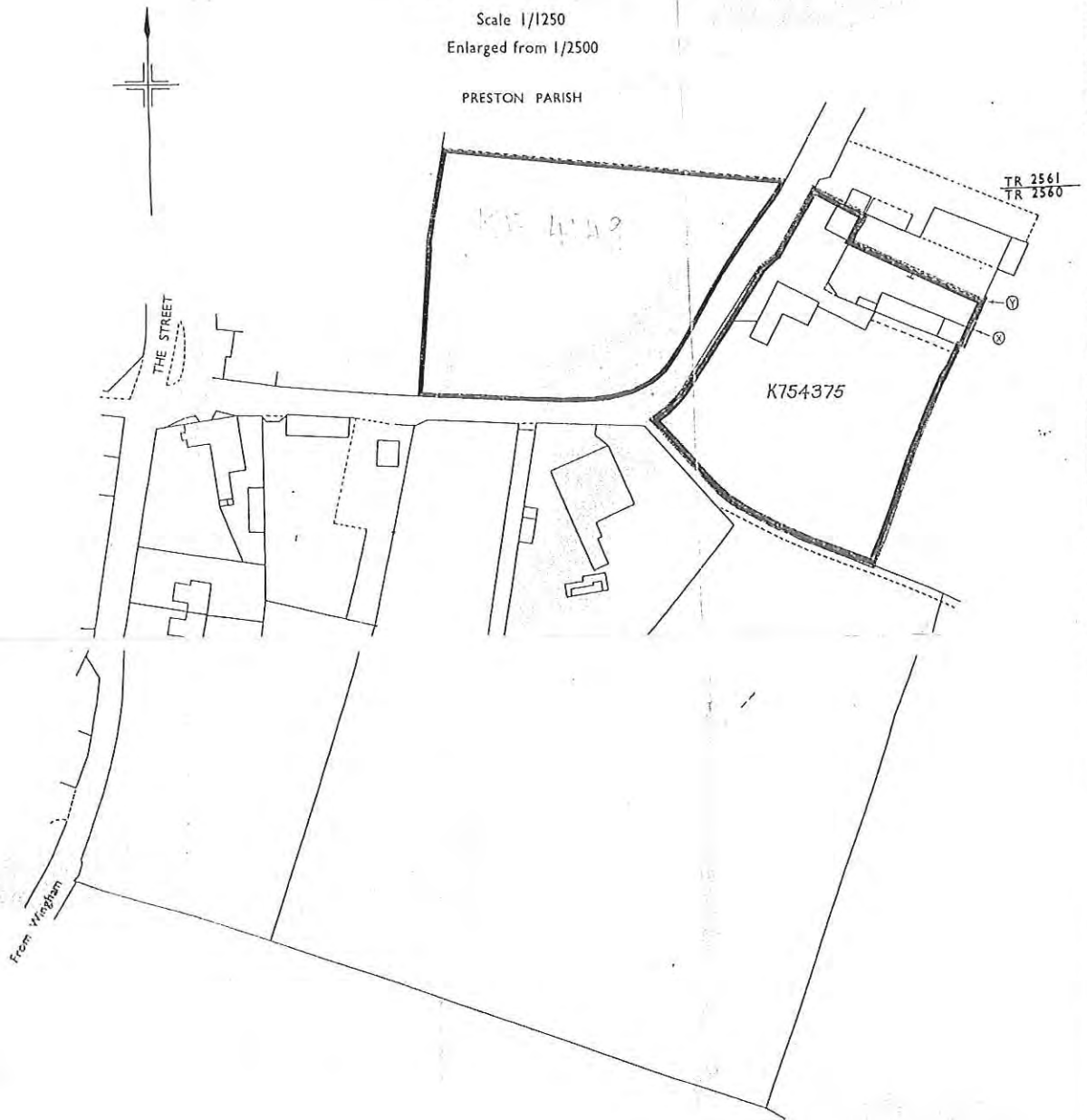
TR 2560

KENT

Scale 1/1250

Enlarged from 1/2500

PRESTON PARISH



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General of the Ordnance Survey,
Chessington, Surrey, 1967 for HMLR
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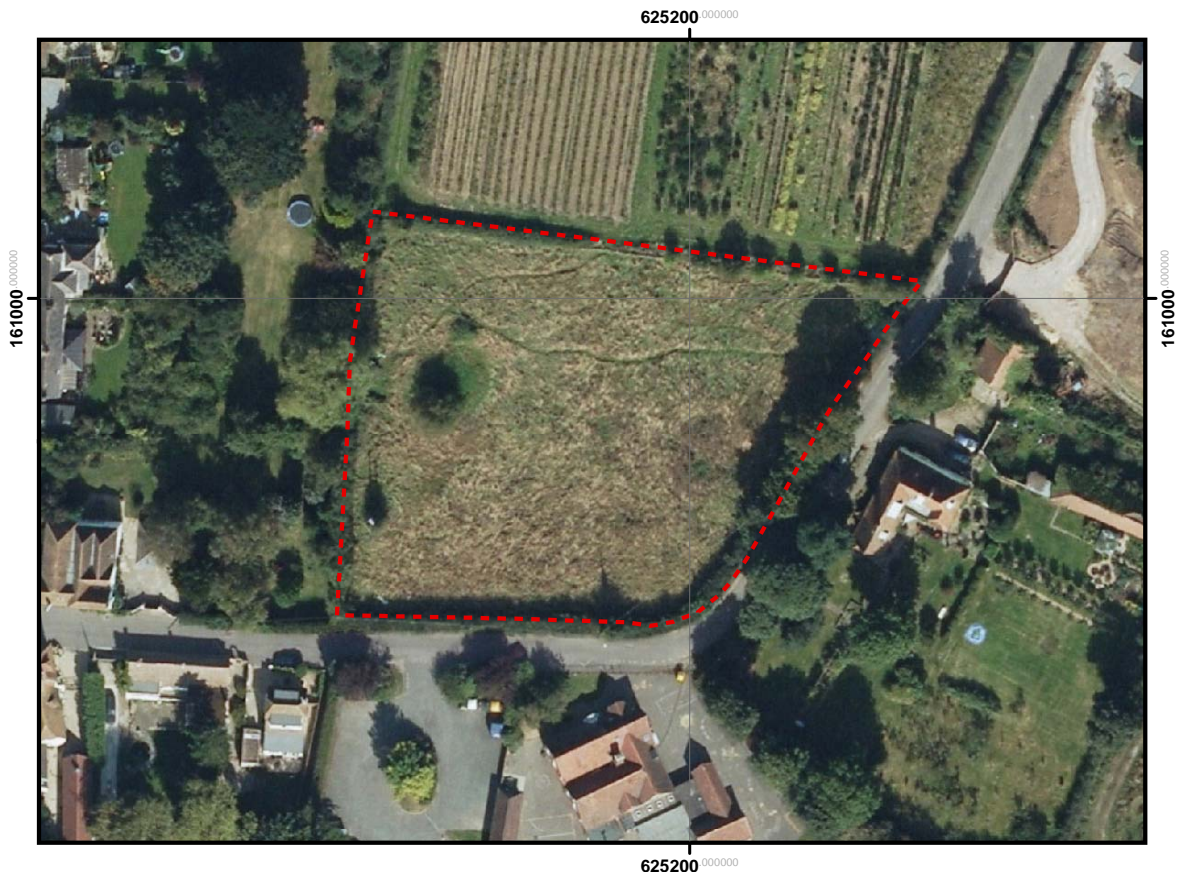
TITLE No. K 174149

**APPENDIX C:
Photographs showing the
application site**



Above: photograph taken opposite Hardwick House looking west across the site

Below: aerial photograph (2008) showing the application site edged in red



Above: aerial photograph (2008) showing the application site edged in red

**APPENDIX D:
Copy of Register of Title**

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAIN THE ENTRIES SUBSISTING IN THE REGISTER ON 21 OCT 2 THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE SUFFERS A LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: K174149

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

KENT : DOVER

- 1 (08.12.1934) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land on the north side of Mill Lane, Preston, Canterbury.
- 2 (04.09.1995) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (06.05.1971) PROPRIETOR: EVA JOAN ROBINSON of Hardacre House, Mill Lane, Preston, Canterbury, Kent, CT3 1HB.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 The land tinted yellow on the filed plan is subject to the following rights reserved by a Transfer dated 22 September 1937 made between (1) The County Council of the Administrative County of Kent and (2) Peter Charlton and Catherine Charlton:-

"EXCEPT and RESERVED to the Transferors and their successors the right to enter on the said land for the purpose of maintaining renewing or removing the water pipe running from the road adjoining the land hereby transferred to the stables standing on adjoining land retained by the Transferors the Transferors making good any damage thereby caused to the land hereby transferred And also the right to drain surface water from the pond on adjoining land belonging to the Transferors through the strip behind the Granary belonging to the Transferees."

End of register

H. M. LAND REGISTRY

NATIONAL GRID PLAN

TR 2560

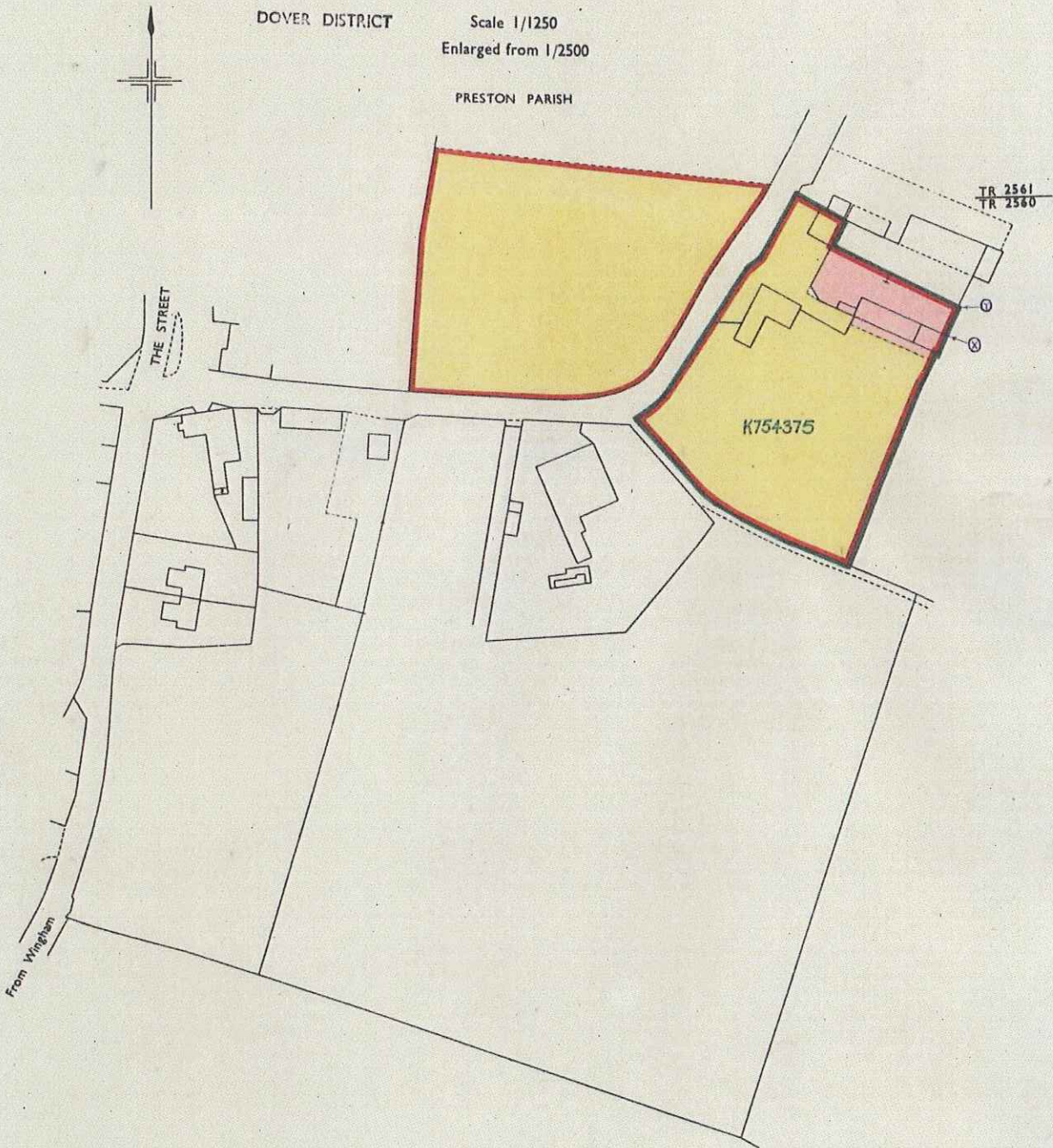
KENT

DOVER DISTRICT

Scale 1/1250

Enlarged from 1/2500

PRESTON PARISH



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General of the Ordnance Survey,
Chessington, Surrey, 1967 for HMLR
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TITLE No. K 174 149

This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 21 October 2010 at 13:24:15. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 7 - Title Plans.

This title is dealt with by Land Registry, Nottingham Office.

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