

Application to register land at High Street in the parish of Chiddingstone 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 the High Street in Chiddingstone has been accepted, and that the land subject to the application be formally registered as a Village Green.

Local Member: Mr. P. Lake

Unrestricted item

Introduction

1. The County Council has received an application to register land at the High Street in Chiddingstone, near Sevenoaks as a new Village Green from the Chiddingstone Parish Council ("the applicant"). The application, dated 28th September 2009, was allocated the application number VGA618. 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 small area of grassed open space of approximately 260 square metres in size situated in front of the Rectory on the High Street in the parish of Chiddingstone. 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.

Ownership of the land

8. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number K725597. A copy of the Register of Title is attached at **Appendix D**.
9. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The ‘locality’

10. 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.
11. 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).
12. In this case, the application has been made by the local Parish Council in order that the land be preserved against any future development. As such, it seems appropriate that the relevant locality in this case should be defined as the civil parish of Chiddingstone.

Conclusion

13. 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.
14. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

Recommendations

15. I recommend that the County Council informs the applicant that the application to register the land at the High Street in Chiddingstone 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:

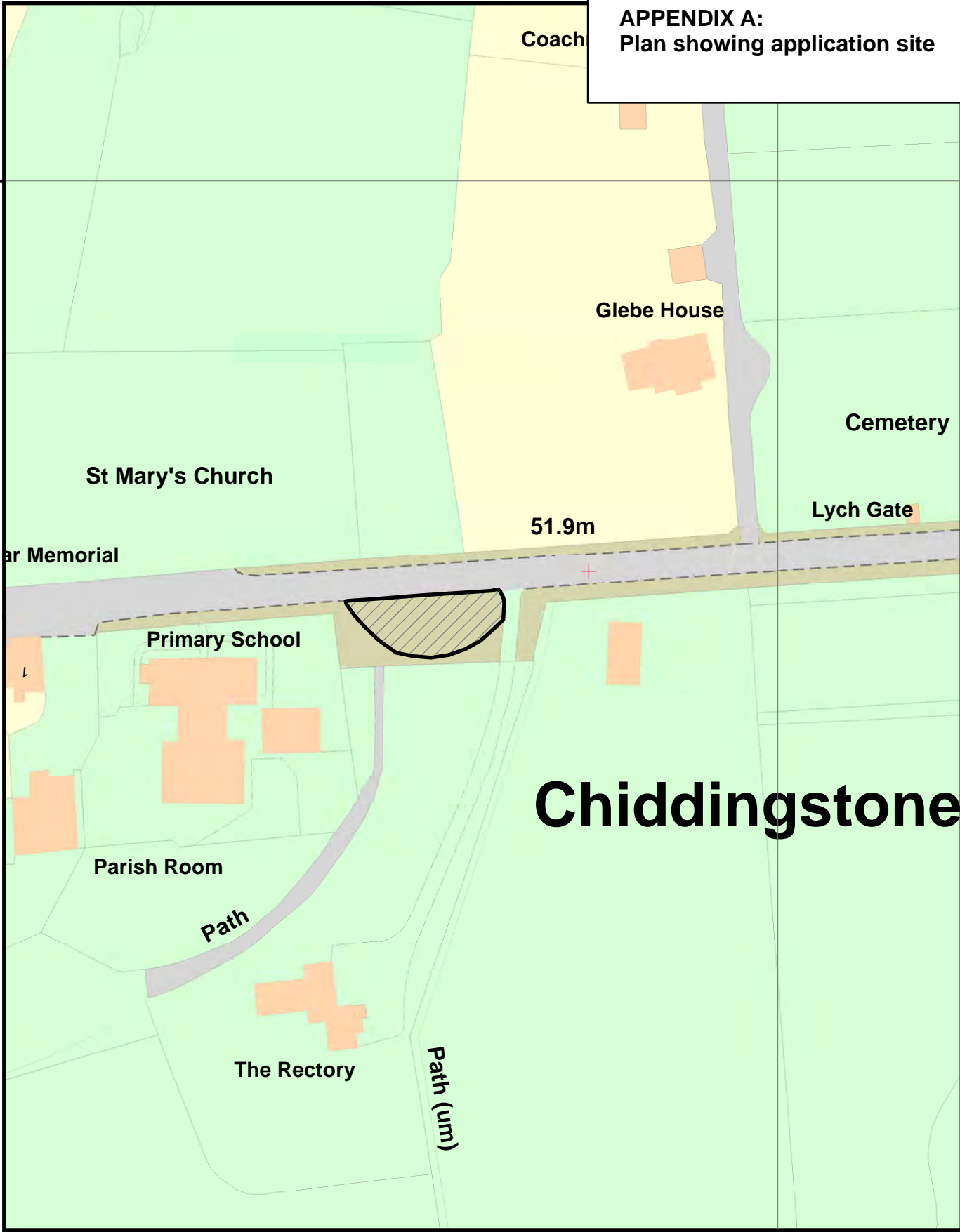
Miss. Melanie McNeir – Tel: 01622 221628 or Email: melanie.mcneir@kent.gov.uk

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 application site**



Chiddingstone



Scale 1:1000

**Land subject to Village Green application
at the High Street, Chiddingstone**



FORM CA9

Commons Act 2006: section 15

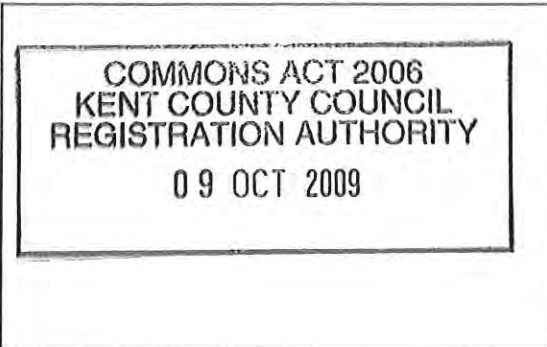
**Application for the registration of land
as a new Town or Village Green**

**APPENDIX B:
Copy of application form**



This section is for office use only

Official stamp of the Registration Authority
indicating date of receipt:



Application number:

VG A 618

VG number allocated at registration
(if application is successful):

[Empty box for VG number]

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: CHIDDINGSTONE PARISH COUNCIL

Full postal address: (incl. Postcode) 2 BOTHY COTTAGES

THRESHERSFIELD
CHIDDINGSTONE, KENT. TN8 7NE

Telephone number: (incl. national dialling code) 01892-871651

Fax number: (incl. national dialling code)

E-mail address: house.clerk@chiddingstone.org

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 or are seeking authority 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

CHIDDINGSTONE PARISH COUNCIL
MINUTES 17 JUNE 2009

ITEM 28

COPY ATTACHED.

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

1. Map 1:10,000
2. Enlarged map 1:5,000
3. Land Registry map K 365559.
1:2500
4. Copy conveyance 24/08/1971
Sale of land to Chiddingstone
Parish Council

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

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:

28-09-2009

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.

H.M. LAND REGISTRY

K365559

PLANANCE SURVEY
PLAN REFERENCE

COUNTY

SHEET

NATIONAL GRID

KENT

TQ 5045

Scale: 1/2500

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CHIDDINGSTONE PARISH



**APPENDIX C:
Photographs showing application site**



Above: View from High Street looking SOUTH-WEST towards Primary School

Below: View from High Street looking SOUTH-EAST



APPENDIX D:
Official copy of Register from Land Registry

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAIN THE ENTRIES SUBSISTING IN THE REGISTER ON 7 JAN 2 THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, 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: K725597

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 : SEVENOAKS

- 1 (16.09.1971) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land lying to the east of Chiddingstone Primary School, Chiddingstone, Edenbridge.

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 (16.09.1971) Proprietor(s): THE PARISH COUNCIL OF CHIDDINGSTONE care of The Clerk To The Council, Mrs D Evans, 31 The Middlings, Sevenoaks, Kent TN13 2NW.

C: Charges Register

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

- 1 A Conveyance dated 4 August 1939 made between (1) Henry Sidney John Streatfeild (Vendor) (2) Henry Daniel David Streatfeild and Henry William Holland (Trustees) and (3) The National Trust for places of Historic Interest or Natural Beauty (National Trust) contains the following covenants by the Vendor:-

"THE Vendor with intent and so as to bind so far as practicable the lands on the West South and East sides of the property hereby conveyed and shown by the colour green on the said plan into whosoever hands the same may come and to benefit and protect the land hereby conveyed (but not so as to render the Vendor personally liable in damages for any breach of covenant committed after he shall have parted with all interest in the property in respect of which such breach shall occur) hereby covenants with the National Trust

(a) that no house building shed erection or structure of any kind whatsoever (except boundary walls and fences not more than six feet high) shall at any time hereafter be erected placed or built on the fields or pieces of land Nod 931 and part 935 on the said plan or any part thereof within Three hundred feet from the public road adjoining such fields as shown by the colour green on the said plan

(b) That no house building shed erection or obstruction whatsoever (except boundary walls or fences not more than Six feet high) shall at any time hereafter be erected placed or built in the field or piece of

Title number K725597

C: Charges Register continued

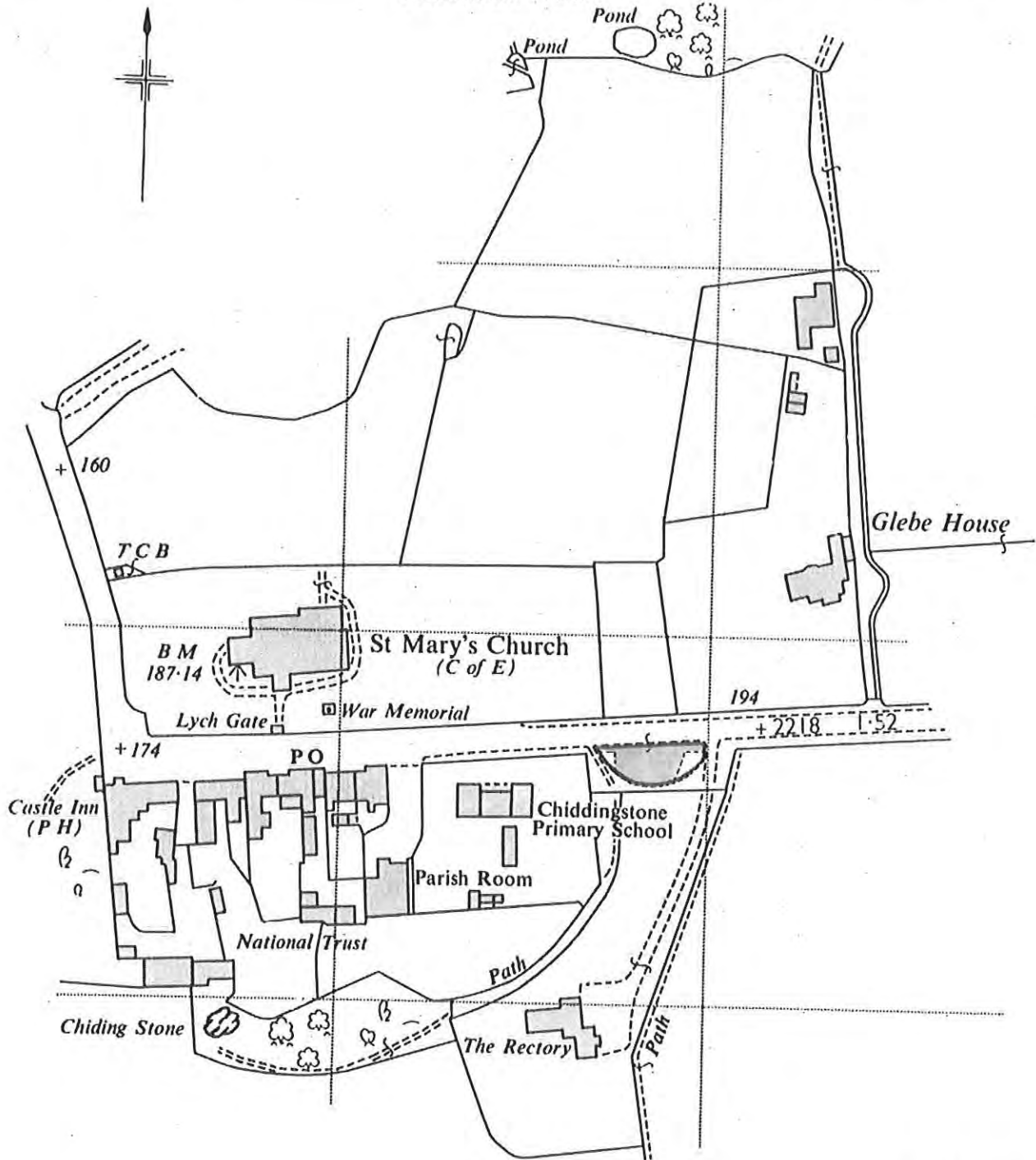
land Nod 850 and also coloured green on the said plan or on any part thereof."

NOTE:-The land tinted pink on the filed plan forms part of the land coloured green referred to.

End of register

H.M. LAND REGISTRY		TITLE NUMBER	
		K725597	
ORDNANCE SURVEY PLAN REFERENCE	TQ 5045	SECTION A	Scale 1/1250 Enlarged from 1/2500
COUNTY KENT	DISTRICT SEVENOAKS	© Crown copyright 1976	

CHIDDINGSTONE PARISH



This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 07 January 2011 at 11:20:07. 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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