

Application to register land known as Gighill Green in the parish of East Malling and Larkfield 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 known as Gighill Green at Larkfield has been accepted, and that the land subject to the application be formally registered as a Village Green.

Local Member: Mrs. T. Dean

Unrestricted item

Introduction

1. The County Council has received an application to register land known as Gighill Green at Larkfield as a new Village Green from the East Malling and Larkfield Parish Council ("the applicant"). The application, dated 9th March 2010, was allocated the application number VGA624. 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 playing field of approximately 0.86 hectares (2.1 acres) in size which is situated on Lunsford Lane in the parish of East Malling and Larkfield. 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 and wrote to confirm her support for 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 K463905. 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. As such, it seems appropriate that the relevant locality in this case should be defined as the civil parish of East Malling and Larkfield.

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 known as Gighill Green at Larkfield 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:

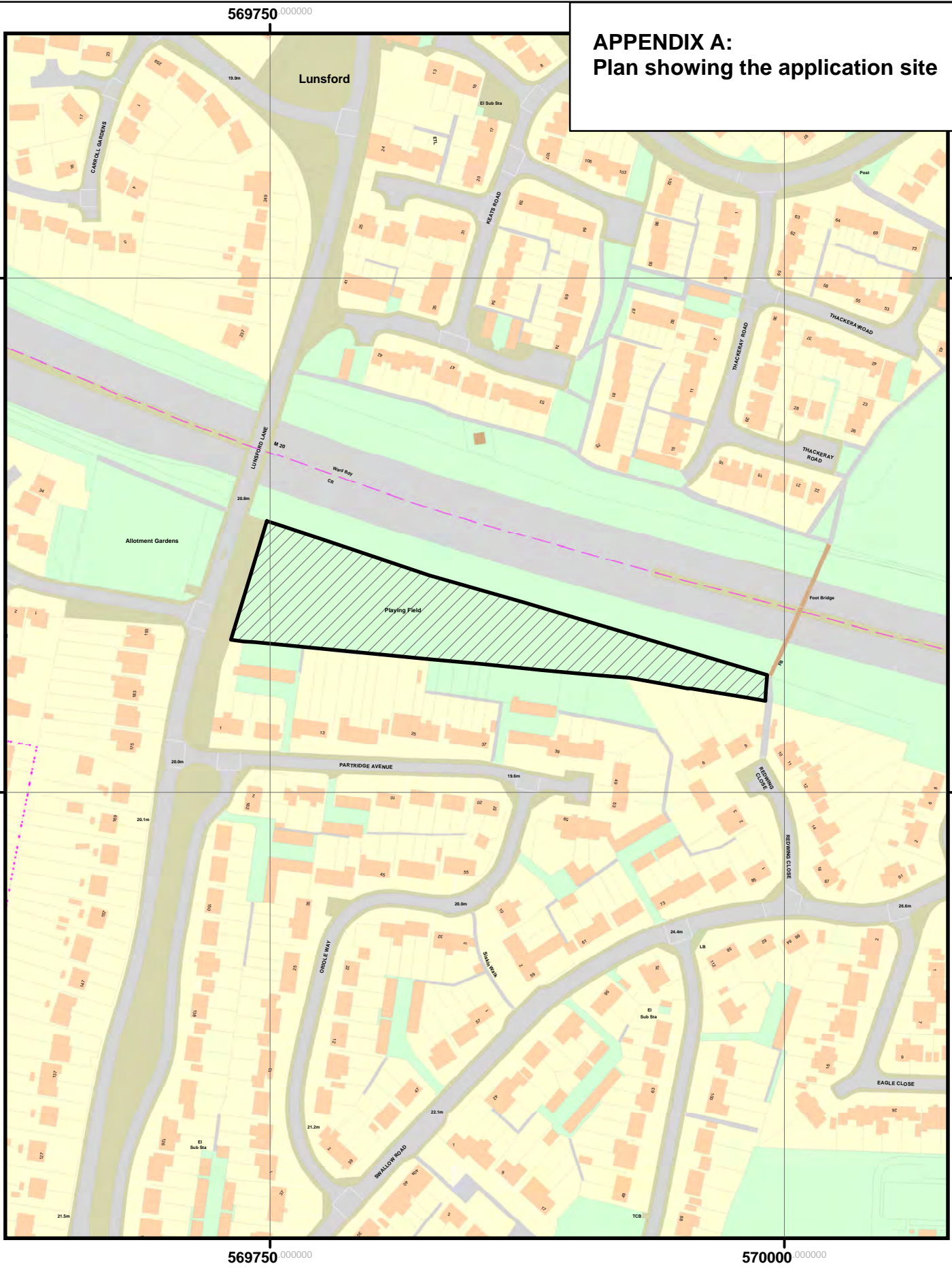
Miss. Melanie McNeir – Tel: 01622 221628 or Email: melanie.mcneir@kent.gov.uk

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.

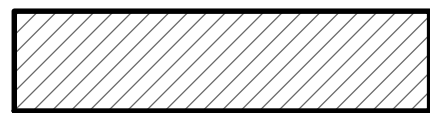
Background documents

- 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**



**Land subject to Village Green application at
Lunsford Lane at Larkfield**



Scale 1:2500



FORM CA9

Commons Act 2006: section 15

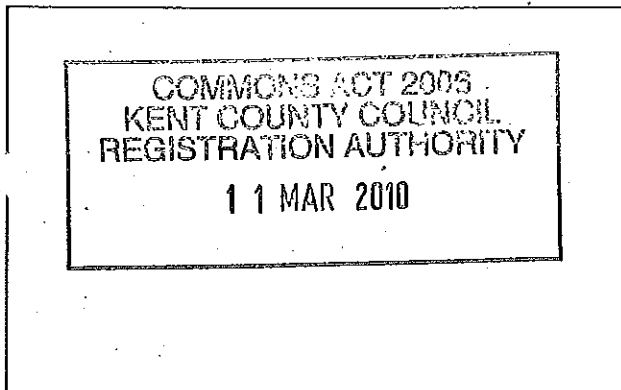
Application for the registration of land
as a new Town or Village Green

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:

VGA624

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: EAST MALLING and LARKFIELD

Full postal address: PARISH COUNCIL
(incl. Postcode)PARISH COUNCIL OFFICE, CHURCH FARM,
198, NEW HYTHE LANE, LARKFIELD, ME20 6GT.Telephone number: 01732 - 844546.
(incl. national dialling code)Fax number: 01732 875857
(incl. national dialling code)

E-mail address: office@emandalpc.co.uk

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:

Firm:

N/A

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 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:

If section 15(3) or (4) applies, please indicate the date on which you consider that use 'as of right' ended and why:

**Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

If section 15(6)* is being relied upon in determining the period of 20 years, indicate the period of statutory closure (if any) which needs to be disregarded:

Note 5

This part is to identify the new green. The accompanying map must be at a scale of at least 1:2,500 and shows the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where known.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

GIGHILL GREEN as edged red
on attached plan - K463905 only

Location:

LUNSFORD LANE, LARKFIELD

Common Land register unit number (only if the land is already registered Common Land):

Please tick the box to confirm that you have attached a map of the land (at a scale of at least 1:2,500):

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,000.

6. Locality or neighbourhood within a locality in respect of which the application is made

Indicate the locality (or neighbourhood within the locality) to which the claimed green relates by writing the administrative area or geographical area by name below and/or by attaching a map on which the area is clearly marked:

EAST MALLING and LARKFIELD
PARISH.

Please tick here if a map is attached (at a scale of 1:10,000):

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

1. Copy Land Registry Plan.
2. Land Registry Entries showing Parish Council Ownership.

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

The parish council solely owns the land and no other person is in occupation of it and there are no charges.

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:

9th March 2010

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

TITLE NUMBER

K 463905

ORDNANCE SURVEY
PLAN REFERENCE

TQ 6959 AND TQ 7059

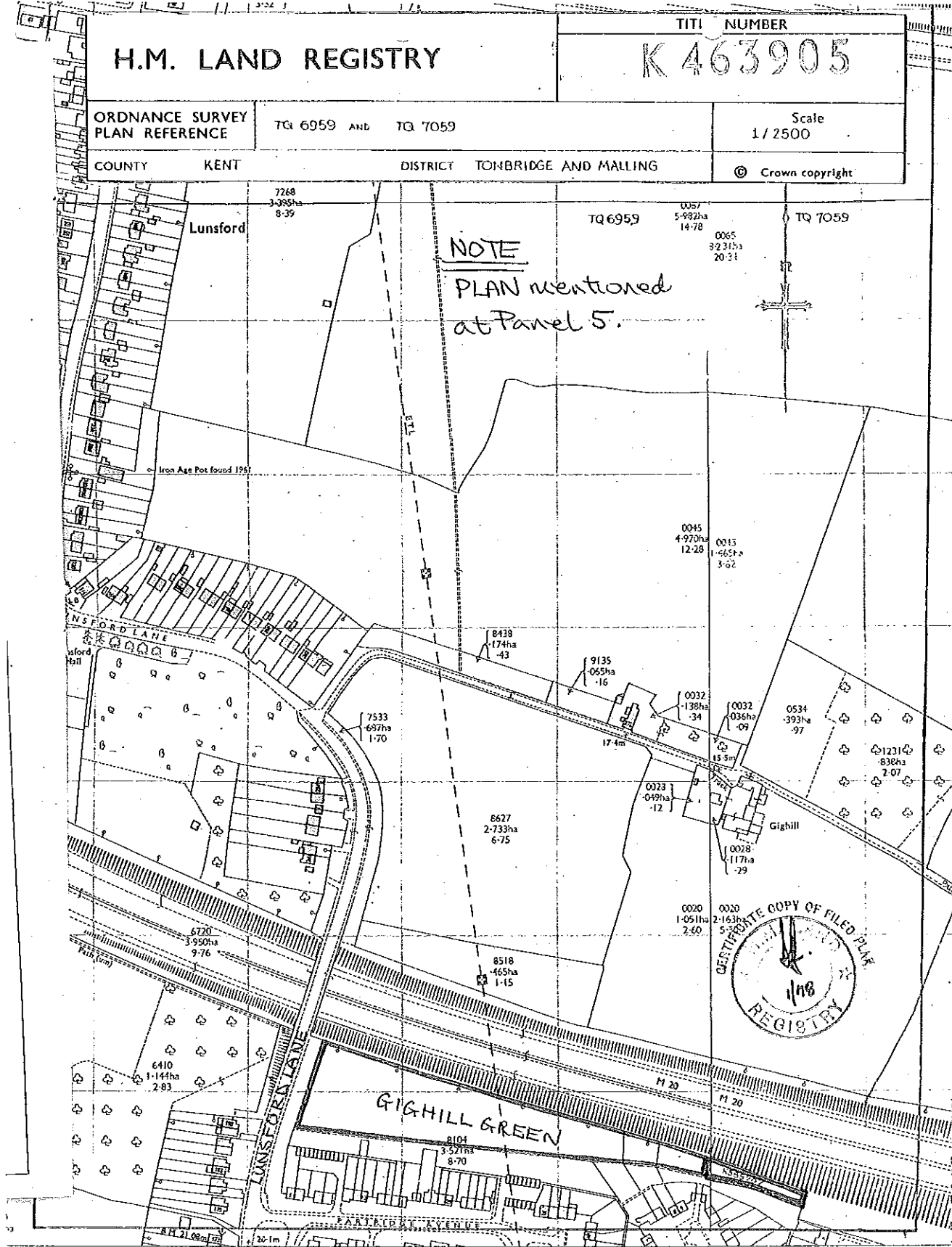
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COUNTY KENT

DISTRICT TONBRIDGE AND MALLING

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NOTE
PLAN mentioned
at Panel 5.



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**APPENDIX C:
Photographs showing application site**



Above: View from Lunsford Lane looking SOUTH-EAST

Below: Entrance to playing field from Lunsford Lane end



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

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED THE ENTRIES SUBSISTING IN THE REGISTER ON 21 OCT 20 THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THEM 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: K463905

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 : TONBRIDGE AND MALLING

- 1 (26.08.1963) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land on south side of M20 Motorway, East Malling and Larkfield.
- 2 The Transfer dated 15 November 1977 referred to in the Charges Register contains the following provision:-

Notwithstanding anything in the Transfer hereinbefore contained the Transferor or other the owner or owners for the time being of the retained land or any part thereof shall be at liberty to erect such buildings or erections on any part of the retained land and to alter or add to or use the same or any existing buildings or erections on the retained land in such manner as he or they may think fit notwithstanding that the access and use of light and air now or at any time hereafter enjoyed by the Transferee or its successors in title from and over the retained land may be thereby obstructed diminished or destroyed and any such access and use of light and air as aforesaid shall notwithstanding this Transfer be deemed henceforth to be enjoyed by the Transferee and its successors in title with the consent of the owner or owners of the retained land subject to the provisions of this clause and not otherwise.

- 3 The land edged and numbered in green on the filed 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 (24.11.1977) Proprietor: EAST MALLING AND LARKFIELD PARISH COUNCIL of Council Offices, Larkfield Village Hall, New Hythe Lane, Larkfield, Maidstone, Kent.
- 2 The Transfer to the proprietor(s) contains a purchasers' personal covenant.

NOTE:-Copy of covenant in Certificate.

- 3 (24.11.1977) RESTRICTION:- Except under an Order of the Registrar no disposition by the proprietor of the land is to be registered unless made in accordance with the Open Spaces Act 1906 or some other Act or Authority.

Title number K463905.

C: Charges Register

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

- 1 A Wayleave Consent dated 26 September 1938 relates to an electric line in a position indicated by a black broken line on the filed plan.

NOTE:- Copy Consent filed under K190816.

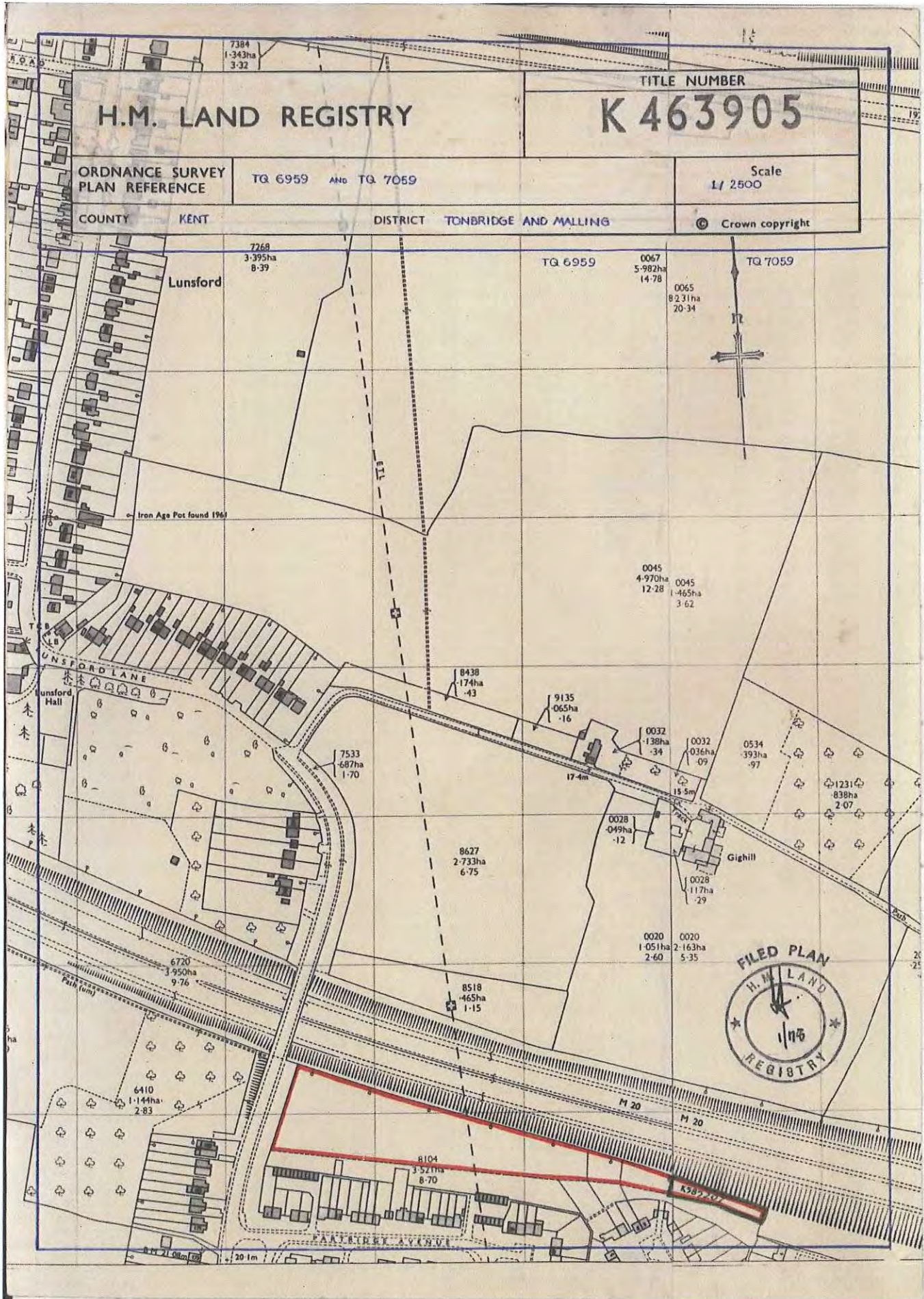
- 2 A Transfer of the land in this title dated 15 November 1977 made between (1) The Secretary of State For Transport (Transferor) and (2) East Malling and Larkfield Parish Council contains the following covenants:-

The Transferee hereby covenants with the Transferor so as to benefit the remainder of the land (hereinafter called "the retained land") comprised in title number K190816 and every part thereof and to bind the land hereby transferred and every part thereof into whosoever hands the same may come but not so as to render the Transferee personally liable in damages for any breach of a restrictive covenant after it shall have parted with all interest in the land hereby transferred Not to use the property hereby transferred nor any part thereof or permit the use of the same for any noisy noxious or offensive trade or business for any purpose which may be or become a damage or nuisance to the Transferor or other the owners or occupiers for the time being of the retained land.

- 3 The land is subject to the following rights reserved by the Transfer dated 15 November 1977 referred to above:-

There is excepted and reserved unto the Transferor in fee simple all cables wires pipes drains and channels (if any) in over or under the property hereby transferred and serving the retained land and the right to the free passage of electricity gas water and soil through the same to and from the retained land TOGETHER WITH all appropriate easements rights and privileges for repairing maintaining renewing and removing the same and without prejudice to the generality of the foregoing the right for the Transferor at all times hereafter to enter on to the land hereby transferred or any part thereof with or without plant equipment and vehicles and by itself its servants or agents to repair the motorway fence bounding the land hereby transferred on the northern side thereof the Transferor or its successors in title making good all damage occasioned by the exercise of such right.

End of register



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 13:23:00. 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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