

Application to register land at Hartley Woods in the parish of Hartley (near Longfield) as a new Village Green

A report by the Head of Countryside Access Service to Kent County Council's Regulation Committee Member Panel on Monday 13th June 2011.

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

Local Member: Mr. D. Brazier

Unrestricted item

Introduction

1. The County Council has received an application to register land at Hartley Woods in Hartley, near Longfield as a new Village Green from the Hartley Parish Council ("the applicant"). The application, dated 9th November 2009, was allocated the application number VGA621. 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**.
2. Members may recall a previous application to register a large area of land at Hartley Woods as a new Village Green. Following objections from the landowner (Southwark Council), the matter was referred to a Public Inquiry. On receipt of the Inspector's report, it was subsequently agreed at a meeting of the Regulation Committee Member Panel on 12th May 2009 that the land should be registered as a Village Green. The land is now registered as VG243.
3. The current application concerns land which the Parish Council owns in the immediate vicinity of VG243. Having successfully registered the greater part of the woodland as a Village Green, the Parish Council now seeks to afford the same protection to the parts of the woodland which fall within the Council's ownership.

Procedure

4. 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.
5. 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.”

6. 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.
7. 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

8. The area of land subject to this application (“the application site”) is situated at Hartley Woods in the parish of Hartley. It consists of two parcels of land comprising woodland with a combined area of approximately 3.1 acres (1.2 hectares) in size.

Notice of Application

9. 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

10. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title numbers K887840 and K700099. A copy of the Register of Title is attached at **Appendix C**.
11. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The ‘locality’

12. 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.

13. 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).

14. In this case, the application has been made by the Parish Council and, as such, it seems appropriate that the relevant locality in this case should be defined as the civil parish of Hartley.

Conclusion

15. As stated at paragraph 5 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 Hartley Woods in Hartley has been accepted, and that the land subject to the application be formally registered as a Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221513 or Email: mike.overbeke@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 – Copy of the Register of Title from Land Registry

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5615

APPENDIX A: Plan showing application site

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168250.000000

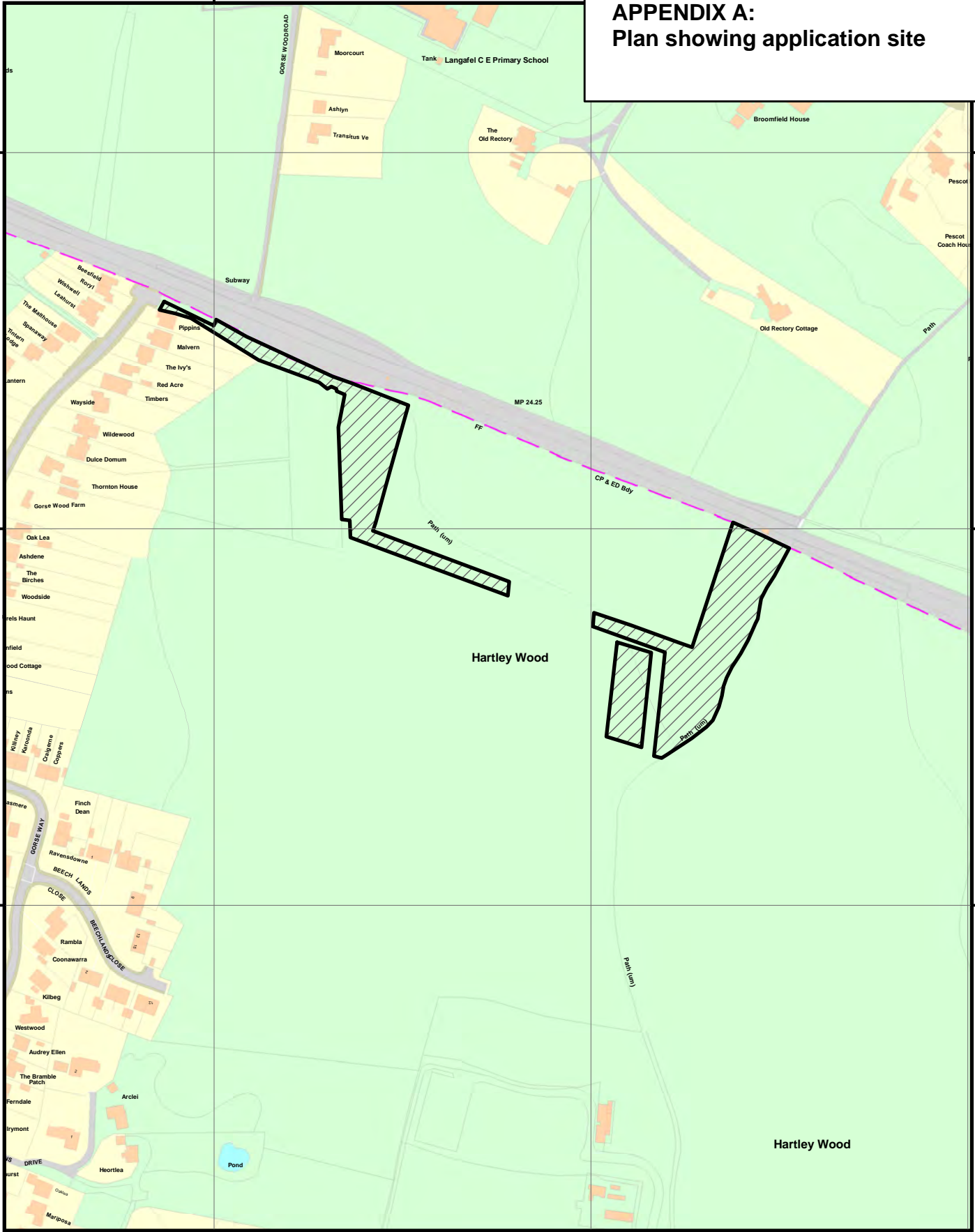
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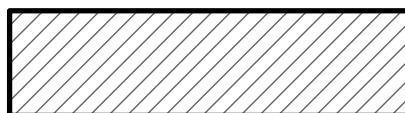
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Land subject to Village Green application
at Hartley Woods in the parish of Hartley,
near Longfield



Scale 1:3500



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:

<p>COMMONS ACT 2006 KENT COUNTY COUNCIL REGISTRATION AUTHORITY 09 NOV 2009</p>

Application number:

VGA621

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

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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: HARTLEY PARISH COUNCIL

Full postal address: THE PARISH COUNCIL OFFICE
(incl. Postcode) HARTLEY LIBRARY
ASH ROAD
HARTLEY LONGFIELD KENT
DA3 8EL

Telephone number:
(incl. national dialling code) 01474 709441

Fax number:
(incl. national dialling code) 01474 709441

E-mail address: mail@hartleyparishcouncil.org.uk

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 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

NONE

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) TITLE REGISTER & TITLE PLAN K887840

(2) TITLE REGISTER & TITLE PLAN K 700099

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

NONE

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):



CLERK TO HARTLEY
PARISH COUNCIL

ON BEHALF OF HARTLEY
PARISH COUNCIL

Date: 6/11/09

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.

OFFICIAL COPY OF REGI

APPENDIX C: Copy of Land Registry Titles

This official copy shows the entries subsisting on the r
**This date must be quoted as the 'search from date
based on this copy.**

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the
same extent as the original.

Issued on 18 April 2005.

This title is dealt with by **Land Registry Tunbridge Wells Office.**

Land Registry

Title Number : **K700099**

Edition Date : 13 May 1997

A: Property Register

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

KENT : SEVENOAKS

1. (05.03.1991) The **Freehold** land shown edged with red on the plan of the above Title filed at the Registry and being land in Hartley Woods, Hartley.
2. The land has the benefit of the rights granted by the Conveyance dated 6 March 1946 referred to in the Charges Register.

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. (05.03.1991) **PROPRIETOR:** HARTLEY PARISH COUNCIL of 34 Springcroft, Hartley, Londfield, Kent, DA3 8AS, and care of Messrs Arnold Tuff and Grimwade (Ref:AM/Hartley P.C.) of The Precinct, Rochester, Kent, ME1 1SZ.

C: Charges Register

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

1. A Conveyance of the land in this title and other land dated 7 November 1934 made between (1) Martins Bank Limited (Vendors) and (2) Fawkham Development Company Limited (Purchaser) contains covenants.

By a Deed dated 27 February 1936 made between (1) Martins Bank Limited and (2) Fawkham Development Company Limited the said covenants were expressed to be modified. Details of the covenants and of the modification are set out in the schedule of restrictive covenants hereto.

2. A Conveyance of the land in this title dated 6 March 1946 made between (1) Barbara Gill and (2) Roy Edward King contains restrictive covenants.

NOTE:-Copy in Certificate.

Schedule of Restrictive Covenants

1. The following are details of the covenants contained in the Conveyance dated 7 November 1934 referred to in the Charges Register.

COVENANT by Purchasers to the intent that the covenant should be binding so far as might be on land thereby conveyed into whosoever hands the same may come (but upon Purchasers only so long as they were owners of the same property) and should enure for the benefit of the lands of the Vendors edged brown on said plan that the Purchasers and their successors in title would at all times thereafter observe and perform said restrictions and stipulations set out in the First Schedule thereto.

THE FIRST SCHEDULE above referred to

1. The building line shall be as shown on the plan and no building shall project beyond such line.
2. No caravan house on wheels disused Railway Carriage or Tramcar or other moveable dwelling booth show roundabout or swing shall be allowed to stand or remain on any part of the land and no manufactory obnoxious trade or business shall be carried on on any part of the land and any building erected thereon shall not at any time be used for the purpose of a public Laundry.
3. Not more than six houses or buildings to the acre shall be erected on the land agreed to be sold.
4. No buildings other than one private residence with or without garage or outbuildings may be erected or hereafter used on any lot and no house of less value than £300 shall be built on any plot. In estimating the value of a house the same shall be taken to be its first nett cost in materials and labour of construction only.
5. Without the previous consent of the Vendors no advertisement board shall be erected or exhibited on any part of the land for any purpose other than for announcing the sale or letting of the same.
6. The Purchasers shall according and in proportion to the extent of the respective frontages of the land hereby conveyed to the public footpath keep the said public footpath in repair until the same shall be made into a public highway and taken over by the local authority and shall pay its proper proportion of the costs of metalling and paving and otherwise

Schedule of Restrictive Covenants continued

making up the said road for the purpose aforesaid and shall indemnify the Vendors against any liability in respect thereof.

7. The Purchasers shall hereafter take for all purposes (except purely agricultural) the water supply to the Estate by the Mid Kent Water Company or its successors in title and on the terms and at the rates of the Company.

8. No stone gravel sand or other minerals lying under any plot of land shall be excavated further than shall be absolutely necessary for erecting any building or laying the foundations of any building to be erected on the land.

9. The Vendors reserve the right of departing from or allowing the departure from these stipulations in regard to any one or more lot or lots.

NOTE:-No building line affects the land in this title.

2. The following are details of the terms of the modification contained in the Deed dated 27 February 1936 referred to in the Charges Register:-

The Bank in so far as the benefit of such restrictions was then vested in the Bank and the Bank had power to vary the same agreed with the Company as follows:-

1. Restriction No. 3 to First Schedule to Principal Deed should read as follows:-

"Not more than six houses or buildings to the acre with or without garages or outbuildings shall be erected on the land"

2. Restriction No. 4 in the Principal Deed should read as follows:-

"No house of less value than £300 shall be built on any part of the land. In estimating the value of a house the same shall be taken to be the net cost thereof in materials and labour of construction only."

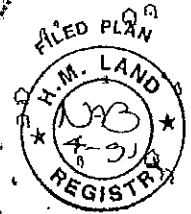
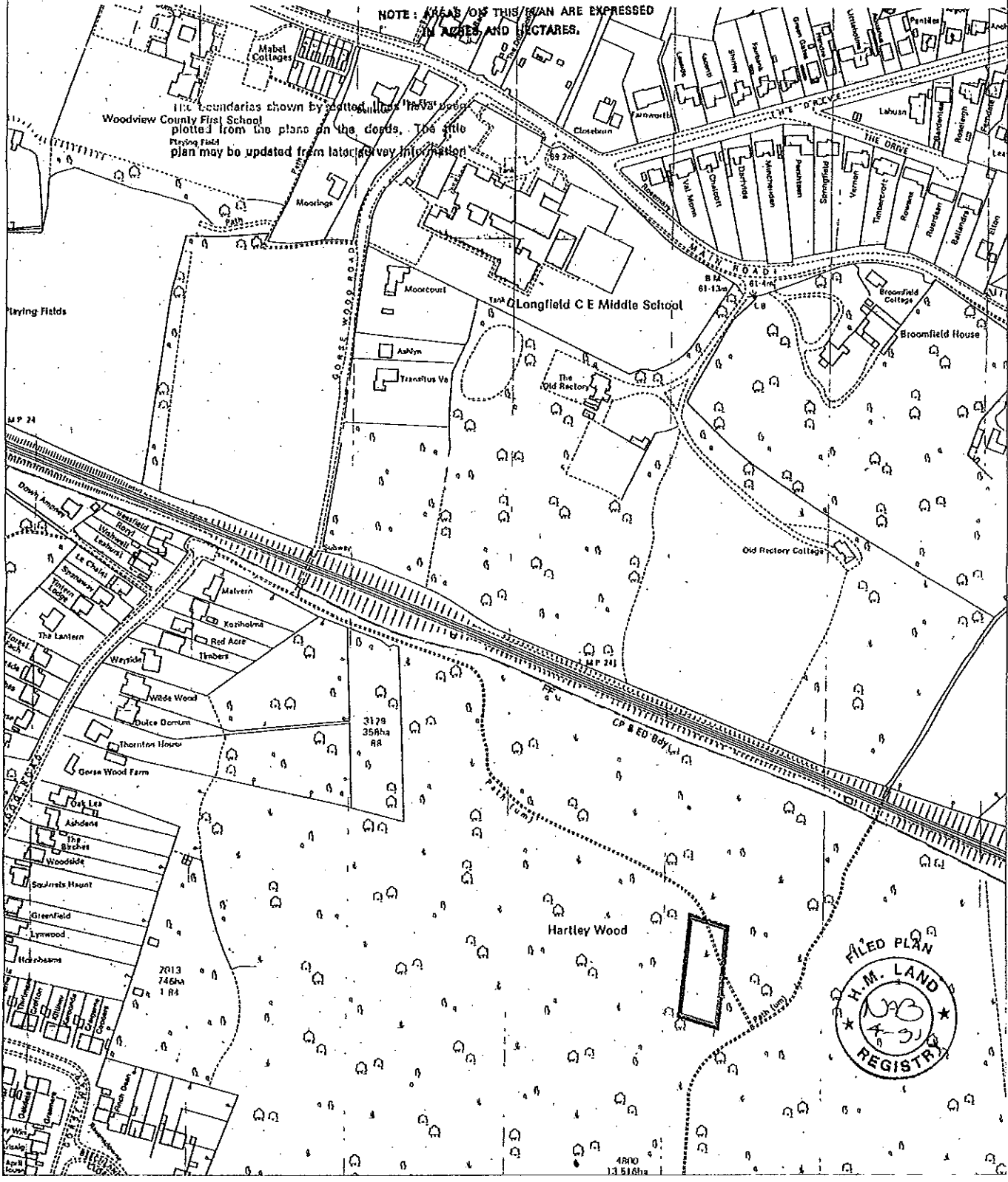
END OF REGISTER

NOTE: The date at the beginning of an entry is the date on which the entry was made in the Register.

H.M. LAND REGISTRY		TITLE NUMBER	
		K700099	
ORDNANCE SURVEY PLAN REFERENCE	TQ6168	Scale 1/2500	
COUNTY KENT		DISTRICT SEVENOAKS	
		©Crown Copyright	

NOTE: MEASURES ON THIS PLAN ARE EXPRESSED
IN FEET AND INCHES AND METRES.

The boundaries shown by dotted lines have been
Woodview County First School
plotted from the plans on the deeds. The title
plan may be updated from later conveyance information.



This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground.
For more information see Land Registry Public Guide 7 - Title Plans.
This official copy shows the state of the title plan on 18 April 2005 at 9:17:50. It may be subject to distortions in scale.
Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
Issued on 18 April 2005.
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This title is dealt with by the Tunbridge Wells District Land Registry.

OFFICIAL COPY OF REGISTER ENTRIES

This official copy shows the entries subsisting on the register on 5 October 2005 at 09:04:49. **This date must be quoted as the 'search from date' in any official search application based on this copy.**

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

Issued on 5 October 2005.

This title is dealt with by **Land Registry Tunbridge Wells Office.**

Land Registry

Title Number : **K887840**

Edition Date : 21 July 2005

A: Property Register

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

KENT : SEVENOAKS

1. (21.07.2005) The **Freehold** land shown edged with red on the plan of the above title filed at the Registry and being Land on the east side of Gorsewood Road, Hartley, Longfield.

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. (21.07.2005) **PROPRIETOR: HARTLEY PARISH COUNCIL** of The Parish Council Office, Hartley Library, Ash Road, Hartley, Longfield, Kent DA3 8EL.
2. (21.07.2005) The value stated as at 21 July 2005 was £50,000.

C: Charges Register

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

- 1. (21.07.2005) A Conveyance of the land in this title and other land dated 7 November 1934 made between (1) Martins Bank Limited (Vendors) and (2) Fawkham Development Company Limited (Purchaser) contains covenants.

By a Deed dated 27 February 1936 made between (1) Martins Bank Limited and (2) Fawkham Development Company Limited the said covenants were expressed to be modified. Details of the covenants and of the modification are set out in the schedule of restrictive covenants hereto.

- 2. (21.07.2005) A Conveyance of the land in this title and other land dated 6 April 1948 made between (1) Barbara Gill (Vendor) and (2) Rosalie Marion Mainprize (Purchaser) contains covenants details of which are set out in the schedule of restrictive covenants hereto.

- 3. (21.07.2005) The land is subject to the following rights reserved by the Conveyance dated 6 April 1948 referred to above:-

"TOGETHER with the roadway coloured yellow on the said plan subject as to the said roadway to a right of way for all persons entitled thereto over and along the said roadway."

NOTE: Copy Conveyance plan filed.

Schedule of Restrictive Covenants

- 1. (21 July 2005) The following are details of the covenants contained in the Conveyance dated 7 November 1934 referred to in the Charges Register.

COVENANT by Purchasers to the intent that the covenant should be binding so far as might be on land thereby conveyed into whosoever hands the same may come (but upon Purchasers only so long as they were owners of the same property) and should enure for the benefit of the lands of the Vendors edged brown on said plan that the Purchasers and their successors in title would at all times thereafter observe and perform said restrictions and stipulations set out in the First Schedule thereto.

THE FIRST SCHEDULE above referred to

- 1. The building line shall be as shown on the plan and no building shall project beyond such line.
- 2. No caravan house on wheels disused Railway Carriage or Tramcar or other moveable dwelling booth show roundabout or swing shall be allowed to stand or remain on any part of the land and no manufactory obnoxious trade or business shall be carried on on any part of the land and any building erected thereon shall not at any time be used for the purpose of a public Laundry.
- 3. Not more than six houses or buildings to the acre shall be erected on the land agreed to be sold.
- 4. No buildings other than one private residence with or without garage or outbuildings may be erected or hereafter used on any lot and no house of less value than £300 shall be built on any plot. In estimating the value of a house the same shall be taken to be its first nett cost in materials and labour of construction only.

Schedule of Restrictive Covenants continued

5. Without the previous consent of the Vendors no advertisement board shall be erected or exhibited on any part of the land for any purpose other than for announcing the sale or letting of the same.

6. The Purchasers shall according and in proportion to the extent of the respective frontages of the land hereby conveyed to the public footpath keep the said public footpath in repair until the same shall be made into a public highway and taken over by the local authority and shall pay its proper proportion of the costs of metalling and paving and otherwise making up the said road for the purpose aforesaid and shall indemnify the Vendors against any liability in respect thereof.

7. The Purchasers shall hereafter take for all purposes (except purely agricultural) the water supply to the Estate by the Mid Kent Water Company or its successors in title and on the terms and at the rates of the Company.

8. No stone gravel sand or other minerals lying under any plot of land shall be excavated further than shall be absolutely necessary for erecting any building or laying the foundations of any building to be erected on the land.

9. The Vendors reserve the right of departing from or allowing the departure from these stipulations in regard to any one or more lot or lots.

NOTE:-No building line affects the land in this title.

2. The following are details of the terms of the modification contained in the Deed dated 27 February 1936 referred to in the Charges Register:-

The Bank in so far as the benefit of such restrictions was then vested in the Bank and the Bank had power to vary the same agreed with the Company as follows:-

1. Restriction No. 3 to First Schedule to Principal Deed should read as follows:-

"Not more than six houses or buildings to the acre with or without garages or outbuildings shall be erected on the land"

2. Restriction No. 4 in the Principal Deed should read as follows:-

"No house of less value than £300 shall be built on any part of the land. In estimating the value of a house the same shall be taken to be the net cost thereof in materials and labour of construction only.".

3. The following are details of the covenants contained in the Conveyance dated 6 April 1948 referred to in the Charges Register:-

"The Purchaser to the extent that this covenant shall be binding so far as may be on the owner for the time being of the land hereby assured but upon the Purchaser and her sequels in title only so long as she or they is or are the owner or owners of the said land hereby covenants with the Vendor that the Purchaser and her successors in title will at all times hereafter observe and perform such restrictions and stipulations as aforesaid and will keep the Vendor indemnified therefrom and also the stipulations set out in the Schedule hereto

THE SCHEDULE above referred to

1. No part of the land hereby conveyed shall at any time hereafter be used as a right of way to or give access to any other land and no opening or communication whatsoever shall be made or permitted by the Purchaser

Schedule of Restrictive Covenants continued

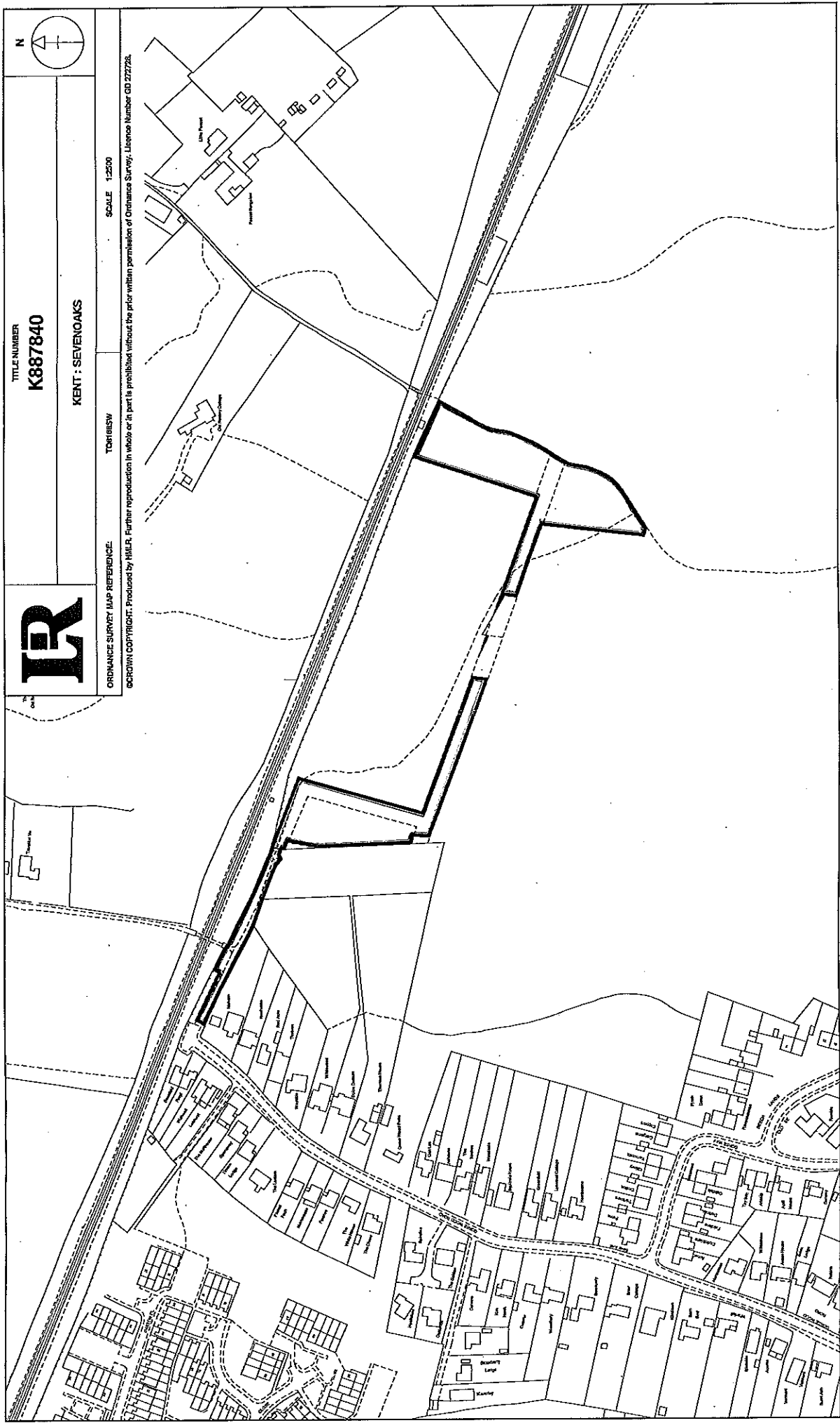
between his land and any adjoining land.

2. The Purchaser will forthwith erect and for ever afterwards maintain good and sufficient boundary fences on the sides of the said land marked "T" within the boundary of the said plan.

NOTE: Copy Conveyance Plan Filed.

END OF REGISTER

NOTE: The date at the beginning of an entry is the date on which the entry was made in the Register.



TITLE NUMBER
K887840

KENT: SEVENOAKS

SCALE 1:2500

TORRENT

ORDNANCE SURVEY MAP REFERENCE:

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This title plan shows the general position of the boundaries; it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

This official copy shows the state of the title plan on 5 October 2005 at 9:04:49. It may be subject to distortions in scale.

Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.

Issued on 5 October 2005.

This title is dealt with by the Tunbridge Wells District Land Registry.

