

Application to register land known as the Playing Field in the parish of Marden as a new Village Green

A report by the Head of Countryside Access Service to Kent County Council's Regulation Committee Member Panel on Friday 11th November 2011.

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

Local Member: Mrs. P. Stockell

Unrestricted item

Introduction

1. The County Council has received an application to register land known as the Playing Field at Marden as a new Village Green from the Marden Parish Council ("the applicant"). The application, received on 20th September 2010, was allocated the application number VGA631. 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 3.2 acres (1.3 hectares) in size situated between Naopleon Drive and Maynards in the parish of Marden. The application site is bordered by fencing and hedges, and includes a football pitch and a children’s playground. 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 numbers K29224 and K345507. Copies of the Register of Title are 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).
12. In this case, the locality is specified on the application form as the ‘parish of Marden’. This is a legally recognised administrative unit and, since the application has been made by the Parish Council, it would seem appropriate for the parish of Marden to be the relevant locality.

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.

Recommendation

15. I recommend that the County Council informs the applicant that the application to register the land known as the playing field at Marden 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 |
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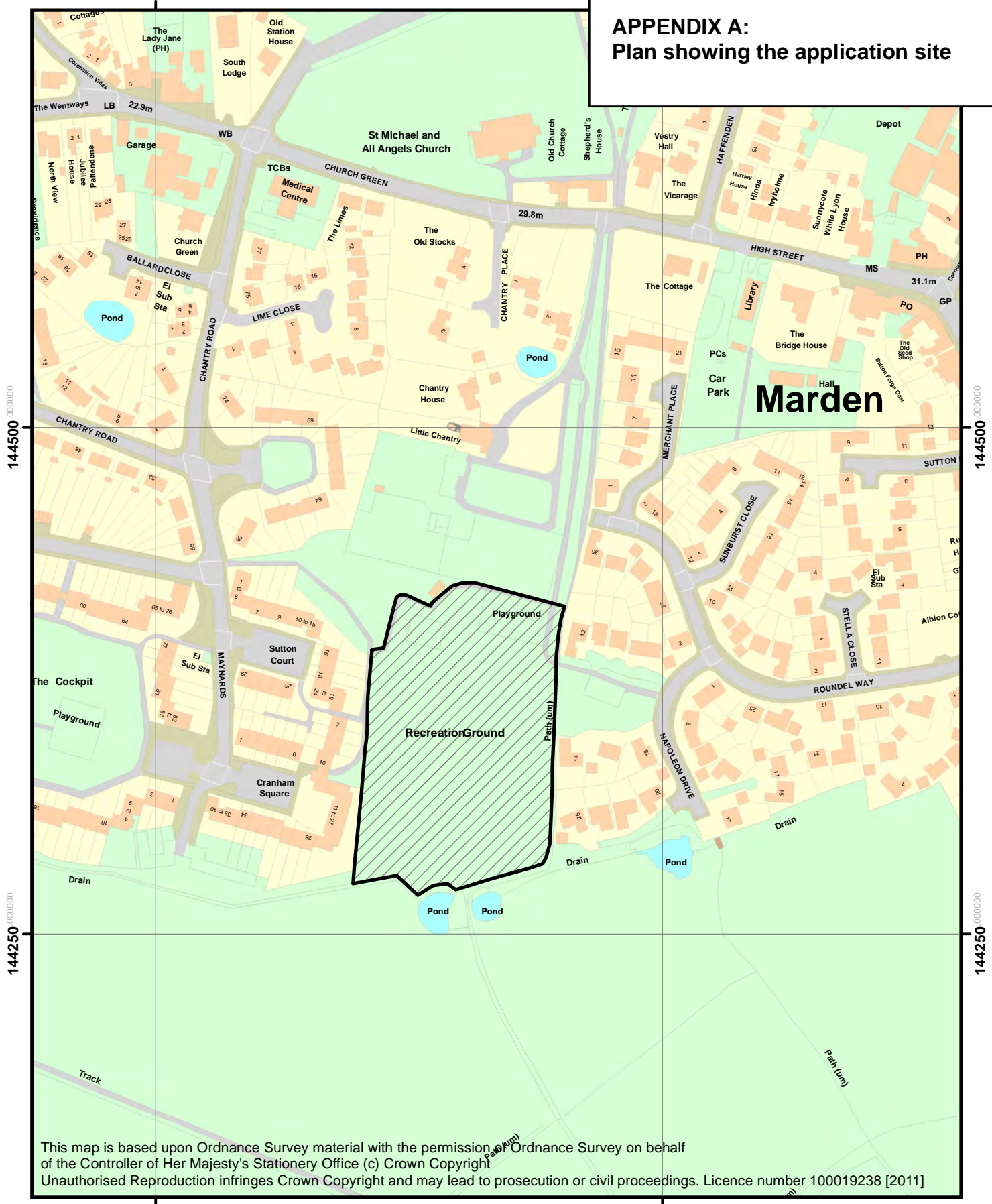
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| The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, Invicta House, County Hall, Maidstone. Please contact the case officer for further details. |
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Background documents

- APPENDIX A – Plan showing application site
- APPENDIX B – Copy of application form
- APPENDIX C – Photographs of the application site
- APPENDIX D – Copies of the Registers of Title from Land Registry

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



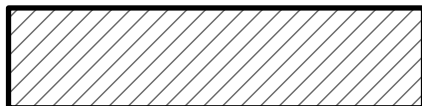
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Scale 1:2500

**Land subject to Village Green application at
Napoleon Drive, Marden**



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:

VGAG31

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: COMMONS REGISTRATION TEAM
KENT COUNTY COUNCIL
COUNTRYSIDE ACCESS SERVICE
INVICFA 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: MARDEN PARISH COUNCIL

Full postal address: PARISH OFFICE
(incl. Postcode) MEMORIAL HALL
GOLDHURST ROAD, MARDEN

Telephone number: TN12 9JX
(incl. national dialling code) 01622 832305

Fax number:
(incl. national dialling code)

E-mail address:
[REDACTED]

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:

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

N/A

**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:

N/A

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:

PLAYING FIELD, MARDEN

Location:

OFF THE HIGH STREET, MARDEN, KENT

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:

PARISH OF MARDEN

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

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

N/A

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

N/A

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

TITLE PLANS: K29224
K345507

REGISTER OF TITLE: K29224
K345507

PLAN OF THE PROPOSED VILLAGE GREEN BOUNDARY

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

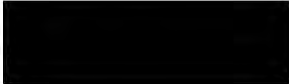
PART OF THE LAND IS MADE AVAILABLE FOR HIRE BY THE PARISH COUNCIL AS A FOOTBALL PITCH. HOWEVER, FOLLOWING THE REDCAR CASE, IT IS UNDERSTOOD THAT THIS USAGE CAN CONTINUE TO CO-EXIST WITH VILLAGE GREEN USAGE.

THERE IS A NARROW STRIP OF UNREGISTERED LAND ON THE EASTERN BOUNDARY WHICH IS AN UNFENCED PUBLIC FOOTPATH (KM280)

THE PAVED PATH ALONG THE NORTHERN BOUNDARY IS WITHIN THE VILLAGE GREEN BOUNDARY

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. SignatureSignature(s) of applicant(s): Date: 17th Sepr. 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.

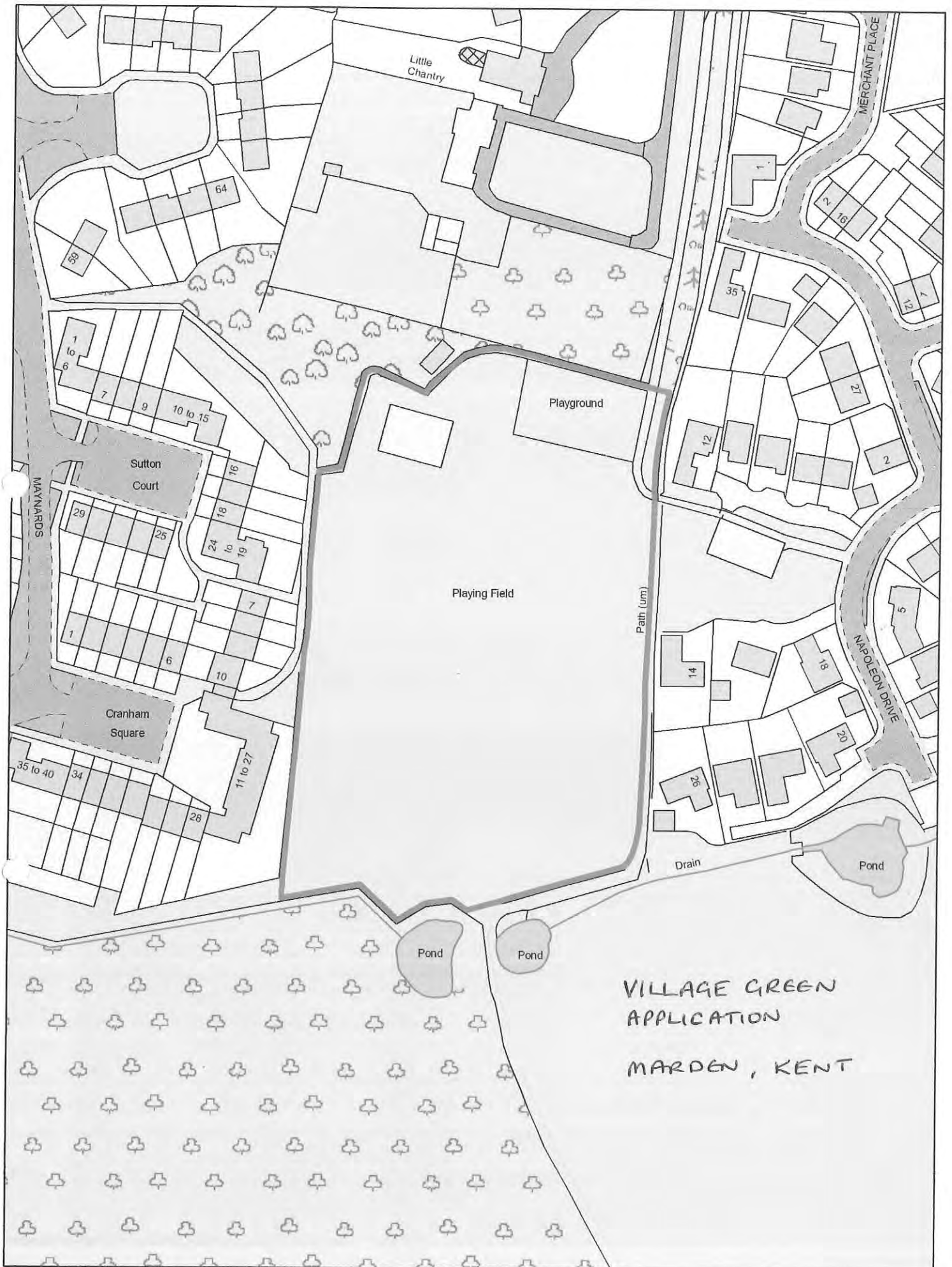
Please send your completed application form to:

**The Commons Registration Team
Kent County Council
Countryside Access Service
Invicta House
County Hall
Maidstone
Kent ME14 1XX**

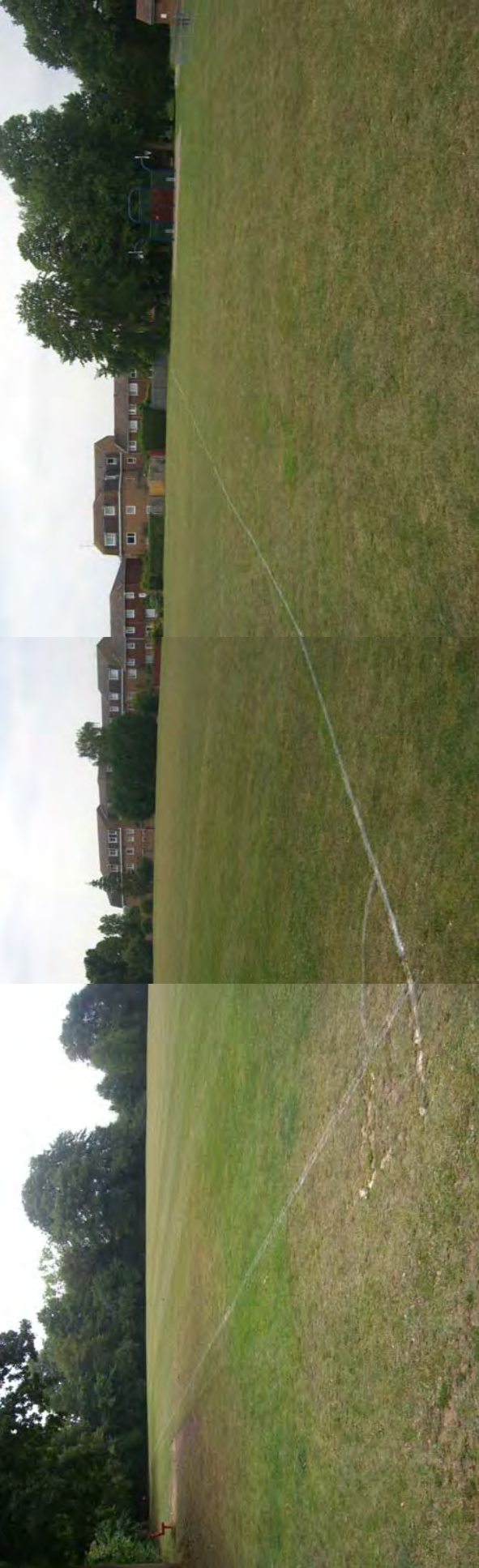
Data Protection Act 1998

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.



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



THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED THE ENTRIES SUBSISTING IN THE REGISTER ON 27 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 ENTIRE ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

**APPENDIX D:
Copy of Land Registry Titles**

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

TITLE NUMBER: K29224

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 : MAIDSTONE

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land to the south of High Street, Marden, Tonbridge.
- 2 The land tinted pink on the filed plan has the benefit of the following rights contained in a Conveyance thereof together with other land dated 22 February 1928 and made between (1) Silvia Mannington and Eric Clarke and (2) Harry Potter (Purchaser):-

"Full right and liberty for the Purchaser and the persons deriving title under him owner or owners and occupiers for the time being of the said property hereinbefore described from time to time and at all times hereafter and for all purposes to pass and repass with or without horses carriages carts and other vehicles over the property coloured yellow on the said plan the Purchaser and the persons deriving title under him bearing one half of the cost of maintaining the road on the said property coloured yellow in as good a state of repair as it is now in."

NOTE:-The property coloured yellow referred to is tinted yellow on the filed plan.

- 3 The land tinted pink on the filed plan has the benefit of the right to receive a supply of water through the water pipes in the land adjoining such land to the north reserved by a Transfer of the said adjoining land dated 20 May 1960 made between (1) Edward Day and (2) Horace Gerald Swaffer.
- 4 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.
- 5 The land has the benefit of the following rights reserved by the Transfer dated 8 October 1965 referred to in the Charges Register:-
"EXCEPT AND RESERVING unto the Transferors the right to lay and maintain in and under the surface of the land hereby transferred water gas electricity and other service pipes and to enter upon the said land for the purpose of maintaining and repairing the same the Transferors and their successors in title making good all damage caused by the exercise of the said rights."
- 6 (06.08.1999) The land has the benefit of the rights granted by a Deed dated 5 December 1991 made between (1) Anthony Scott Hill-Reid and June Suzanne Lawrie and (2) Marden Parish Council.

NOTE: Copy in Certificate.

- 7 (19.04.2006) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of the land edged and numbered K900399 in green on the title plan and other land dated 31 March 2006 made between (1) Marden Parish Council and (2) English

Title number K29224

A: Property Register continued

Courtyard Developments Limited.

NOTE: Copy filed under K900399.

- 8 (17.05.2006) The land has the benefit of the rights reserved by a Transfer of land adjoining the north and west sides of the land in this title dated 31 March 2006 made between (1) Elizabeth Mchale, John Regan Sunnucks, Harry Frederick Bridgland and Mary Elizabeth Charlwood and (2) English Courtyard Developments Limited.

NOTE: Copy filed under K900399.

- 9 (18.05.2006) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

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 (19.09.1966) Proprietor: MARDEN PARISH COUNCIL of Chain Dene, Tilden Lane, Marden, Tonbridge, Kent TN12 9AX.
- 2 (19.09.1966) RESTRICTION: No disposition or other dealing by the proprietor of the land is to be registered without the consent of the Charity Commissioners or an order of the registrar.

C: Charges Register

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

- 1 The land is subject to the following rights granted by a Transfer of the land edged and numbered K255621 in green on the filed plan dated 8 October 1965 made between (1) Frank Mercer Day, Alfred Edward Alan Day and Edward Day and (2) Horace Gerald Swaffer:-

"TOGETHER WITH the right to drain surface water into the pond situate on the adjoining property belonging to the Transferors through the pipe the course of which is indicated on the said plan by a red broken line subject to the Transferee maintaining the said pipe in a clean and proper condition Together also with a right for the Transferee to enter upon the said adjoining property of the Transferors for the purpose of cleaning and maintaining the said pipe."

NOTE:-The red broken line referred to is shown by a blue broken line on the filed plan.

- 2 A Transfer of the land in this title dated 15 September 1966 made between (1) Frank Mercer Day, Alfred Edward Alan Day and Edward Day and (2) Parish Council of Marden contains restrictive covenants.

NOTE: Copy in Certificate.

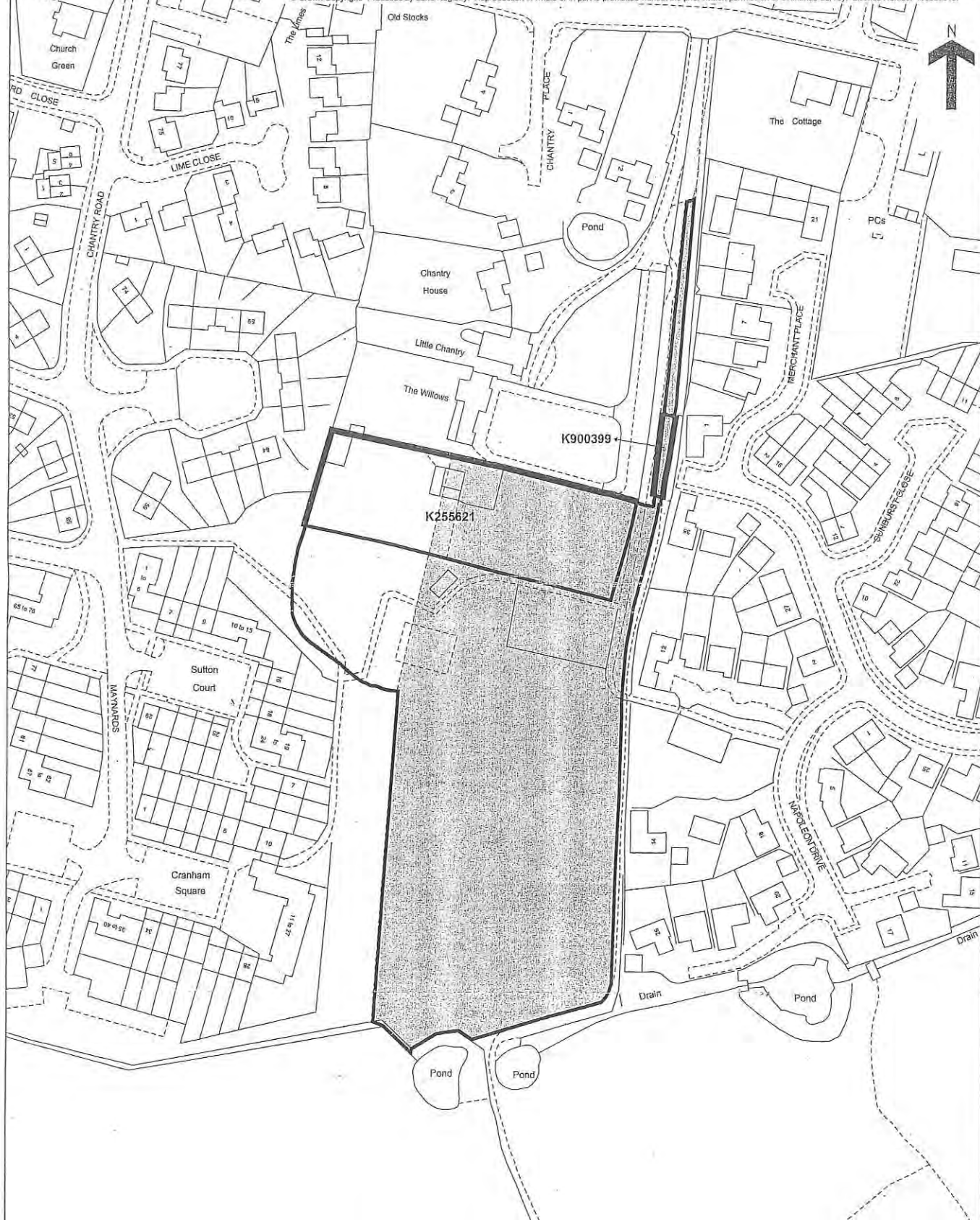
End of register

Land Registry
Official copy of
title plan

Title number K29224
Ordnance Survey map reference TQ7444SW
Scale 1:1250 enlarged from 1:2500
Administrative area Kent: Maidstone



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This official copy issued on 3 April 2007 shows the state of this title plan on 3 April 2007, at 10:35:09. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

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, Tunbridge Wells Office.

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 27 OCT 2011 AT 15:27:01. BUT PLEASE NOTE 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: K345507

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 : MAIDSTONE

- 1 (23.10.1968) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land lying to the South of Church Green, Marden, Tonbridge.
- 2 (06.08.1999) The land has the benefit of the rights granted by a Deed dated 5 December 1991 made between (1) Anthony Scott Hill-Reid and June Suzanne Lawrie and (2) Marden Parish Council.

NOTE: Copy in Certificate. Original filed under K29224.

- 3 (19.04.2006) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of land lying to the north dated 31 March 2006 made between (1) Marden Parish Council and (2) English Courtyard Developments Limited.

NOTE: Copy filed under K900399.

- 4 (17.05.2006) The land has the benefit of the rights reserved by a Transfer of land lying to the north dated 31 March 2006 made between (1) Elizabeth Mchale, John Regan Sunnucks, Harry Frederick Bridgland and Mary Elizabeth Charlwood and (2) English Courtyard Developments Limited.

NOTE: Copy filed under K900399.

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 (22.07.1970) Proprietor: MARDEN PARISH COUNCIL of Chain Dene, Tilden Lane, Marden, Tonbridge, Kent TN12 9AX.

End of register

H.M. LAND REGISTRY

TITLE NUMBER

K345507

ORDNANCE SURVEY
PLAN REFERENCE

COUNTY

SHEET

NATIONAL GRID

KENT

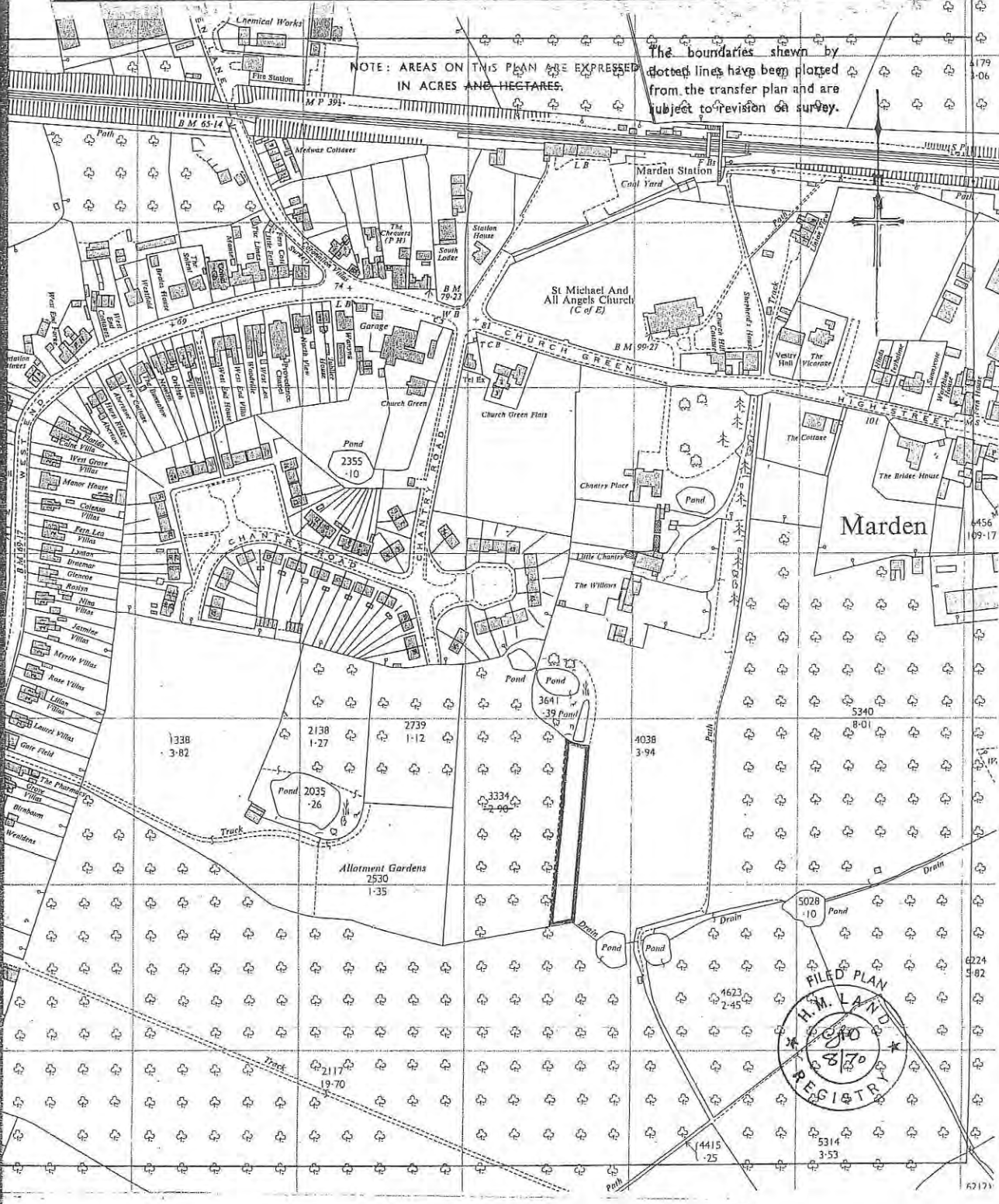
TQ 7444

Scale: 1 : 2500

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NOTE: AREAS ON THIS PLAN ARE EXPRESSED IN ACRES AND HECTARES.

The boundaries shown by dotted lines have been plotted from the transfer plan and are subject to revision on survey.



This official copy is issued, and shows the state of this title plan, on 28 January 2010 at 10:45:41.

This copy is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

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 19 - Title Plans and Boundaries.

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