

Application to register land at Woodland Road at Lyminge as a new Village Green

A report by the Head of Countryside Access to Kent County Council's Regulation Committee Member Panel on Tuesday 15th November 2011

Recommendation: I recommend that a non-statutory Public Inquiry be held into the case to clarify the issues

Local Members: Ms. S. Carey

Unrestricted item

Introduction

1. The County Council has received an application to register land at Woodland Road in the parish of Lyminge as a new Village Green from local resident Mr. S. Huntley ("the Applicant"). The application, dated 7th July 2010, was allocated the application number VGA628. 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. The application has been made under section 15 of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.
3. Section 15 of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Village Green where it can be shown that:
'a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
4. In addition to the above, the application must meet one of the following tests:
 - **Use of the land has continued** 'as of right' until at least the date of application (section 15(2) of the Act); or
 - **Use of the land 'as of right' ended no more than two years prior to the date of application**, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act); or
 - **Use of the land 'as of right' ended before 6th April 2007** and the application has been made within five years of the date the use 'as of right' ended (section 15(4) of the Act).
5. As a standard procedure set out in the 2008 Regulations, the Applicant must notify the landowner of the application and the County Council must notify every local authority. The County Council must also publicise the application in a newspaper circulating in the local area and place a copy of the notice on the County Council's website. In addition, as a matter of best practice rather than legal requirement, the County Council also places copies of the notice on site to provide local people with the opportunity to comment on the application. The

publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

6. The area of land subject to this application is referred to in the associated documentation by several names, including 'church field' and 'the bumpy field'. For the purposes of this report, it is referred to only as "the application site".
7. The application site consists of an area of open and uncultivated land of approximately 1.4 hectares (3.6 acres) in size situated adjacent to the village hall at Woodland Road in the parish of Lyminge. It is situated on a reasonably steep incline and access to it is via various recorded Public Rights of Way which cross the site (Public Footpaths HE54 and HE56, and Bridleway HE55).
8. The application site, and the Public Rights of Way, are shown in more detail on the plan at **Appendix A**.

The case

9. The application has been made on the grounds that the application site has become a Town or Village Green by virtue of the actual use of the land by the local inhabitants for a range of recreational activities 'as of right' for more than 20 years.
10. Included in the application were 85 user evidence questionnaires from local residents demonstrating use of the application site for a range of recreational activities for a period in excess of 20 years. A summary of the evidence in support of the application is attached at **Appendix C**.
11. In addition, letters of support from the Parish Council and the local Community Warden were also included with the application.

Consultations

12. Consultations have been carried out as required and the following comments have been received.
13. The Lyminge Parish Council wrote to express support for the application. The Parish Council stated that the application site had undoubtedly been open for use by members of the public in Lyminge for well over 20 years. Some local residents recall using it for more than 50 years. The land has, on occasion, been used for both grazing and car parking.
14. The Shepway District Council did not express any opinion either in support of or in opposition to the application. It stated only that District Council did not have any proprietary interest in the application site, which is in the ownership of the Tory Family Foundation.
15. A letter of support was also received from local resident Ms. C. Hughes, referring to her own recreational usage of the application site since 1989. She adds that she has observed many people using the land for horse riding, walking, mountain-

biking, skateboarding and tobogganing. The site has also been used for community events such as the millennium fireworks celebrations.

Landowner

16. The application site is owned by a registered charity known as the Tory Family Foundation ("the Foundation") and is registered with the HM Land Registry under title number K674394.

17. An objection to the application has been received from Cripps Harries Hall solicitors, who act on behalf of the trustees of the Tory Family Foundation. The objection is made on the following grounds:

- That use of the land has not been such as to signify that the land has been in use by the residents of a specified locality;
- That the use of the land has been so infrequent and of such low intensity that its appearance was more akin to individuals using the land as trespassers rather than general community use;
- That a considerable amount of use was either 'by right' in exercise of the existing Public Rights of Way which cross the land or by virtue of permission granted by the landowner for specified community events;
- That any use of the application site for recreational purposes would have been interrupted on several occasions due to the use of the land for car parking, an archaeological dig and sheep grazing; and
- That any use of the application site for recreational purposes would not have been such as to suggest to a landowner that a right to recreate was being asserted by the local people.

18. In support of the objection, a statutory declaration from Mr. P. Tory, one of the trustees of the Tory Family Foundation, is provided. In it, Mr. Tory explains that he formed the Foundation as a charity with his father in 1984, and gifted the land forming the application site to the Foundation in 1988. Until 1993, the land was used by Mr. Tory (who also owned the nearby Court Lodge Farm) for sheep grazing, which involved daily visit by either Mr. Tory himself or one of his employees. Although it was apparent from these visits that the public used the recorded Public Rights of Way, general recreational use was not apparent. Over recent years, permission has been sought for various activities and, in the summer of 2010, part of the application site was cordoned off for a period of six weeks for the purpose of an archaeological dig.

19. Also included with the objection is a statutory declaration from the solicitor representing the Tory Family Foundation, Ms. A. Rogers, setting out examples of permission sought from the Village Hall Management Committee to use the application site. These include permission for bonfire celebrations in 2002 and for car parking in relation to Lyminge Day in 2003, 2006 and 2007.

Legal tests

20. In dealing with an application to register a new Town or Village Green the County Council must consider the following criteria:

- (a) Whether use of the land has been 'as of right'?*
- (b) Whether use of the land has been for the purposes of lawful sports and pastimes?*

- (c) *Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?*
- (d) *Whether use of the land 'as of right' by the inhabitants has continued up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?*
- (e) *Whether use has taken place over period of twenty years or more?*

I shall now take each of these points and elaborate on them individually:

(a) *Whether use of the land has been 'as of right'?*

21. The definition of the phrase 'as of right' has been considered by the House of Lords. Following the judgement in the Sunningwell¹ case, it is considered that if a person uses the land for a required period of time without force, secrecy or permission ("*nec vi, nec clam, nec precario*"), and the landowner does not stop him or advertise the fact that he has no right to be there, then rights are acquired.
22. In this case, there is no suggestion that use of the application site for recreational purposes has been in exercise of force. Access to the application site is freely available from at least four points on the boundary of the site by virtue of the existence of the Public Rights of Way, and there is no evidence that the Public Rights of Way have ever been fenced off from the rest of the site so as to physically restrict use to the existing paths. No evidence has been submitted to suggest that general recreational use of the application site has ever been challenged by way of notices or by way of verbal challenges by the landowner.
23. Similarly, although the landowner disputes the frequency and manner of use (a point which will be addressed later on in the report), there is no evidence that recreational use of the application site has been in any way secretive.
24. The landowner contends that on some occasions use of the application site has been by virtue of the express permission of the landowner. Those occasions include use of the site for community events, either for bonfire night celebrations or car parking for the annual Lyminge Day celebrations. The applicant accepts this point, but argues that the application does not seek to rely on these events in support of the Village Green status. The general informal recreational activities referred to in the application have taken place 'as of right' and without the landowner's permission.

Public Rights of Way

25. The landowner's position is that a considerable amount of the recreational use of the application site is associated with the designated Public Rights of Way. In his statutory declaration, Mr. Tory states that during his visits to the application site, he was aware of members of the public making use of the Public Rights of Way crossing the application site, but he did not witness any use which exceeded the exercise of those Public Rights of Way.
26. Use of existing Public Rights of Way across land is not considered to be 'as of right' in the context of Village Green applications, because it is in exercise of an

¹ *R v. Oxfordshire County Council and another, Sunningwell Parish Council [1999] 3 All ER 385*

existing right and would not have appeared to a reasonable landowner as the assertion of a right to indulge in lawful sports and pastimes on the application site.

27. Therefore, in cases where Public Rights of Way cross an application site, it is important to be able to differentiate between use which is pursuant to an existing right to walk or ride a horse along a defined route and use which is of a more general recreational nature. The issue was considered by the Courts in *Laing Homes*², in which the judge said that: *'it is important to distinguish between use that would suggest to a reasonable landowner that the users believed they were exercising a public right of way to walk, with or without dogs... and use that would suggest to such a landowner that the users believed that they were exercising a right to indulge in lawful sports and pastimes across the whole of the fields'*

28. The exercise of distinguishing between these different types of use is something that is very difficult to achieve on paper. It is a question of evidence that requires more detailed scrutiny, preferably by way of the cross examination of witnesses in a public forum.

(b) Whether use of the land has been for the purposes of lawful sports and pastimes?

29. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. It is not necessary to demonstrate that both sporting activities *and* pastimes have taken place since the phrase 'lawful sports and pastimes' has been interpreted by the Courts as being a single composite group rather than two separate classes of activities³.

30. Legal principle does not require that rights of this nature be limited to certain ancient pastimes (such as maypole dancing) or for organised sports or communal activities to have taken place. The Courts have held that *'dog walking and playing with children [are], in modern life, the kind of informal recreation which may be the main function of a village green'*⁴.

31. In this case, the evidence demonstrates that the land has been used for a number of recreational activities. The summary of evidence of use by local residents at **Appendix C** shows the full range of activities claimed to have taken place, which include cycling, fruit-picking, nature observation and tobogganing. There is also reference in the evidence to use of the application site for the purposes of organised community events, although it is probable that those events would have been the subject of permission from the landowner and thereby any use of the land associated with those events is likely to have been permissive.

32. However, by far the majority use of the application site has been for the purposes of walking (with or without dogs). As stated above, there is a question as to the degree of use which has been on the recorded Public Rights of Way which requires further clarification before a conclusion can be reached.

² *R (Laing Homes) v Buckinghamshire County Council* [2003] 3 EGLR 70 at 79 per Sullivan

³ *R v. Oxfordshire County Council and another, Sunningwell Parish Council* [1999] 3 All ER 385

⁴ *R v Suffolk County Council, ex parte Steed* [1995] 70 P&CR 487 at 508 and approved by Lord Hoffman in *R v. Oxfordshire County Council, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

(c) Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?

33. The right to use a Town or Village Green is restricted to the inhabitants of a locality, or of a neighbourhood within a locality, and it is therefore important to be able to define this area with a degree of accuracy so that the group of people to whom the recreational rights are attached can be identified.

“locality”

34. The definition of locality for the purposes of a Town or Village Green application has been the subject of much debate in the Courts. In the *Cheltenham Builders*⁵ case, it was considered that ‘...at the very least, Parliament required the users of the land to be the inhabitants of somewhere that could sensibly be described as a locality... there has to be, in my judgement, a sufficiently cohesive entity which is capable of definition’. The judge later went on to suggest that this might mean that locality should normally constitute ‘some legally recognised administrative division of the county’.

35. Further guidance in relation to the issue of locality is provided in the relevant Regulations, which require applicants to describe the locality upon which their case relies by reference to the name of a parish, electoral ward or other local administrative area⁶.

36. The Applicant specifies the locality at Part 6 of the application form as “the parish of Lyminge”. This is a qualifying locality for the purposes of Village Green registration. A plan showing the locality is attached at **Appendix D**.

“a significant number”

37. The word “significant” in this context does not mean considerable or substantial: ‘a neighbourhood may have a very limited population and a significant number of the inhabitants of such a neighbourhood might not be so great as to properly be described as a considerable or a substantial number... what matters is that the number of people using the land in question has to be sufficient to indicate that the land is in general use by the community for informal recreation rather than occasional use by individuals as trespassers’⁷. Thus, what constitutes a ‘significant number’ will depend upon the local environment and will vary in each case depending upon the location of the application site.

38. The landowner disputes that the application site has been of sufficient quantity to signify that the land has been in general use by the local community or to suggest that a right to recreate was being asserted by the residents of the locality. Rather, it is suggested by the landowner that general recreational use of the site for lawful sports and pastimes has been infrequent and of low-level intensity.

39. The applicant contends this assertion, stating that the photographs and letters submitted in support of the application provide clear evidence of the use of the

⁵ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

⁶ See paragraph 9 of Schedule 6 of the Commons Registration (England) Regulations 2008

⁷ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

application site for recreational purposes. A number of well-worn unofficial tracks that are not recorded Public Rights of Way are visible on aerial photographs of the site which, according to the applicant, indicate a high level of usage.

40. It difficult to reconcile the differences in the landowner's recollections and the user evidence adduced in support of the application by the applicant. The fact that the application is supported by 85 user evidence questionnaires, many from people asserting use on a daily or weekly basis, means that, on balance, it seems probable that the land has been used by a significant number of the residents of the locality.

(d) Whether use of the land by the inhabitants is continuing up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?

41. The Commons Act 2006 requires use of the land to have taken place 'as of right' up until the date of application or, if such use has ceased prior to the making of the application, to fulfil one of the alternative criterion set out in sections 15(3) and 15(4) of the 2006 Act.

42. In this case, there is no evidence of any direct challenge to the use of the application site for the purposes of lawful sports and pastimes by the local community. Therefore, it can be concluded that the use of the application site has continued up to, and in this case beyond, the date of the application.

(e) Whether use has taken place over a period of twenty years or more?

43. In order to qualify for registration, it must be shown that the land in question has been used for a full period of twenty years. In this case, use of the application site 'as of right' is continuing and, as such, the relevant twenty-year period ("the material period") is calculated retrospectively from the date of the application, i.e. 1990 to 2010.

44. The user evidence summarised at **Appendix C** demonstrates that there has been use of the application site in excess of the last twenty years.

45. However, the landowner asserts that any use of the application site for lawful sports and pastimes would have been interrupted on several occasions, due to the use of the land for car parking, an archaeological dig and sheep grazing.

46. The applicant's position is that the use of the land for car parking lasted only approximately four hours on each occasion and was therefore an inconsequential interruption to use when considering the twenty year period as a whole. The archaeological dig, according to the applicant, took place after the application was made and is therefore of no relevance. With regard to the sheep grazing, the applicant states that this actually encouraged, rather than deterred, use of the application site as the grass was kept short, thereby making it more suitable for recreation.

47. Considering the evidence as a whole, it does not appear that the examples cited by the landowner would necessarily or materially have interrupted the recreational use of the land. In particular, the geography of the site and the existence of the Public Rights of Way would have significantly limited the areas of the application

site capable of use for car parking and, even if small parts of the application site were temporarily inaccessible, other sections would have been available for recreational use. Such interruptions to use as did occur during the relevant twenty year period would appear to have been occasional and sporadic, and consequently not of a substantial nature.

48. As such, it would appear that there has been use of the application site for a full period of no less than twenty years.

Conclusion

49. Although the relevant Regulations⁸ provide a framework for the initial stages of processing the application (e.g. advertising the application, dealing with objections etc), they provide little guidance with regard to the procedure that a Commons Registration Authority should follow in considering and determining the application. In recent times it has become relatively commonplace, in cases which are particularly emotive or where the application turns on disputed issues of fact, for Registration Authorities to conduct a non-statutory Public Inquiry⁹. This involves appointing an independent Inspector to hear the relevant evidence and report his/her findings back to the Registration Authority.

50. Such an approach has received positive approval by the Courts, most notably in the *Whitney*¹⁰ case in which Waller LJ said this: *'the registration authority has to consider both the interests of the landowner and the possible interest of the local inhabitants. That means that there should not be any presumption in favour of registration or any presumption against registration. It will mean that, in any case where there is a serious dispute, a registration authority will almost invariably need to appoint an independent expert to hold a public inquiry, and find the requisite facts, in order to obtain the proper advice before registration'*.

51. It is important to remember, as was famously quoted by the Judge in another High Court case¹¹, that *'it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green... [the relevant legal tests] must be 'properly and strictly proved'*. This means that it is of paramount importance for a Registration Authority to ensure that, before taking a decision, it has all of the relevant facts available upon which to base a sound decision. It should be recalled that the only means of appeal against the Registration Authority's decision is by way of a Judicial Review in the High Court.

52. In this case, nearly all of the witnesses refer to use of the application site for walking of some kind. Whilst recreational walking across the application site as a whole would count as qualifying use, some of the evidence cited by the recreational users of the application site refers to horse-riding and using the land as a shortcut to amenities. Due to the several Public Rights of Way which cross

⁸ Commons Registration (England) Regulations 2008

⁹ The Public Inquiry is referred to as being 'non-statutory' because the Commons Act 2006 does not expressly confer any powers on the Commons Registration Authority to hold a Public Inquiry. However, Local Authorities do have a general power to do any thing to facilitate the discharge of any of their functions and this is contained in section 111 of the Local Government Act 1972.

¹⁰ *R (Whitney) v Commons Commissioners* [2004] EWCA Civ 951 at paragraph 66

¹¹ *R v Suffolk County Council, ex parte Steed* [1997] 1EGLR 131 at 134

the land, it is necessary to differentiate between those different types of walking in order to determine whether the use of the application site has been in a manner that is capable of giving rise to the registration of the land as a new Village Green. This is not an exercise which can be achieved on paper, and requires further and fuller examination of the evidence as a whole.

53. A Public Inquiry would not only facilitate this, but it would also allow the other issues disputed by the landowner to be tested, including the effect of the alleged interruptions to use and whether use has been by a significant number of local residents.

Recommendation

54. I recommend that a non-statutory Public Inquiry be held into the case to clarify the issues.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221512 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

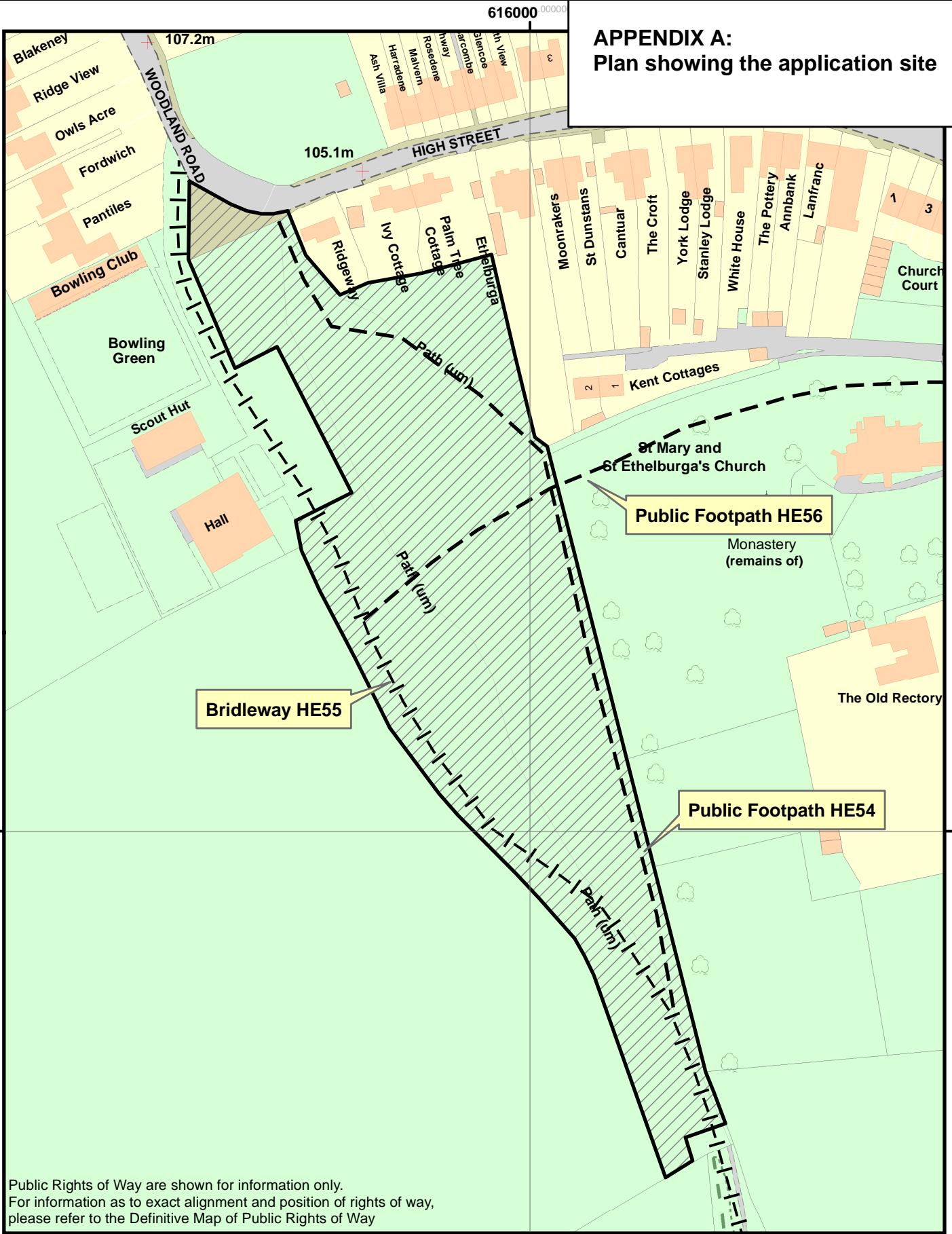
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing the locality

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

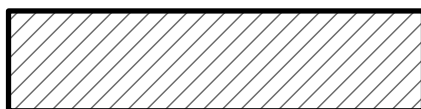


Public Rights of Way are shown for information only.
For information as to exact alignment and position of rights of way,
please refer to the Definitive Map of Public Rights of Way

616000.00000

Scale 1:5000

**Land subject to Village Green application at
Woodland Road, Lyminge**



Commons Act 2006: section 15

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



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 12 JUL 2010</p>

Application number:

VGA628

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
SESSIONS HOUSE
COUNTY ROAD
MAIDSTONE
ME14 1XQ

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: STEPHEN DENNIS HUNTLEY

Full postal address:
(incl. Postcode)Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

Note 3

This part should be completed if representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email.

3. Name and address of representative, if any

Name:

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:

**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: *The Green, The Bumpy Field, Court Lodge Green.*

Location: *LAND REGISTRY STATES "LAND ON THE SOUTHWEST SIDE OF WOODLAND ROAD, LYMINGE"*

LAND REGISTRY TITLE NUMBER: K 674394

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):
(Included in Land Registry details)

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:

In the parish of Lyminge.

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

The Green, Lyminge, is used on a daily basis by a significant number of local people, and it represents an important recreational amenity for the village.

It has been used by parishioners for generations, with the use of it regarded as a right, and therefore this application is being made to secure that right for future generations.

The field is known by many names, most popularly "The Green", but also affectionately as "The Bumpy Field", and "Hump and Bumps". These names reflect the unique topography of the field, which is not only on a slope, but contains many interesting dips, hollows, ridges and historical earthworks.

These features give The Green its unique charm, where children play, make camps, ride bikes and go sledging in the winter. Walkers, dog walkers, runners and horse riders use the land daily, not only adhering to the footpaths, but using the expanse of the area.

Permission is not sought from the landowners for these uses, and use has never been denied.

The Green also contains the only old pond in the village. This seasonal pond adds to the amenity and habitat value of the field.

This application is supported by witness statements (see enclosed questionnaires) and a separate 'Justification report' document enclosed.

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

According to the Land Registry Title Plan K674394 (enclosed), the owners are: Peter Nettlem Tory, Susan Amanda Rice, and James Nettlem Tory, all of Etchinghill.

The Property Register also makes reference to a charity known as "The Tory Family Foundation".

It is believed that the owners can be contacted via: The Estate Office, Etchinghill Golf Course, Etchinghill.

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
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

Enclosed with this application are

- A copy of the Land Registry Register for Title Number K674394 including a 1:2,500 scale plan.
- A document entitled "Justification for the application to register 'The Green', Lynginge, as a Village Green - information to support Question 7 of form CA9".
- A copy of a 1:25,000 map annotated with the indicative locations of the homes of questionnaire respondents.
- In excess of 50 completed "Evidence Questionnaires in Support of Village Green Application".

It should be noted that additional completed questionnaires will be sent to the Commons Registration Authority at a later date.

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

It is believed that at least two of the owners of the field (as listed in the Land Registry papers) are Directors of at least one property development company known as Pentland Homes Ltd, Pentland Properties Ltd, or similar.

Note 12

The application must be signed by each individual applicant, or / the authorised officer of an applicant which is a body corporate or unincorporate.

12. Signature

Signature(s) of applicant(s):

Date: 5th July 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:
Summary of user evidence**

NAME	PERIOD OF USE	ACTIVITIES	FREQUENCY OF USE	COMMENTS
Adam Woodbridge	29 years	Walking, sledging, playing as child, cycling, dog walking	Weekly	Seen others daily walking, playing, picnics.
Gill Clitheroe	24 years	Walking, playing with children, tobogganing, enjoying views	Daily, now weekly	Seen other use daily: playing, dog walking, cycling, on way to shops and school. It's a local amenity.
Brett Clitheroe	23 years	Family walks, playing with children, fireworks, nature walks, accessing village	Daily	People socialise, play, walk, cycle, access village halls etc. One of most used public spaces in village
Mr & Mrs Norton	17 years	Walking & dog walking, use shortcut to village	Weekly	Outstanding area of beauty for village. Seen other use daily
Joan White	40 years	Walking, horse riding on bridleway	Daily, then weekly, now monthly	Seen others playing, walking, tobogganing, socialising
Mrs S Jones	39 years	Walking with children & grandchildren, sketching,	Weekly/monthly	Seen others playing, walking, sledging
John Steward	50 years	Walking, dog walking, sketching	Occasionally	Seen others walking, dog walking, playing, fireworks display, sledging. Always been widely viewed as village facility
G Wren	53 years	Walking with grandchildren, sledging, walking dog	Occasionally	Seen other use daily
J Betts	67 years	Dog walking, horse riding, scout games, school games	Occasionally	Seen other use daily; walking, games, riding
Mr & Mrs D Hall	35 years	Monthly parish walks, dog walking, horse riding, village activities	Daily/weekly	Seen other use daily, playing, walking, village activities
Paul Woodbridge	30 years	Dog walking, sledging, mountain biking	Daily	Seen other use daily, walking, horse riding,
Mr & Mrs Coldup	50 years	Walking, children playing, sledging	Occasionally	Others riding, walking
M Fentiman	6 ½ years	Walking	Occasionally	See others walking
Mr & Mrs Knowles	7 years	Dog walking, playing, village events, observing land formation	Daily	Other use walking, playing, cycling, pond cleaning. Consider it site of historical and archaeological interest.
T Wright	22 years	Dog walking, fireworks, children's BMX and cycling	Weekly	Other use walking, children playing, riding, cycling
R Gibson	23 years	Dog walking, sledging in winter	Daily	See others walking, mountain biking, bonfire night, sledging
Mrs D Parker	14 years	Walking, New Year celebrations	Monthly	Others walking, Bonfire Night.
Mr S Wren	37 years	Sledging & playing as children, dog walking, mountain biking	Daily / weekly over the years	1984-87 moved away. Seen other daily use walking, biking, playing "the place the whole village went sledging every winter"
Mrs J Tugwell	87 years	As child, teachers would take lessons on land in hot weather; sledging in winter, fireworks night	Very often, less now	Other use dog walking, children playing

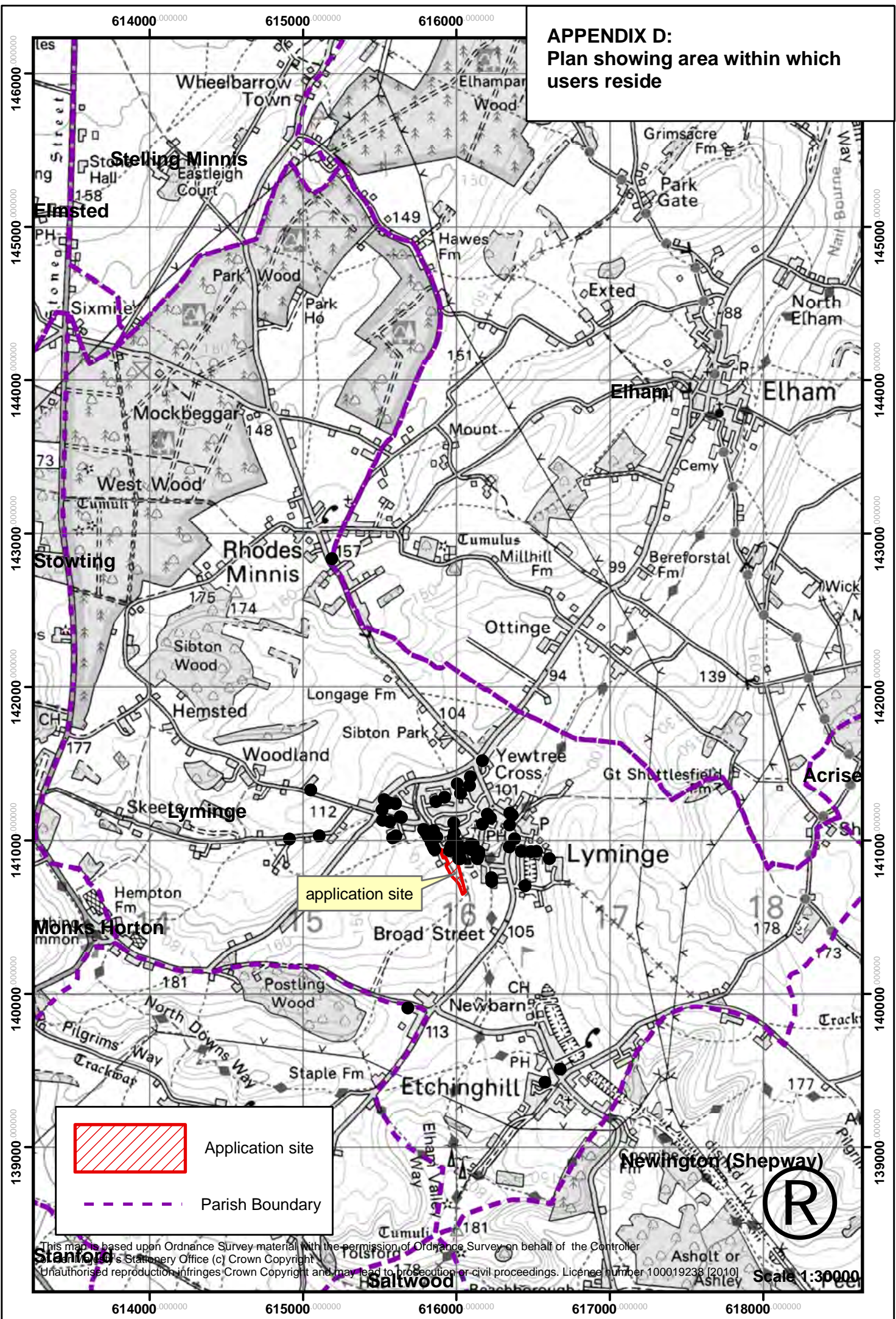
Mrs D Cross	28 years	Walking with friends & family	Monthly	See other sledging in winter
G Stanley	25 years	Walking & tobogganing with family	Monthly	Others dog walking & sledging. Sheep once grazed land
Wg Cmdr J Long	9 years	Dog walking, walking	Weekly	Seen others daily, walking and horse riding. Quiet and peaceful place important
Mrs S Huntley	8 years	Walking to Village Hall, dog walking, family games, cycling, sledging in winter, blackberrying	Approx 3 times a week	House overlooks the land & can see constant stream of people – walkers, children, all ages with different uses. Integral part of community for successive generations, immeasurable positive benefits to all village
R & M Sillwood	70 years	School sports, sledging, walking, dog walking	Occasionally	Seen others horse riding
Mrs P Martin	60 years	Sledging, picnics, bike riding, walking, playing as child, pond dipping, BMX	Occasionally	Often seen others dog walking, horse riding
Helen Burr	50 years	As child: playing sledging, making camps, ball games, school nature lessons, climbing trees. As adult: walking, dog walking, blackberrying	Weekly; daily as child	See others horse riding, cycling, skating, sledging, running, scout groups, playing. Five generations of family have enjoyed the Green
Vera Law	50 years	Walking, dog walking, playing with children & grandchildren	Occasionally	See others walking & children playing. School use it for projects, was traditionally grazed by sheep
Mark Yorke	45 years	Dog walking, sledging, kite flying, BMX	Daily	Seen others horse riding, walking, cub & scout groups. The Green part of my life & now my sons.
Mr & Mrs Kyte	40 years	Sledging, cycling, walking, football	Daily	Others riding, dog walking, biking, sledging
Susan Easton	42 years	Dog walking, sledging, blackberrying, enjoying nature with children, cycling, children playing	Daily	Seen others use: Horse riding, walking, sledging. Worked at Playschool and took children on Nature walks and pond dipping.
Steven Waite	15 years	Dog walking, family walks	Weekly	Seen others playing, walking daily
James Butcher	12 years	Dog walking, cycling, sledging	Weekly	Seen others walking, sledging, bonfire fireworks
Patsy Philip	24 years	Walking, picking fruit, teaching children about nature & pond life, children cycled, sledging	Daily	Seen others walking, cycling, sledging, picnicking, firework displays, scout groups, ball games – daily. Also area of great historical interest
Duncan Harrington	21 years	Walking dog, sledging, fireworks, children playing (now grown up)	Weekly	Seen others walking & playing
Mr & Mrs S Cunningham	26 years	Dog walking, children playing, tobogganing, nature studies	Daily	Seen others reading, sitting, walking, BMX, tobogganing, playing
Mr & Mrs Woodbridge	35 years	Horse riding, dog walking, walking, sledging	Daily	Seen others walking, playing, sledging. Use by school.
Frederick	35 years	Walking, dog walking, playing with	Daily/weekly	Seen others use daily – walking, playing

Leyser		children & grandchildren, sledging		
P Reynolds	10 years	Dog walking, fruit picking, nature trails	Weekly	Seen others walking, cycling, horse riding, games, children playing, sledging - daily
R Edmond	25 years	Dog walking, horse riding, tobogganing, fruit picking,	Daily/weekly	See others daily, walking, playing
Gill Colao	18years	Horse riding, dog walking, playing with children, cycling	Daily/weekly	See others daily walking, playing
Sarah Miller	6 years	Walking, nature watching, dog walking, tobogganing	Daily	See others daily walking, dog walking, children playing & on nature trails, tobogganing
Mr & Mrs Martin	31 years	Dog walking	Weekly	See others daily walking & children playing
Emma Harvey	12 years	Playing with children, fruit picking, nature trailing	Weekly	See others daily playing, cycling, dog walking
Mrs D Bloomfield	10 years	Taken pre-school for games & play, dog walking, nature walks with children	Weekly/ occasionally	Seen others daily walking, cycling, horse riding
Mr & Mrs J Gredley	18 years	Horse riding, dog walking, tobogganing, mountain biking	Weekly	Seen others daily dog walking, children's games, biking
Mr & Mrs J Leadbetter	10 years	Walking, grandson uses for sports practise	Weekly	See others daily dog walking, cycling, kite flying, football
Mrs J Fry	25 years	Treasure hunts, nature studies, cubs groups etc.	Twice a month, more in summer	See others walking, sports, riding. I run the local Beaver scout group & all scout & guide local groups use the land extensively
J Gretton	28 years	Walking dogs, tobogganing in winter	Weekly	
Joe Whalen	25 years	Dog walking, playing	Occasionally	
Adrian Hackford	12 years	Walking, blackberrying, place to think	Daily	See others daily walking, blackberrying, cycling, playing
Toby Griggs	30 years	Playing as child, dog walking, cycling	Monthly, more frequently as child	See others daily horse riding, walking, playing
Eleanor Clayton	40 years	Dog walking	Daily recently, used to be weekly	See others daily walking, horse riding, cycling, playing
Laurence Peacock	26 years	Walking, biking, sledging	Monthly	See others walking & playing daily
John Piddock	33 years	Walking, visiting church, community events	Weekly	See others daily walking, riding, cycling, village hall events
Michael Foxon	13 years	Walking, cycling, sledging in winter, girl guide trails, community events inc. tidy up	Weekly on average	See others most days walking, cycling, children playing, socialising, kite flying
Georgina Philip	25 years	Walking, picnics, sledging when winter, art classes with Primary school	Monthly	See others walking, picnics, horse riding daily

Susan Wiltshire	15 years	Walking	Occasionally	See others walking, playing, picnicking, horse riding
Keith Munro	10 years	Running, dog walking, bird watching, wildlife observing	Daily	See others daily dog walking, horse riding, biking, sledging in winter, running, fruit picking
Mr & Mrs R Harper	4 years	Walking	Weekly	See dog walkers, horse riders, children playing, sledging in winter – daily basis
Mr D McKnight	5 years	Dog walking	Occasionally	See others occasionally walking, riding
Pam Wooding	38 years	Walking & sledging in winter	Weekly now, less in childhood	See others most days riding, cycling, walking
Andrew Sillwood	29 years	Walking, sledging in winter	Occasionally	See others walking
Mr D Ryan	11 years	Dog walking, general walks	Weekly	See others walking, cycling, horse riding, most days
Tara Ryan	11 years	Dog walking, blackberry picking, firework display	Weekly	See others running, riding, children playing – daily
Kevin Ryan	11 years	Dog walking, leisure walking	Weekly	See others walking, cycling, horse riding, children playing, firework displays
Mrs A Baker	11 years	Dog walking, girl guide leader & uses for games & activities	2-3 times a week	See others riding, dog walking, rambling. Other scout & guide groups use land regularly
Benjamin Osbourne	27 years	Dog walking, cycling, games, tobogganing in winter	Monthly, more when younger	See others most days walking, cycling, playing games, horse riding
Mrs J Low	36 years	Played there as child, sledging in winter, walking, nature trails with own child	Occasionally, more when younger	See others walking, riding, pre-school & Primary school groups, kite flying, bikes, sledging in snow
Mrs D Yorke	46 years	Dog walking, taking cubs on hikes, blackberrying	Monthly	See others walking & playing daily
Mr & Mrs O'Brien	6 years	Walking with family	Daily	See others daily walking, riding, sledging in winter
Mr & Mrs M Thomas	11 years	Dog walking, recreation, picnics, kite flying, sledging in snow	Daily	See others walking, general recreation
Mr S Huntley	27 years	Running, fruit picking, play with children, sledge in winter, toy boats in pond, fly kites, dog walking	Daily	See others daily walking, cycling, scout activities, kite flying, games, fruit picking
Edward Osborne	28 years	Walking, dog walking, running, winter games & summer games	Daily, now twice a week	See others dog walking, running, cycling, rambling during week
Patrick Osbourne	28 years	Walking, running, sledging when snowing	Daily	Bonfire displays; see others walking, riding, sledging in winter
Susan Kyte	20 years	Ball games with children, bike riding, tobogganing in snow, exploring pond, help with Beaver & Cub activities	2/3 times a week, more in summer	See others horse riding, bike riding, ball games, walking - daily

Mr & Mrs R Hendrick	43 years	Walking, sledging in winter	Occasionally	See others walking, biking
Georgina Osborne	28 years	Walking with & without dog, blackberrying, nature spotting, children's cycling,	Daily with dog and children, now occasional use	See others use daily – walking, horse riding, cycling, playing, cubs activities, tobogganing in winter
Mr R Easton	42 years	Dog walking, picking blackberries, kids sledging in snow	Daily	Daily see walkers and riders
Philip Wilson	15 years	General walking, children's play, village bonfires, tobogganing in winter, socialising	Daily in summer, less in winter	Daily see children playing, biking, horse riding, dog walking, use by cubs/Beavers, village events. Approached owner 2007 re leasing part of land for communal orchard; refused
Mrs Chitty	27 years	Walking, photograph nature	Weekly now occasionally	See others riding, biking, sledging in snow
David Hunt-Cooke	25 years	Dog walking, playing with children, tobogganing in winter, mountain biking	Daily	See others daily dog walking, playing, riding, tobogganing & blackberrying in season
Jennifer Huntley	28 years	Walking, playing, admiring view, blackberrying. Ran youth club in 1980's and regularly used land	Daily /weekly	Daily use by others : horse riding, bikes, playing, walking, firework display, sledging in winter
Mark Ethell	15 years	Dog walking, children playing, kite flying, sledging & snow fun in winter	Lots when children were small, less now	See others horse riding, playing, cycling, sledging in winter dog walking - often
Karen Hutchinson	8 years	Walking	Monthly	See others Walking, sledging in winter

APPENDIX D:
Plan showing area within which users reside



Application site



Parish Boundary

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