

Application to register land at South View Road in Tunbridge Wells as a new Town or Village Green

A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 24th September 2013.

Recommendation: I recommend that the applicant be informed that the application to register land at South View Road in Tunbridge Wells as a new Town or Village Green has been accepted, and that the land subject to the application (as shown at Appendix A) be registered as a Village Green.

Local Member: Mr. P. Oakford

Unrestricted item

Introduction

1. The County Council has received an application to register land at South View Road at Tunbridge Wells as a new Town or Village Green from local resident Mrs. M. Heasman ("the applicant"). The application, made on 26th November 2011 was allocated the application number VGA651. 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**¹, e.g. by way of the erection of fencing or a notice (section 15(3) 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

¹ Note that after 1st October 2013, the period of grace will be reduced from two years to one year (due to the coming into effect of section 14 of the Growth and Infrastructure Act 2013). This will only apply to applications received after that date and does not affect any existing applications.

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 (“the application site”) consists of an area of grassed open space of approximately 1.67 acres (0.67 hectares) in size situated at the junction of South View Road and Colebrook Road in the High Brooms area of the town of Tunbridge Wells. The application site is shown in more detail on the plan at **Appendix A**.
7. Access to the application site is via the unfenced boundaries of the land with South View Road, Colebrook Road and Holmewood Road, or via alleways leading from/to Montgomery Road and Tedder Road. There are no recorded Public Rights of Way on or abutting the application site, although there are two surfaced paths crossing the site.

Preliminary issues

8. It should be noted that the application originally included what is currently a tarmac parking area on the north-eastern part of the application site (accessed via Montgomery Road).
9. At the consultation stage, Mr Colin Lissenden of the Town and Country Housing Group (“TCHG”) raised objection to the inclusion of this piece of land within the application site. Although the land was registered with the Land Registry as being within the ownership of Tunbridge Wells Borough Council, this was due to an administrative error and the land was in fact in the ownership of TCHG.
10. The objection was made on the basis that, until approximately five years ago, the land in question had consisted of a garage block that had been demolished due to anti-social behaviour issues. For this reason, Mr. Lissenden contended that that part of the application site was not capable of being registered as a Village Green.
11. Having considered this issue, the applicant confirmed that she wished to exclude this part of the application site from her application. The extent of the application site to be considered by the Panel is therefore as shown at **Appendix A**.

The case

12. 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.
13. Included in support of the application were 54 user evidence questionnaires and nine statements in support of the application. A summary of the user evidence submitted in support of the application is attached at **Appendix C**.

14. The application also included a statement of support for the application confirming that the land has been used by local residents for at least 65 years for a range of recreational activities, including ball games, playing with children, socialising and blackberrying.

Consultations

15. Consultations have been carried out as required.
16. Local resident Mr. D. Marsh wrote in support of the application. He said that, along with his family, he had used the land on a daily basis as a recreational facility and for dog walking. The nature of the housing and small size of gardens in the locality meant that this was a valuable piece of open space, where local events had been held which adds to the sense of community in High Brooms.
17. Tunbridge Wells Borough Council, in its capacity as the local planning authority, responded to the effect that from the information available it was not possible for it to confirm that the application site had been used 'as of right' by a significant number of local residents for the purposes of lawful sports and pastimes.

Landowner

18. The application site is owned by the Tunbridge Wells Borough Council ("the landowner") and is registered with the Land Registry under title number K943777. The landowner has been contacted, and has also been provided with a copy of the application, but, having considered the information, has decided not to make any representations in respect of the application.
19. Members should be aware that the absence of any objection to the application does not automatically guarantee its success. In determining whether or not the land is capable of registration as a Village Green, the County Council must be still satisfied that each and every one of the legal tests have been met. If one of the legal tests is not met, then the application as whole must fail.

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 statutory scheme in relation to Village Green applications is based upon the English law of prescription, whereby certain rights can be acquired on the basis of a presumed dedication by the landowner. This presumption of dedication arises primarily as a result of acquiescence (i.e. inaction by the landowner) and, as such, long use by the public is merely evidence from which a dedication can be inferred.
22. In order to infer a dedication, use must have been 'as of right'. This means that use must have taken place without force, without secrecy and without permission ('*nec vi, nec clam, nec precario*'). In this context, force refers not only to physical force, but to any use which is contentious or exercised under protest²: "*if, then, the inhabitants' use of the land is to give rise to the possibility of an application being made for registration of a village green, it must have been peaceable and non-contentious*"³.
23. The test for determining whether use has been contentious is to ask whether the owner of the land has taken reasonable steps to bring to the attention of the users his objection to the use of the land⁴. The law does not require the landowner to have taken every possible step; he need only have taken reasonable steps that are commensurate to the scale of the problem facing him⁵.
24. In this case, there is no evidence of any attempt by the landowner (or by anyone else) to prevent or impede access to the application site. None of the witnesses refer to any barriers to use or any prohibitive notices on the application site. Indeed, it is clear from visiting the application site that access to it is free and unrestricted, both from the adjacent roads and from the alleyways that provide access to it from the neighbouring residential areas and there is no physical evidence on the ground to suggest that the application site has ever been fenced.
25. Although reference is made in the application to local events being held on the application site (notably fetes and jubilee celebrations), and there is no indication as to which, if any, of these events was held with the permission of the landowner, attendance at these formal events is not relied upon by the applicant as qualifying use in support of the application. Nor is there any evidence that the use of the application site for these events had the effect of precluding co-existing informal recreational use taking part on any part of the application site (e.g. by fencing off a particular area and making a specific charge for entry to that area).
26. In the absence of any evidence to the contrary, it can be concluded that use of the application site for recreational purposes has taken place 'as of right'.

² *Dalton v Angus* (1881) 6 App Cas 740 (HL)

³ *R (Lewis) v Redcar and Cleveland Borough Council* [2010] UKSC 11 at paragraph 92 per Lord Rodger

⁴ *Smith v Brudenell-Bruce* [2002] P&CR 51

⁵ *Taylor v Betterment Properties Ltd and Dorset County Council* [2012] EWCA Civ 250

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

27. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. 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'*⁶.
28. The summary of evidence of use by local residents at **Appendix C** shows the activities claimed to have taken place on the application site. These include dog walking, children playing, ball and frisbee games, picnics and fruit picking.
29. Although there are no recorded public rights of way over the application site, there is evidence that some local residents used the application site as a short cut to reach various local facilities such as the school, shops, allotments etc. Use of a particular piece of land merely as a thoroughfare is a 'public right of way type use (because it is by nature linear use of a defined route as opposed to wandering at will over a wider area) and such use will not be qualifying use for the purposes of Village Green registration.
30. The issue was considered by the Courts in *Laing Homes*⁷, 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'*. Accordingly, where reference is made to use of the application site as a shortcut, such use must be disregarded in considering the user evidence as a whole.
31. Notwithstanding the references to 'footpath-type use', the evidence submitted in support of the application contains a wide range of sports and pastimes that would count as qualifying activities for the purposes of Village Green registration.

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

32. 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.
33. 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*⁸ 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*

⁶ *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

⁷ *R (Laing Homes) v Buckinghamshire County Council* [2003] 3 EGLR 70 at 79 per Sullivan J.

⁸ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

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'.

34. In cases where the locality is so large that it would be impossible to meet the 'significant number' test (see below), it will also be necessary to identify a neighbourhood within the locality. The concept of a 'neighbourhood' is more flexible than that of a locality, and need not be a legally recognised administrative unit. On the subject of 'neighbourhood', the Courts have held that *'it is common ground that a neighbourhood need not be a recognised administrative unit. A housing estate might well be described in ordinary language as a neighbourhood... The Registration Authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness; otherwise the word "neighbourhood" would be stripped of any real meaning'*⁹.
35. In this case, the applicant has specified the relevant locality (at part 6 of the application form) as being 'High Brooms and part of the Borough of Tunbridge Wells to the west and south of The Green'.
36. The description provided by the applicant, of itself, does not constitute a single legally recognised administrative area¹⁰. The reason for this is that the application site is situated on the boundary of the town of Tunbridge Wells and the neighbouring parish of Southborough¹¹, and users of the site are fairly evenly split between the two localities.
37. However, the majority of the users state that they are residents of High Brooms. Although 'High Brooms' is normally included within the parish of Southborough¹², the evidence here suggests that the community of High Brooms extends beyond the formal parish boundaries, with a number of residents living in Cambrian Road, Cunningham Road and Woodland Close (all officially within the town of Tunbridge Wells) identify themselves as being residents of the community of 'High Brooms'.
38. The community of High Brooms can be considered a cohesive entity with its own community facilities (including a railway station, post office and a primary school) and would clearly fall within the definition of a neighbourhood (which need not be a legally recognised administrative unit).
39. Having identified the relevant neighbourhood, it is then necessary to identify the locality or localities within which it is located. As can be seen from the plan at **Appendix D**, the community of High Brooms straddles the boundaries of the parish of Southborough and the town of Tunbridge Wells (both of which are legally recognised administrative units).

⁹ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

¹⁰ If the case is to rely on a locality, rather than a neighbourhood within a locality, then the application will only succeed where the recreational users are residents of a single locality (per Lord Hoffman in *Oxfordshire* and affirmed in the *Paddico* case). However, if the case relies upon a neighbourhood within a locality, that neighbourhood may sit within one or more localities (per Lord Hoffman in *Oxfordshire* and affirmed by Arden LJ in the *Leeds* Case).

¹¹ The boundary runs along South View Road and continues to the rear of properties in Holmewood Road.

¹² For example, the local Borough Council Ward is called 'Southborough and High Brooms'

40. Therefore, the relevant 'neighbourhood within a locality' in this case is the neighbourhood of High Brooms within the localities of the parish of Southborough and the town of Tunbridge Wells.

"a significant number"

41. 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'*¹³. Thus, it is not a case of simply proving that 51% of the local population has used the application site; 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.

42. In this case, the application is supported by evidence forms and statements from over 60 local residents. Almost all of these witnesses recall having observed use of the application site by others for a range of activities on a daily basis.

43. It is therefore fair to conclude that use of the application site has not taken place merely by a few individuals as trespassers but, rather, by a significant number of local residents, and in manner such that the landowner would have been aware of the recreational use and had the opportunity to challenge such use.

(d) Whether use of the land 'as of right' by the inhabitants has continued up until the date of application or, if not, ceased no more than two years prior to the making of the application?

44. 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, section 15(3) of the 2006 Act provides that an application must be made within two years from the date upon which use 'as of right' ceased.

45. In this case, the application is made under section 15(2) of the 2006 Act and there is no evidence that actual use of the application site for recreational purposes ceased prior to the making of the application. As such, this test is met.

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

46. 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 'as of right' did not cease prior to the making of the application in 2011. The relevant twenty-year period ("the material period") is calculated retrospectively from this date and is therefore 1991 to 2011.

¹³ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

47. The user evidence submitted in support of the application (and summarised at Appendix C) demonstrates that use of the application site has taken place well in excess of the required twenty-year period. Accordingly, this test is also met.

Conclusion

48. As is noted above, regardless of the absence of any objection to this application, Members must be satisfied that each of the legal tests is met if the land is to be capable of registration as a Village Green.

49. In this case, the evidence suggests that the application site has been used for informal recreation without any challenge or restriction by a significant number of the residents of High Brooms. No evidence has been provided to indicate anything to the contrary and there is no physical evidence on the ground of any (recent) attempt to interfere with the recreational use.

50. Therefore, from close consideration of the evidence submitted, it would appear that the legal tests concerning the registration of the land as a Village Green (as set out above) have been met.

Recommendation

51. I recommend that the applicant be informed that the application to register land at South View Road in Tunbridge Wells as a new Town or Village Green has been accepted, and that the land subject to the application (as shown at **Appendix A**) be registered as a Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221568 or Email: mike.overbeke@kent.gov.uk

Case Officer:

Ms. Melanie McNeir – Tel: 01622 221511 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Countryside Access Service, 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 area within which users reside

558750 000000

559000 000000

APPENDIX A: Plan showing application site

141500 000000

141500 000000

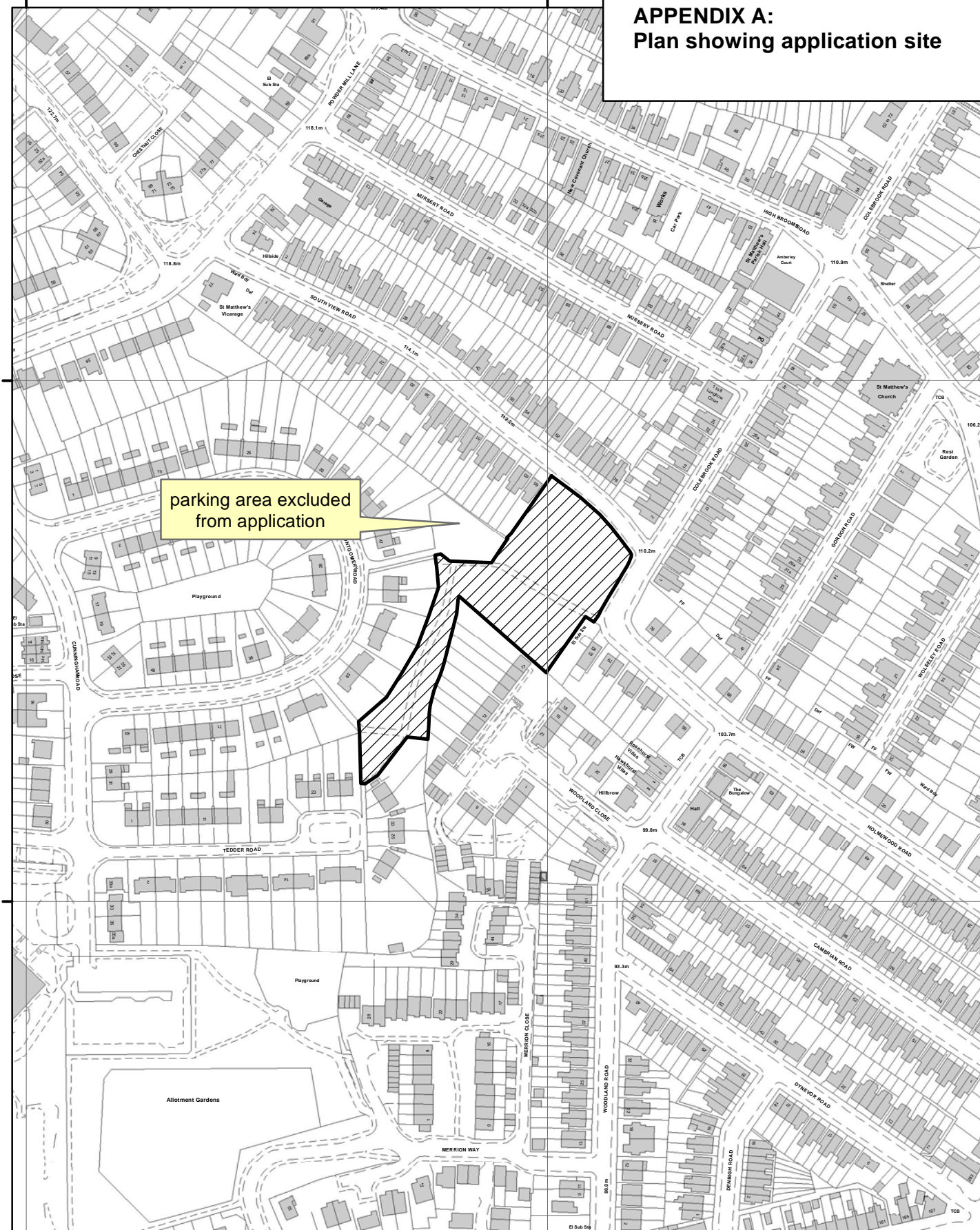
141250 000000

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parking area excluded
from application



Scale 1:2500

Land subject to Village Green application
at South View Road in Tunbridge Wells



**Kent
County
Council**
kent.gov.uk



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:

COMMONS ACT 2006
KENT COUNTY COUNCIL
REGISTRATION AUTHORITY
26 NOV 2012

Application number:

VQA651

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: 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: MARGARET HEASMAN

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 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:



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

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.

It is part of the land registered under Land Registry title number K943777.

Location:

Lying to the south-west of Southview Road and to the north-west of Colebrook Road, High Brooms.

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:

High Brooms and part of the borough of Tunbridge Wells to the west and south of The Green.

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



The locality is within the red ~~circle~~ edging on the map.

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 has been used;

As of right - it is completely open and anyone may enter it freely

For at least 20 years - it has been used for at least 65 years

For lawful sports and pastimes by a significant number of the local inhabitants as evidenced by the enclosed questionnaires and statements

and the use continues to now.

Full Statement attached.

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

TUNBRIDGE WELLS BOROUGH COUNCIL
TOWN HALL
CIVIC WAY
TUNBRIDGE WELLS
KENT
TN1 1RS

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

Map to the scale of 1:2500 showing the land by green colouring

Map to the scale of 1:10000 showing the locality by red edging

54 questionnaires

9 statements

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

Tunbridge Wells Borough Council made an application for planning permission to build houses on part of The Green (application no. 12/02692) in October, 2012. The application has now been withdrawn.

Note 12

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

12. Signature

Signature(s) of applicant(s):

Date: 20.11.2012

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.

Statement to accompany an application for the registration of The Green at
High Brooms as a village green

The open space at Southview Road and Colebrook Road, High Brooms (commonly known as The Green) has been used as prescribed by section 15 of the Commons Act 2006, as evidenced by the enclosed questionnaires and statements, as follows:

As of right

The Green is open on its boundaries with Colebrook Road and Southview Road and is approached by tarmac footpaths from Holmewood Road, Montgomery Road and Tedder Road and therefore anyone may freely enter it. No-one who has completed a questionnaire or statement has ever been stopped from using The Green and the only requests for permission were from St Matthew's Church to use The Green for annual community fun days which they held from 2007 to 2010 and from the organisers of a Jubilee fete which was held on 12 June 2012.

For at least 20 years

The enclosed questionnaires and statements are made by people who have lived in the High Brooms area for varying amounts of time, the longest time being 65 years. They show that The Green has been used and cherished by local people continuously for at least 65 years.

By a substantial number of the local inhabitants

The writers of the enclosed 54 questionnaires and 9 statements show that The Green has been used by them and their families and also by other local people whom they have seen using the land.

For lawful sports and pastimes

The enclosed questionnaires and statements show that The Green has been used:

Daily for exercising dogs (the Council provide dog waste bags and a bin to put them in and the bin is emptied every day, including Sundays).

When the weather permits, and according to the time of year and the current craze, for:

Playing football, cricket, tennis and rounders

Parents and grandparents playing with their children and grandchildren

Chatting to friends and taking exercise

Flying kites and playing with radio-controlled planes and cars

Skate-boarding, roller-skating, riding scooters, skipping, playing ball and for young children learning to ride bikes

Sunbathing and having picnics

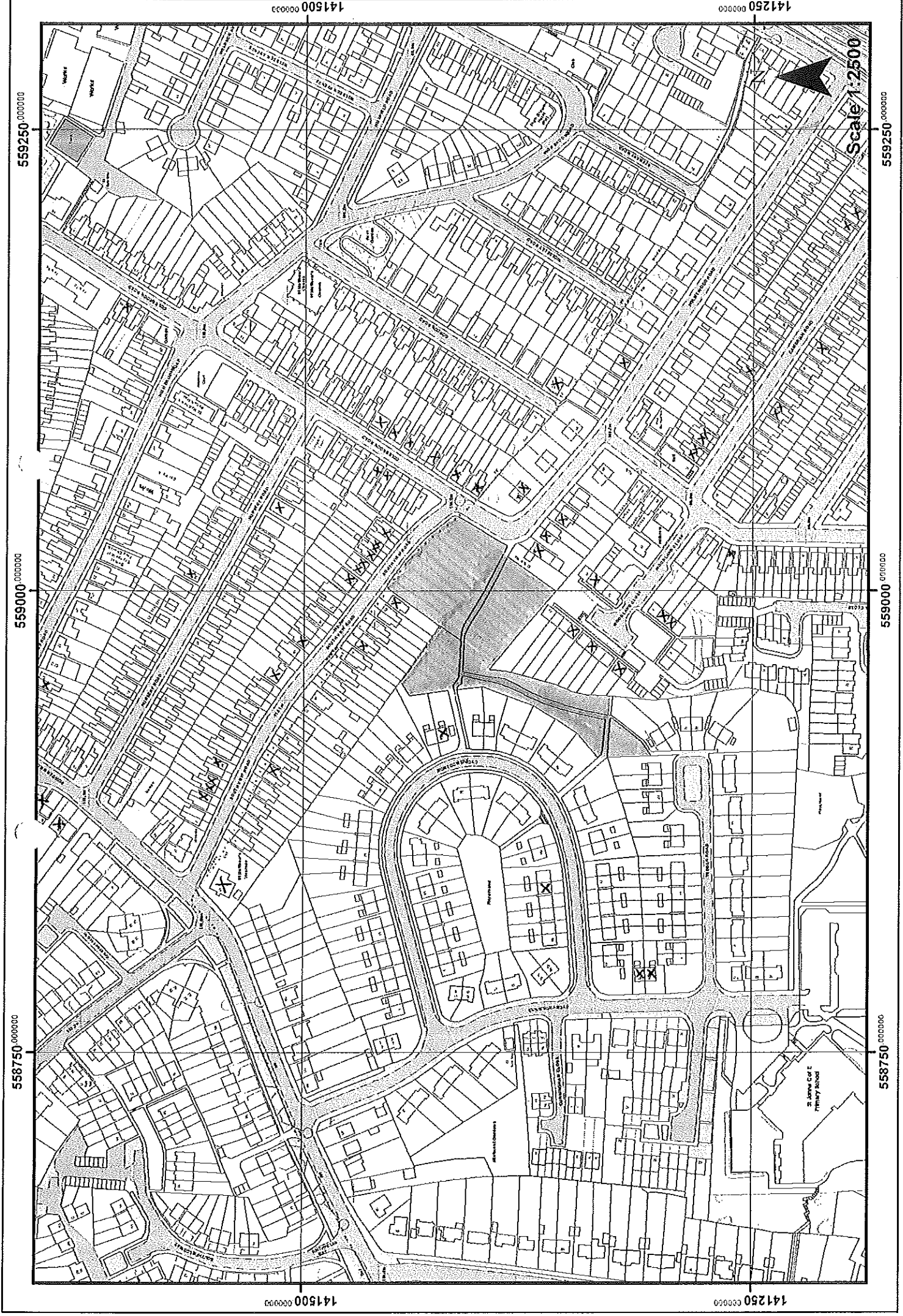
Tobogganing, making snowmen and having snowball fights

Stargazing and bug spotting

Picking blackberries, cobnuts and foliage

Weekly football club for children run by St Matthew's Church from 2007 to 2010

Fetes and jubilee celebrations and recently for Morris dancing



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141250 000000

558750 000000

559000 000000

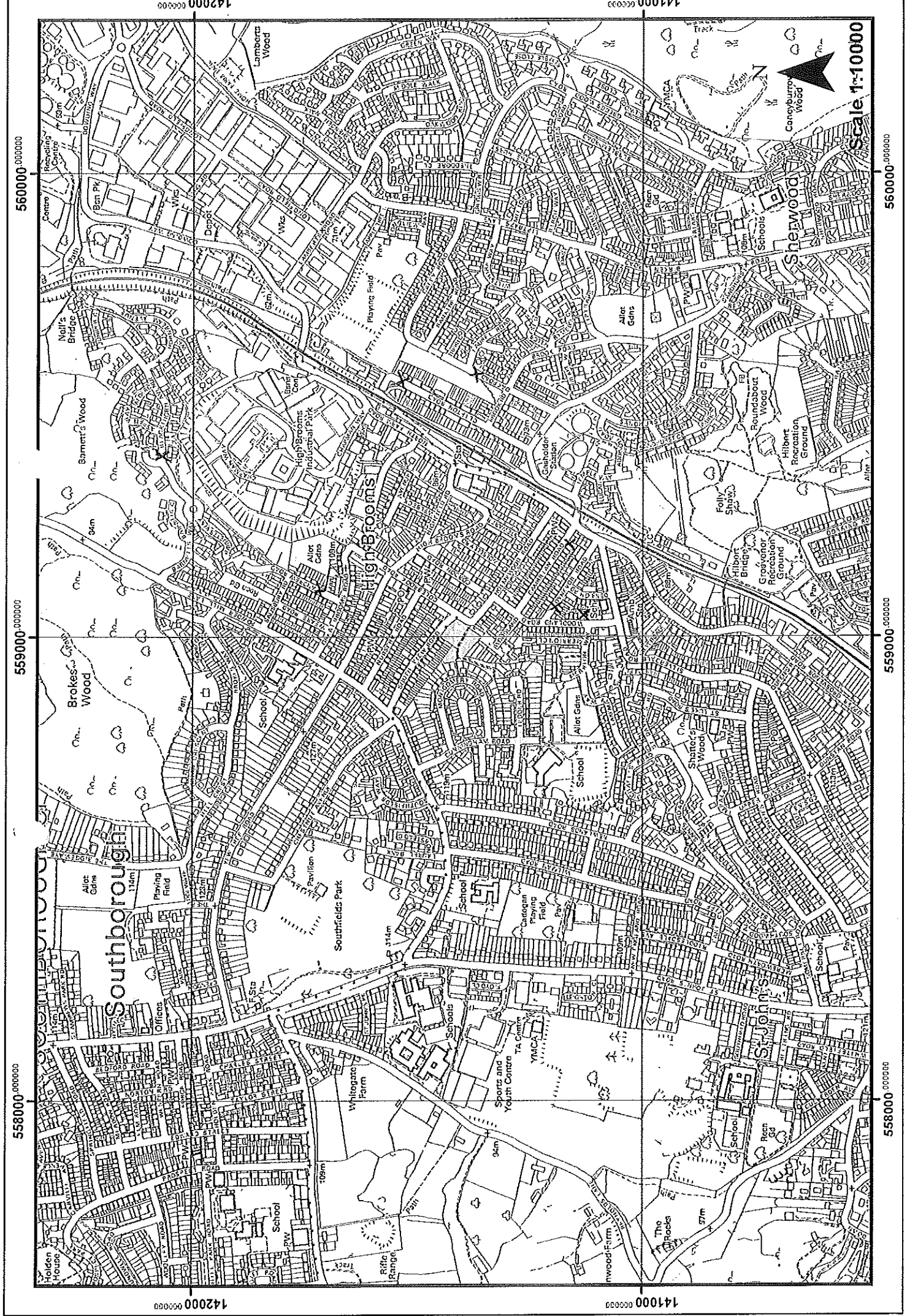
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Scale 1:2500



APPENDIX C:
Summary of user evidence

Name	Period of use	Frequency of use	Type of use	Comments
BEST, J	1960 – present	Daily, now weekly	Playing with children, dog walking, children played football.	Did not use between 1990 and 1995. Used daily when children were younger, now use weekly. Observed use by others on a daily basis. Site has also been used for a range of community events.
BLAKE, J	1987 – present	Weekly	Dog walking, playing games with children	Observed daily use by others.
BRADFORD, A+K	2007 – present	Occasionally	Walking to sports centre or shops, jubilee fete, cycling to work	Observed daily use by others.
BOYD, K	2006 – present	Daily	Walking, sunbathing, children's games, picking blackberries	Observed daily use by others.
BURCHETT, M	1982 – present	Daily	Playing with children	The land is a meeting place for friends and an integral part of bringing the High Brooms community together.
CAIRNEY, P	1988 – present	Weekly	Sports as a child, walk through, general relaxation	The land has been used for many sporting activities and is a safe place for youngsters
CAIRNEY, R	1988 – present	Monthly	Used as shortcut, played sports with children	The pathway across the land has been used as a shortcut for at least 24 years.
CLEGG, J	1987 – present	Weekly	Walking, both land itself and as access	Observed daily use by others.
COOPER, J	1948 – present	Not stated	Bonfires, sports, litter picking, football, play space, fetes	Frequently observe use by others. Used many times as a child.
CROFT, P	1992 – present	Daily	Children playing	Observed daily use by others
CROSS, A	1989 – present	Weekly	Attending fetes, dog walking	Used the land daily when younger. Observed use by other son a daily basis.
CROSS, S	1989 – present	Twice daily	Dog walking, ball games, Frisbee and other games, fete	Observed use by others on a daily basis
DUBOIS-WHITTAKER, N	2004 – present	Weekly	Walking	Observed use by others on a daily basis

EALLETT, L	1989 – present	Daily	Walking to school, dog walking, playing ball games with children, fetes	Local resident since 2003 only. Land is a valuable amenity used by many local people on a daily basis.
EVANS/HILL	2009 – present	Monthly	Waling for exercise, attending local events, reading, socialising	Observed use by others on a daily basis
FOX, M	1948 – present	Monthly	Dog walking, bonfire celebrations (1949-55), boys played football, jubilee celebrations.	Observed use by others on a daily basis
GIFFORD family	2005 – present	Daily	Dog walking, taking children to school, attending fairs and children playing	
HARRIS, T	1950 – present	Occasionally	Ball games, running, learning to ride a bike, dog walking, snow play, sunbathing	Used daily as a child, less often as an adult. Family has lived locally for several generations and the land has always been a green space enjoyed by thousands of local residents.
HAZELDINE, H	2008 – present	Weekly	Fetes, jubilee celebration, family rounders	Observed use by others on a daily basis.
HAZELDINE, S	2008 – present	Weekly	Fetes, dog walking, family activities, cricket and rounder's	Observed use by others on a daily basis.
HEAD, L	1989 – present	Daily	Dog walking, ball games, relaxation	Observed use by others on a daily basis.
HEASMAN, M	1986 – present	Daily, now occasionally	Dog exercising several times per day, walking, playing with children, picking cobnuts and holly	Used daily between 1987 and 2002.
INGLIS, J	1973 – present	Weekly	Walking through, attending fetes, playing with grandchildren.	Observed use by others on a daily basis.
JOHNSON, L+S	2004 – present	Daily	Walking, picking blackberry picking, church fun days, football, fetes, playing games	Live adjacent to the site and it is used every day by a large number of people for a variety of activities.
KELLY, A	2006 – present	Monthly	Walking, playing with children, traffic-free walk to allotment and playground, collecting sticks and elderberries	Observed use by others on a daily basis. The land adds huge value to High Brooms.

KNELLER, D	2008 – present	Weekly	Dog walking, taking children to school, attending fetes, playing rounders, practiced morris dancing	Observed daily use by others. Local people have been using the green for a long time; it is a place where people meet and important to local pensioners who walk their dogs there.
KNELLER, J	1978 – present	Daily	Local events, dog training/ exercise, playing football with children, snow play.	Observed use by others on a daily basis.
KNIGHT, S	2004 – present	Daily	Playing football with children, walking to school, attending fete, meeting with neighbours	Do not use during school holidays. Land is the only large green space in the local vicinity and used by so many residents.
LAW, N	1977 – present	Monthly (more when younger)	Playing as a child, dog walking	Observed use by others on a daily basis.
LEROY, D	1993 – present	Daily	Dog walking	This is historically a public facility and considered to be 'common land'
LINDUP, J	1961 – present	Daily	Organising jubilee celebrations, family play area, dog walking	The application site is the only one for public use in the area
LOCK, G	1996 – present	Weekly during summer	Football, cricket, kite flying, street party	
MARSH, D	1980s – present	Daily	Dog walking, child bike riding, ball games, kite flying, community events	Did not live in locality 1990s to 2005. Observed daily use by others.
MARSHALL, C	2007 – present	Daily	Children played ball, walking with or without dog	The land is there for the benefit of the local people who place great value on this space
MESSENGER, C	1992 – present	Weekly	Fetes	Observed use by others on a daily basis.
MITCHELL, J	1974 – present	Daily, now monthly	Dog walking, playing with children, collecting Christmas foliage, sunbathing	Used daily until 1995. Observed use by others on a daily basis.
MORLEY, L	1999 – present	Daily	Playing for children, walking	
NIMMO, S	2004 – present	Daily	Dog walking, community events, playing with children, football, Frisbee	This land is a very special place in the heart of the community and is well used by many local residents
OUTRAM, J	2002 – present	Most weeks	Playing with children, ball games, kite flying, family events organised by local church	Used daily for access to school/work, but most weeks for informal recreation

POWELL, D+B	2008 – present	Daily	Dog walking, playing football with grandchildren, socialising with families	
ROBERTS, S	1951 – present	Weekly	Playing as a child, playing with own children and grandchildren, jubilee celebrations.	
ROSS, T	1986 – present	Daily	Dog walking, socialising, sunbathing, attending events	Observed use by others on a daily basis.
SOLANKY, A+B	2005 – present	Daily	Playing with children	Local church used for fairs and football.
STEVENS, L	2004 - present	Daily	Picnics, fetes, walking, football, riding bikes, skateboarding, meeting friends, blackberrying, sunbathing, playing with children	Land is used daily by many people for a variety of reasons and serves the local community.
THORNTON, D	1988 – present	Weekly	Dog walking	Observed use by others on a daily basis.
WAKELY family	2002 – present	At least twice daily	Dog walking, playing with children, football, blackberry picking, walking to/from school, community events	Observed use by others on a daily basis. Land is always used by the community for stopping to socialise together.
WHITE, N	2003 – present	Weekly	Dog walking, football, bug hunting, star gazing, relaxation, picnics, playing with children	Observed use by others on a daily basis.
WHITLOCK, E	1969 – present	Daily	Fetes, dog walking, play with children	
WICKS, C	1982 – present	Weekly	Personal exercise, taking children to play games, church football club	Land used for community fun days with Council permission (2007-10). Observed use by others on a daily basis.
WILES, F	1952 – present	Daily/weekly	Fete, walking across it	
WOOD, C	1989 – present	Weekly	Dog walking, playing with children, fair, local childrens games	Observe use by others on every visit.
WOOD, D	1989 – present	Weekly	Community fair, litter pick, walking, playing with children	Permission sought for community fete in 2012.
WORTHINGTON, S	1987 – present	Daily/weekly	Dog walking, playing rounders, playing with children, snow play, shortcut to visit friends, local events, morris dancing	Observed use by others on a daily basis. Land is in constant use and of great value to local people
ZEALEY, B	1988 – present	Occasionally	Football, rounder's, cricket and street parties	Observed use by others on a daily basis

Summary of statements submitted in support of the application:

BOUGHTON, I+R – Lived in the area for 61 years and own children played there. The land is occasionally used by the church and dogs are walked there.

BURNS, B+M – The green has served High Brooms very well for many years. It has allowed children space to run and play away from traffic and has accommodated many local functions, fetes and church celebrations. Many people walk their dogs and the pathway across the green is used daily by children attending local schools.

BARBER-MALTBY, J – Lived in the area for 30 years. For the last 10 years, have used the land on a daily basis for dog walking and the land is a good place to meet and chat with other dog walkers. Many community events are held on the land, young people play football during the summer and it is a safe place for children to play. Never sought permission to use the land.

CHATFIELD, J – Family used the green regularly to walk dog and have also attended fundraising functions. The land is a great place to meet with friends and to play snow games.

COOPER, D – The land is a safe haven for children to play on, a meeting place, somewhere to walk a dog and a place to share community events.

ELLEN, A – The green is a valued area for the community with many annual events, it is a perfect meeting place for people walking their dogs and children feel safe playing there.

HEAD, P+T – Lived locally for 20 years and own children have played on the land, with rounders being one of the games played. Annual events are also held there, use the land for dog walking, as well as meeting and socialising with neighbours.

MATHEWICK, P – Lived in South View Road for more than 50 years and use the green for walking. The land is a valuable asset to the local community and has been used for local events, children paying games and football coaching.

OSBORNE, S – The land has always been known and used as a Village Green. In recent years, functions have been held there and several generations of children still play there. Use the land for dog walking and to meet and chat with other people out for a stroll with their pets.

APPENDIX D:
Plan showing the area within
which users reside

