

Application to register land at Showfields 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 Showfields 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 D) be registered as a Village Green.

Local Member: Mr. J. Scholes

Unrestricted item

Introduction

1. The County Council has received an application to register land at Showfields in Tunbridge Wells as a new Town or Village Green from local resident Mr. R. Fitzpatrick ("the applicant"). The application, made on 29th June 2012 was allocated the application number VGA649. A plan of the site (as originally applied for) 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 consists of an area of open space of approximately 1.1 acres (0.45 hectares) in size that is bounded by the rear of properties in Cherry Tree Road, Rowan Tree Road and Showfields Road in the Showfields area of the town of Tunbridge Wells. In the main, the application site has a grass surface but it also includes a paved area in the north-eastern corner adjacent to the library and part of a car park situated on its eastern boundary. The area of land subject to the application (as originally made and subject to the amendments described below) is shown in more detail on the plan at **Appendix A**.
7. Access to the application site is via a car park situated adjacent to the Community Centre on Showfields Road, or by a number of surfaced paths leading onto the application site. There are no recorded Public Rights of Way on or abutting the application site.

The case

8. 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 over 20 years.
9. Included in support of the application were 38 user evidence forms, a letter in support of the application, various maps showing the application site and the relevant locality, a statement of residents' utilisation history, as well as photographs showing the application site. A summary of the user evidence submitted in support of the application is attached at **Appendix C**.
10. The applicant's case is that the application site has been used as a recreational area and community hub since its construction by Tunbridge Wells Borough Council, as part of the Showfields Estate, in 1968. The land has provided a venue for many community events since its construction, including the annual Showfields Fun Day, and is the subject of year-round use by walkers (with or without dogs), exercisers, children playing games and other sports activities.

Consultations

11. Consultations have been carried out as required.
12. Borough Councillor Mr. C. Woodward responded on behalf of himself, Borough Councillor Mrs. B. Cobbold and County Member Mr. J. Scholes, to advise that they were generally happy to support the application but that they had concerns that parts of the application site were required for the redevelopment of community facilities and Village Green status might prevent such redevelopment from taking place.

13. Tunbridge Wells Borough Council's Planning Department, in its capacity as the local planning authority, stated that it had no objection to the application on the basis that Village Green status would not conflict with the designation of the site in the Tunbridge Wells Local Plan 2006 as a 'neighbourhood centre' and 'important local space'. The response is accompanied by an Officer report setting out in more detail the reasoning behind these comments.
14. Mr. Colin Lissenden, on behalf of the Town and Country Housing Group ("TCHG"), objected to the application on the basis that part of the application site was in the ownership of TCHG and is located behind fences enclosing private gardens. He added that the application included a car park area used by residents and noted that, if successful, the application would not only severely affect any future regeneration plans that may come forward but also detract any future investment to improve the land to serve the best interests of the community.

Amendment to the application

15. Having considered the consultation responses, the applicant sought to amend his application to exclude various small parcels of land forming part of the application site.
16. In response to the objection by TCHG, the applicant confirmed that it was not his intention for the application to encroach upon neighbouring properties that did not form part of the application site and explained that this land had been included by surveying error. Accordingly, the applicant wished to amend his application by excluding a slither of land abutting Lavender Court on the southern boundary of the application site.
17. In response to the comments made by Borough Councillor Woodward, the applicant advised that he did not wish to jeopardise any future enhancements to the community centre and, as such, it was his intention to amend his application by withdrawing from it an area of land abutting the community centre (which includes part of the car park).
18. The applicant also withdrew a small area of land on the northern boundary of the application site, adjacent to the doctor's surgery, which had also been included by surveying error.
19. Strictly speaking, there is no statutory right for an applicant to amend his/her application once it has been made. However, DEFRA's guidance is that the registration authority should be guided by the principle of fairness; if the amendment is so significant that a new notice ought to be published, then it may be appropriate to refuse the amendment on the grounds of possible prejudice to other parties.
20. In this case, the amendments to the application site sought by the applicant are de minimus and it is not considered that any prejudice would be caused to any of the parties were they to be allowed.
21. The amended application ("the application site"), and the area to be considered by the Panel, is therefore as shown at **Appendix D**.

Landowner

22. The remainder of the application site is owned by the Tunbridge Wells Borough Council (“the landowner”) and is registered with the Land Registry under title number K278538.
23. The landowner has objected to the application on the following grounds:
- That registration of a car park, footpaths, circulation areas and walkways of a building complex is manifestly outside the scope and intention of the Commons Act 2006;
 - That 62% of users have not used the application site for the full twenty-year period;
 - That several users refer to the use of the site to access community facilities, which consists of a ‘right of way type use’;
 - That the use of the land for organised events is by virtue of permission granted by the landowner; and
 - That only 12 of the 2200 local residents have used the land for the full qualifying period, which does not constitute a ‘significant number’.

Legal tests

24. 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, if not, ceased no more than two years prior to the making of the application?*
 - (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'?

25. The definition of the phrase ‘as of right’ has been considered by the House of Lords. Following the judgement in the *Sunningwell*² 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.
26. In this case, there is no evidence that any use of the application site has taken place in secrecy or in exercise of any force. It is clear from a visit to the site that access to it is free and unhindered; indeed, it would be very difficult in practice to secure the application site due to the various entrances on to it.
27. The landowner contends that it has granted permission for specific community events to take place on the land, and has produced a copy of an agreement with

² *R v. Oxfordshire County Council and another, Sunningwell Parish Council [1999] 3 All ER 385*

the Number One Community Trust for the hire of the land for a fun day in 2009. The landowner's case is therefore that use of the application site for organised events, such as fun days and fetes, has been by virtue of an implied permission from the landowner.

28. Where formal events are held with the landowner's permission people entering the land to attend those events are, in effect, doing so by invitation of the landowner (i.e. as an extension of that permission). However, in order for use to be 'as of right', people must be entering the land as trespassers. This is clearly not the case where the landowner has granted specific permission for an event to take place on his land. As such, attendance at fun days and fetes will not be qualifying use for the purposes of Village Green registration (because it will not be 'as of right') and such use should be disregarded when evaluating the user evidence.
29. It should be noted, for completeness, that there is no evidence that the fun days or fetes involved fencing off the land, otherwise restricting access or payment of a fee for entry. As such, the recent decision in the Mann³ case does not apply here.
30. There is no evidence that the landowner has granted any permission to any individual for the purpose of engaging in informal recreational use of the application site. As such, any use that was not related to attending the fun days or fetes will have taken place 'as of right'.

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

31. 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*'⁴.
32. The landowner refers to 'rights of way' type use not being qualifying use of the purposes of Village Green registration. It is quite correct that any use of a linear defined route (i.e. walking from A to B across the land) must, as a general principle, be disregarded for the purposes of a Village Green application. This was confirmed in the case of Laing Homes⁵ in which it was noted 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*'. Thus, use that is in exercise of an existing right, or has the appearance of a rights of way type of use along a defined linear route, is not capable of giving rise to a general right to recreate over the whole of the land.

³ *R (Mann) v Somerset County Council* [2012] EWHC B14 (Admin)

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

⁵ *R (Laing Homes) v Buckinghamshire County Council* [2003] 3 EGLR 70 at 79 per Sullivan J

33. The summary of evidence of use by local residents at **Appendix C** shows the activities claimed to have taken place on the application site. It shows that, of the 38 user evidence forms submitted in support of the application, one person admitted to using the application site very infrequently over the last 40 years, three people are not resident in the qualifying locality, and a further 10 people have used the application site but not for qualifying activities (i.e. their use consisted only of attending fetes or a rights of way type use).
34. In this case, therefore, there is qualifying evidence of use from 24 local residents. That use consists, as one might expect given the location, predominantly of walking (with or without dogs) and playing with children. Accordingly, it can be said that the application site has been used 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?

35. 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.
36. 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 Builders⁶ 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*'.
37. 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*'⁷.
38. In this case, the applicant has specified the relevant locality (at part 6 of the application form) as being 'Showfields Estate, Tunbridge Wells and Ramslye Estate, Tunbridge Wells'. A plan showing the area within which users reside, and the neighbourhood as defined by the applicant, is attached at **Appendix E**.

⁶ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

⁷ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at page 92

39. Showfields and Ramslye are both residential housing estates constructed by Tunbridge Wells Borough Council, the former in 1968 and the latter in the post-war era. Each has its own unifying features (e.g. housing age and style) and facilities that serve the local community; for example, in Ramslye there is a primary school and a post office, and in Showfields there is a library, a doctor's surgery and a community centre. In some cases, these facilities are shared between the two communities. As such, it is considered that both Showfields and Ramslye comprise distinct and identifiable communities within the town of Tunbridge Wells, both of which would be capable of being qualifying 'neighbourhoods' for the purposes of Village Green registration⁸.
40. However, having considered the evidence in more detail, it is evident that a number of the witnesses do not live within the applicant's specified locality. It has therefore been necessary to consider whether there is an alternative qualifying locality⁹.
41. The Regulations¹⁰ provide that an application must be made in reliance of any parish, electoral ward or other local administrative area. In this case, there is no parish but the majority of the users reside within the Broadwater ward of Tunbridge Wells Borough Council (as shown at **Appendix F**). An electoral ward is a legally recognised administrative unit and DEFRA's advice is that an electoral ward will be a qualifying locality for the purposes of a Village Green application¹¹.
42. Therefore, the relevant locality in this case is the Tunbridge Wells Borough Council electoral ward of Broadwater.

"a significant number"

43. 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'*¹². 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.

⁸ In *Leeds Group plc v Leeds City Council* [2010] EWCA Civ 1438, the Court of Appeal confirmed that more than one neighbourhood within a specified locality could be relied upon in support of a Village Green application.

⁹ In *R (Laing Homes) v Buckinghamshire County Council* [2003] 3 EGLR 70, Sullivan J held that the application form does not require an applicant to commit to a particular locality was *'not to be treated as though it is a pleading in private litigation'*. He added: *'the Registration Authority should, subject to considerations of fairness... be able to determine the extent of the locality within which inhabitants are entitled to exercise the right on the light of all the available evidence'*.

¹⁰ See paragraph 9(c)(i) of Schedule 4 of the Commons Registration (England) Regulations 2008

¹¹ See paragraph 8.10.28 of the DEFRA guidance entitled: Part 1 of the Commons Act 2006 - Guidance to commons registration authorities and the Planning Inspectorate for the pioneer implementation

¹² *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

44. In this case, one of the objections raised by the landowner is that only 12 of the 2200 local residents have used for the full qualifying period, which does not constitute a 'significant number'. However, as is noted above, the test is qualitative, rather than quantitative; what matters is whether use of the application site has been sufficient to indicate that it has been general use by the community.
45. The applicant has provided a helpful summary of the use of the land made by local residents in support of his application. He states that local inhabitants using the green, while seasonably variable, are more or less continually visible. He adds that dog walkers use the land approximately half a dozen times per day, the play area is used daily and year-round, by the local children's groups and boys playing football, riding bikes and occasionally skateboards can be seen on the green on a daily basis outside of school hours.
46. Even taking into account the fact that some of the use is transitory in nature (e.g. jogging and walking to shops) and therefore not qualifying use for the purposes of Village Green registration, it is clear that the application site has been in general recreational use by the community. This is supported by the Borough Council's Planning Department's comments that "*it is clear that the land does get used by the local community for a variety of reasons and this is reflected to some extent by the designation of the site within the Tunbridge Wells Borough Local Plan 2006 as a neighbourhood centre and in its designation as an important open space*".
47. Despite the landowner's assertions to the contrary, it would appear that the application site has been used by a significant number of the residents of the qualifying neighbourhoods within a locality.

(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?

48. 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.
49. 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?

50. 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 2012. The relevant twenty-year period ("the material period") is calculated retrospectively from this date and is therefore 1992 to 2012.
51. One of the Borough Council's objections is that 62% of users have not used the application site for the full twenty-year period. However, it is a well-established principle of this area of the law that not every user need have used the application

site throughout the full twenty-year period¹³; provided that the user evidence as a whole demonstrates that the application site has been in general use by the community, this will be sufficient to meet the test.

52. In this case, there is evidence of use throughout the period 1992 to 2012, albeit that not all of the users have used the application site throughout the relevant twenty-year period.

Conclusion

53. The landowner asserts that the registration of parts of the application site (namely the car park, footpaths, circulation areas and walkways of a building complex) is 'manifestly outside the scope and intention of the Commons Act 2006'. However, whilst the Commons Act 2006 sets out the legal tests that must be met for land to be registered as a Village Green, it does not prescribe any conditions in terms of the nature or appearance of the land. Indeed, some of the most famous Village Green court cases relate to land which are entirely inconsistent with the traditional image of a Village Green¹⁴. The appearance and physical features of the land are therefore largely irrelevant.

54. Some of the other issues raised by the landowner are also not relevant considerations. In particular, the criticisms relating to the length of use by some residents and the question of whether the land has been used by a 'significant number' of the local residents. Ultimately, the fact that the majority of the land is shown in the Borough Council's Local Plan as being an 'important open space' confirms that the landowner is well aware of its amenity value and the recreational use made of it by local residents.

55. The landowner has raised legitimate concerns regarding 'rights of way' type use. However, as set out above, the evidence provided in support of the application does not rely solely on use of this kind and there is evidence of alternative activities that would constitute 'qualifying use' for the purposes of Village Green registration.

56. Considering the evidence as a whole, the overall image presented of the application site is one of a community focal point that has been used by the residents of the Showfields and Ramslye Estates for a range of recreational activities on a regular basis for well in excess of twenty years. The County Council can only consider the evidence placed before it by the parties, and the landowner has not been able to provide sufficient grounds for rejection of the application, or indeed any significant conflicts of fact that might require further examination of the evidence.

57. Accordingly, for the reasons set out in this report and from close consideration of the evidence submitted, it would therefore appear that the legal tests concerning the registration of the land as a Village Green (as set out above) have been met.

¹³ *Davis v Whitby* [1974] 1 All ER 806 (CA)

¹⁴ For example, in *Oxfordshire County Council v Oxford City Council* [2006] UKHL 25 (also known as the 'Trap Grounds' case), one third of the land consisted of reed beds that were permanently underwater and inaccessible to ordinary walkers whilst the remaining two-thirds was largely impenetrable by virtue of thick scrub and builders' rubble. It was estimated that only approximately 25% of the surface area of the land was reasonably accessible to the hardy walker.

Recommendation

58. I recommend that the applicant be informed that the application to register land at Showfields 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 D**) 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 land subject to application (as originally made)

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing amended application site (i.e. land to be registered)

APPENDIX E – Plan showing area within which users reside and neighbourhoods as defined by the applicant

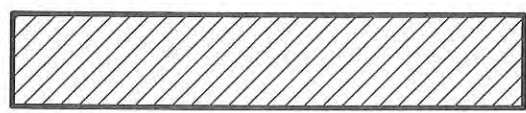
APPENDIX F – Plan showing area within which users reside and qualifying locality of Broadwater ward

APPENDIX A:
Plan showing application site (as originally applied for)



Scale 1:1250

Land subject to Village Green application
at Showfields in Tunbridge Wells



FORM CA9

APPENDIX B:
Copy of the application form

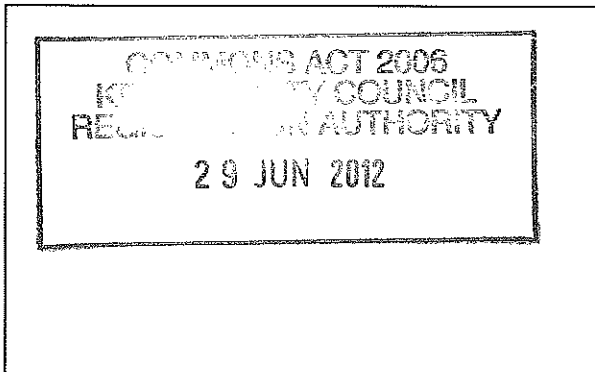
Commons Act 2006: section 15

**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:



Application number:

VGAG49

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: [REDACTED]
Full postal address: [REDACTED], [REDACTED] (incl. Postcode)
Telephone number: [REDACTED] (incl. national dialling code)
Fax number: [REDACTED] (incl. national dialling code)
E-mail address: [REDACTED]

Note 3

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

3. Name and address of representative, if any

Name: (none)
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:

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:

**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.*

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:
 SHOWFIELDS GREEN

Location: FRONTING NO.1 COMMUNITY CENTRE
 SHOWFIELDS ROAD
 TUNBRIDGE WELLS

Common Land register unit number (only if the land is already registered Common Land):
 (not registered as Common Land. see Doc.3)

Please tick the box to confirm that you have attached a map of the land (at a scale of at least 1:2,500): Map (8)

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:

SHOWFIELDS ESTATE, TUNBRIDGE WELLS
 AND RAMSLYE ESTATE, TUNBRIDGE WELLS

Please tick here if a map is attached (at a scale of 1:10,000): Map (11)

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 PIAZZA AND GREEN FRONTING THE COMMUNITY CENTRE, COMMUNITY HALL, LIBRARY AND SURGERY IN THE CENTRE OF SHOWFIELDS ESTATE HAS BEEN USED AS A COMMON, A RECREATION AREA, AS A WALK-TO-SCHOOL ROUTE, AS A BETWEEN-HOUSES TRANSIT AREA, DOG WALKING, EXERCISE AND PERAMBULATION AREA, AS A CHILDREN'S PLAY AREA, AND AS THE PLACE IN THE VILLAGE WHERE FETES, FAIRS AND BRING-AND-BUY SALES HAVE BEEN HELD SINCE THE PROPERTIES THERE WERE CONSTRUCTED IT IS BELIEVED IN 1968, A PART OF WHICH CONSTRUCTION WAS THE LAYING OUT OF THE GREEN AND PIAZZA FOR THOSE PURPOSES.

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
ROYAL TUNBRIDGE WELLS
KENT
TN1 1RS

(see Doc.4)

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

SEE ATTACHED LIST (Doc.2)

Note 11

List any other matters which should be brought to the attention of the Registration Authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

11. Any other information relating to the application

(none known)

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:

15th January 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.

SUPPORTING DOCUMENTS

- Doc (1) - Covering letter including photo 18. (R FitzPatrick) 15 January 2012.
- Doc (2) - [Part 10] Supporting Documents list (this list).
- Doc (3) - KCC letter. (Not Registered Common Land) 21 Sep 2011.
- Doc (4) - TWBC letter. (Tunbridge Wells Borough Council owns the land) 05 Nov 2011.
[with Map 6 attached]
- Doc (5) - TWBC letter. (not land acquired under the Open Spaces Act 1906
or under the Public Health Act 1875) 14 Nov 2011.
- Map (6) - 1 : 3,000 TWBC map (attachment to Doc (4) showing the Showfields Amenity
Area land owned by Tunbridge Wells Borough Council).
- Map (7) - [Part 5] 1 : 1,000 O/S map marked showing the land for which application is
made outlined in pink.
- Map (8) - [Part 5] 1 : 2500 KCC map marked showing the land for which application is
made outlined in pink.
- Map (9) - [Part 5] 1 : 625 O/S map showing in more detail the same land outlined in pink.
- Map (10) - 1 : 15,000 O/S map showing the overall location of the Green in Tunbridge Wells.
- Map (11) - [Part 6] 1 : 10,000 O/S map showing the locality to which the Green relates:
Showfields estate coloured pink;
Ramslye estate coloured green.
- Doc (12) - Residents' Utilisation History: plus 38 resident attestations of use of the land for
qualifying purposes over the past twenty years (total 40).
- Doc (13) - Supporting Letter. (H Miller) 20-9-2011.
- Map (14) - 1 : 750 KCC www.kent.gov.uk website O/S map annotated to show the locations
from which the Doc(15)(16)(17)photographs were taken.
- Doc (15) - Showfields Green location photographs 1 – 5.
- Doc (16) - Showfields Green location photographs 6 – 12.
- Doc (17) - Showfields Green location photographs 13 – 17.

SHOWFIELDS GREEN – RESIDENTS' UTILISATION HISTORY

[The Showfields Green catchment area might be represented as comprising 489 residential units (marked in pink on Map (11)). At 2.5 persons assumed occupancy the catchment population would be in the order of 1,200 persons. The adjacent Ramsley estate (green on Map (11)) additionally comprises an assumed 411 residential units, adding 1,025 persons, for a total catchment population of 2,225 persons (all ages).]

- Local inhabitants' using the Green, while seasonably variable, are more or less continuously visible during daylight hours. It takes about a minute to cross the Green on foot. At any time of year such a transit is seldom completed without seeing another walker (say fifty percent of the time) :- taking an average day of eight hours 9am to 5pm at an average of 30 users per hour = in the order of at least 250 walkers per day have used the Green since its creation in the 1960s. [The proportion who are recreational walkers rather than pedestrians, or who have chosen to walk the Green route rather than an adjacent street because of the Green's more pleasant ambience are presumed subject to agreed analysis. When the option is appropriate the applicant and those in his circle choose to walk that way, and have done so in the 25 to 50 years of living in the locality, because it is pleasant. They would not preferentially do so if the route were urban and paved.]
- The Green is too small to have become a practical jogging venue since that activity rose to popularity in the past 20 years, but joggers can be seen occasionally transiting its nicely manicured grass.
- Dog walkers and dog-ball-throwers use the Green intermittently. Maybe half a dozen a day. And have done so of course since it became available in the 1960s. There are three litter bins on the Green, one of them just outside the boundary applied, for regularly emptied by it is believed the land owner Tunbridge Wells Borough Council.
- The childrens groups in the play area, about a dozen junior members strong plus three or four supervisors, spend at least an hour a day there, year round, happily and noisily playing on the swings and frames, and have done so for at least the ten years that the nursery function has been active in the adjacent Community Centre. The play area's equipment is installed and maintained it is believed by the land owner Tunbridge Wells Borough Council.
- Boys playing football (despite the unfriendly sign reading no ball games), riding bikes and occasionally skate boards on the unrewardingly flat paved area, can be seen on the Green, briefly, more or less daily, out of school hours, doing what boys do, kicking a ball around, and have done so since the local housing was populated in the 1960s. The grass is year-round regularly cut to a much appreciated recreation ground standard by it is believed the land owner Tunbridge Wells Borough Council as a part of their Parks & Recreational maintenance activities.
- Mothers with children and toddlers, who pass without stopping through the Green during the damp cold winter months, stop and sit on the grass and play games and answer impromptu nature trail enquiries during the more welcoming summer days.
- The amateur bring-and-buy and garden produce fairs that have been held on the Green by the local inhabitants, at convenient intervals of say a few months since the 1970s rather than according to a formal schedule, attract maybe up to a dozen local stall/table displays each time, with maybe twice that number of sellers. The adjacency of the Community Centre helps with convenient facilities, refreshments and shelter. Visitors attending to browse or buy may average twenty in number at any one time – so that over the course of a day, each visitor spending between a half an hour and an hour there, possibly the total attendance at each such event, weather permitting, would be 250.
- The larger but less predictably scheduled summer festival occasions held on the Green such as RASYAG or a themed carnival such as 'Caribbean', publicised maybe once or twice a year, are usually the outcome of joint local, council and associated-charity organisational work. With bouncy-castle style attractions, loud music, and activities such as face-painting they draw larger numbers of people and have done so since the Green became available as a venue for such events in the 1960s.
- As in 1977 for the Queen's Silver Jubilee, it is expected that a larger more organised outdoor event will be held on Showfields Green for the Queen's Diamond Jubilee celebrations in 2012.
- No one to the knowledge of the applicant has ever been excluded from recreational use of the subject land by any party claiming ownership rights over that land.

APPENDIX C: Table summarising evidence of use

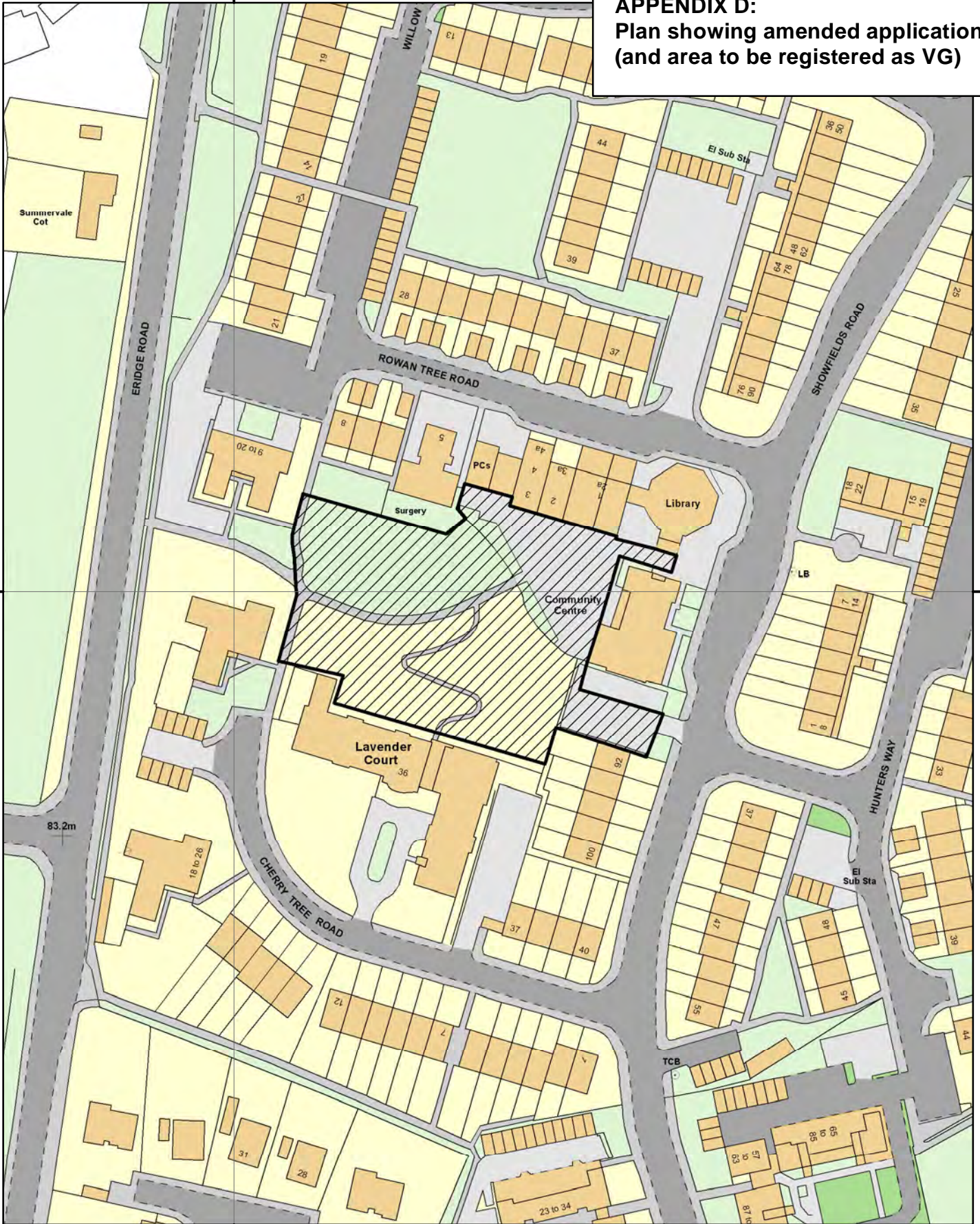
Name	Period of use	Type of use
BAIN, L	2007 – present	Fun days, dog walking, playing with children
BARNES, L	1991 – present	Fetes and fun days
BARROW	1996 – present	Fun days and activities
BROWN, W*	1992 – present	Fun days, access to cafe
CHAMPNEYS, A*	2002 – present	Recreational area
CHURCHMAN, S	1991 – present	Community fun days, RASYAG
COSTER, J*	1991 – present	Attending community events and library
COURT, H	1970 – present	Dog walking, exercise, fun days, fete
CUSDIN, R*	1995 – present	Fetes, walking and recreation
CUSDIN, W	1990 – present	Community events
DOBSON, A	2011 – present	Walking
DRAPER, E	1994 – present	Dog walking, children play football there
FARNES, C	c 2000 – present	Fun days, table sales, ball games, jubilee party
FORTNUM, B*	2005 – present	Fun days
FRADD, J	1996 – present	Fun days and fetes
GALLON, M	1999 – present	Walking, exercise, dog walking, attending fete
HARFORD, G	2002 – present	Recreation
HEYWOOD, J	2002 – present	Recreation
HOLLINS, J	2000 – present	Community events, summertime activities, picnics
JOHNSON, J	1970 – present	Football
KERWIN, C	2004 – present	Fun days, dog walking, playing with siblings
KERWIN, M	2008 – present	Fetes, playing with children, walking dogs, walking with children
LEYBOURNE, J	c 2000 - present	Fun days, table sales, ball games, jubilee party
LONG, P	1982 – present	Exercise
MARTIN, M	2008 – present	Fun days, bring and buy sales
MATTHEWS, C	1997 – present	Playing football, playing games, attending community fun days
MILLER, H & D	1985 – present	Fun days, table sales, BBQs, playing with children
PILBEAM, P	1995 – present	Cut through to Ramslye
POWELL, L	2002 – present	Recreation
RAYNES, B	2002 – present	Fetes, community events
RICKABY, S	2008 – present	Fun days, bring and buy sales
SAUNDERS, F	1975 – present	Exercising dog, walking, attending fun days
SILBERT, R	1992 – present	Walking, exercise and dog walking
SKILTON, Y	1991 – present	Fetes and fun days
SMITH, N	2011 – present	Access to library and community centre, using children's play area
STAPPLE, A	1986 – present	Playing with children
WALBER, E	1970 – present	'I have not used it much myself'
WORT, K	1998 – present	Walking, using play area

*Not resident in the neighbourhood

Shading indicates non-qualifying use

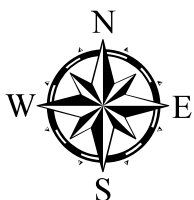
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**APPENDIX D:
Plan showing amended application
(and area to be registered as VG)**



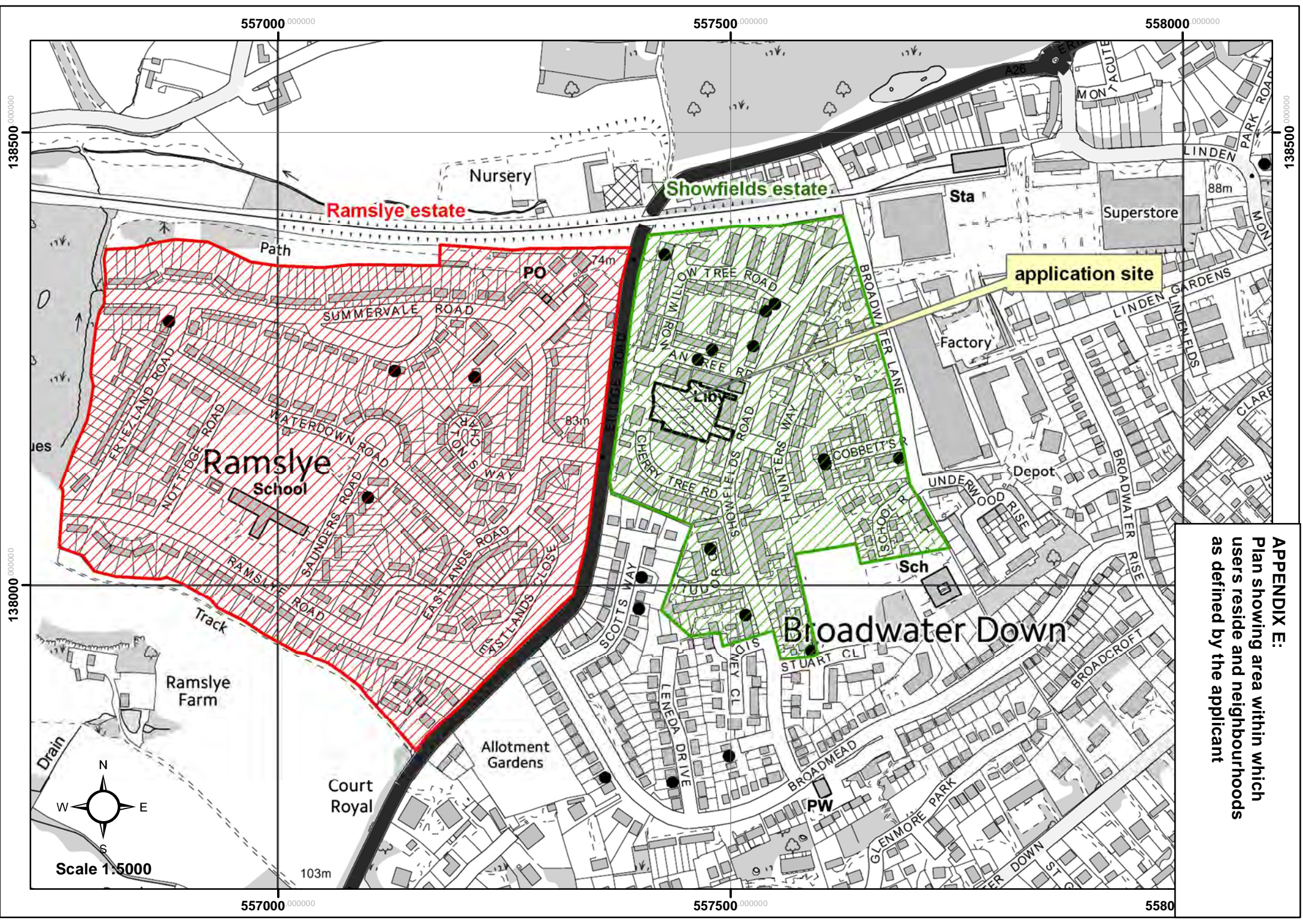
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**Land subject to Village Green application
at Showfields, Tunbridge Wells
(total area = 1 acre or 0.4 hectares)**



Scale 1:1250





APPENDIX E:
 Plan showing area within which
 users reside and neighbourhoods
 as defined by the applicant

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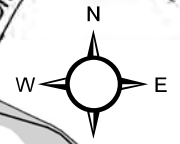
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Scale 1:5000



Path

Ramslye estate

Nursery

Showfields estate

Sta

Superstore

application site

PO

74m

83m

Ramslye

School

Lib

Factory

Depot

Sch

Broadwater Down

Ramslye Farm

Allotment Gardens

Court Royal

103m

PW

GLENMORE PARK

ER DOWN

BROADCROFT

BROADMEAD

STUART CL

SIDNEY CL

LENEDA DRIVE

SCOTTS WAY

CHERRY TREE RD

SHOWFIELDS ROAD

ANFREE ROAD

NO. 11 W. TREE ROAD

HUNTERS WAY

COBBETT'S R

SCHOOL R

UNDERWOOD RISE

BROADWATER RISE

LINDEN GARDENS

LINDEN

PARK ROAD

MONYACUTE

A26

Track

WATERDOWN ROAD

SUMMERVALE ROAD

SAUNDERS ROAD

EASTLANDS ROAD

EASTLANDS CLOSE

WATERDOWN ROAD

NOTTIDGE ROAD

FRIZLAND ROAD

RAMSLEY ROAD

SAUNDERS ROAD

WATERDOWN ROAD

SUMMERVALE ROAD

SAUNDERS ROAD

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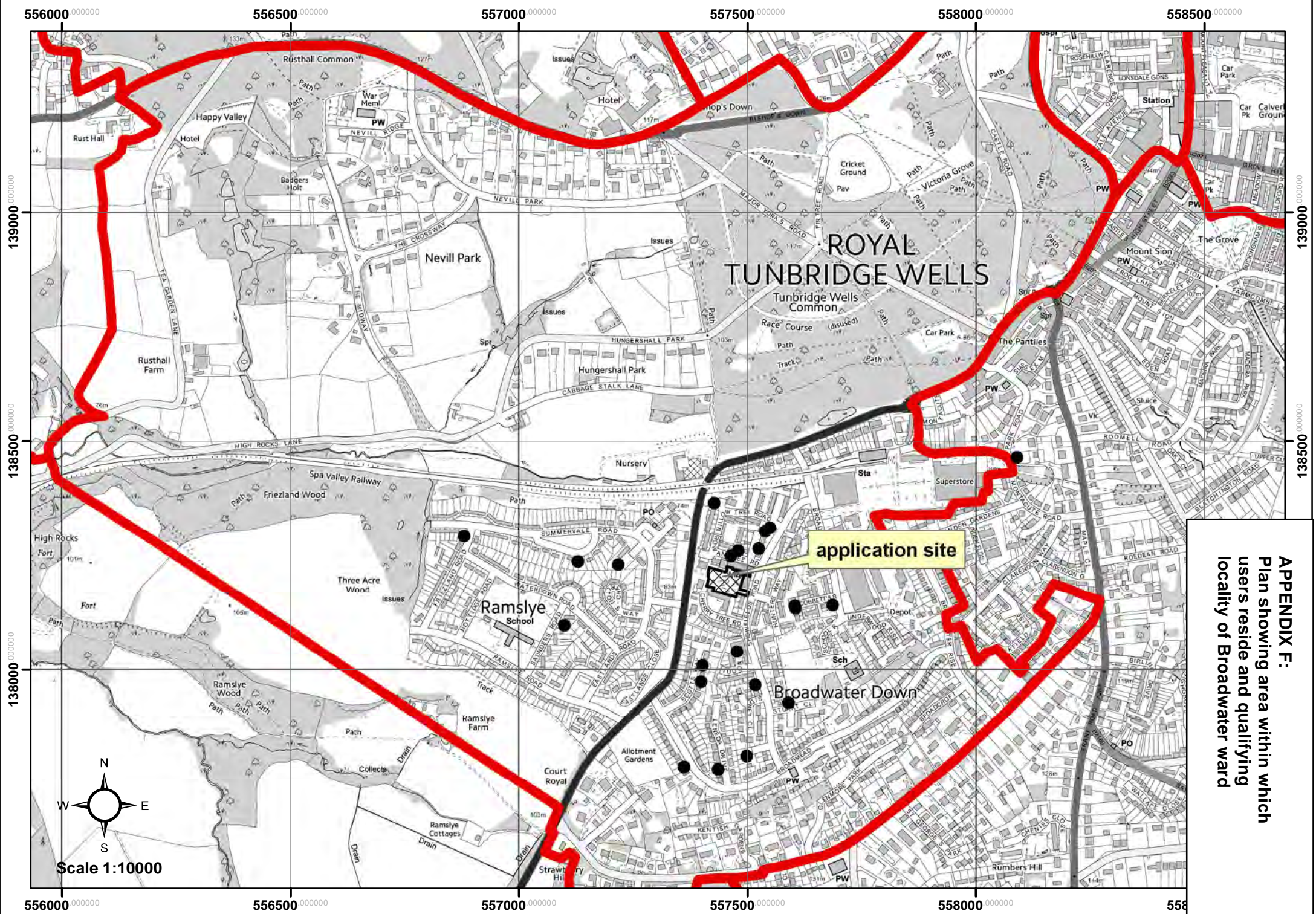
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WATERDOWN ROAD

SUMMERVALE ROAD

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APPENDIX F:
 Plan showing area within which
 users reside and qualifying
 locality of Broadwater ward