

## **Application to register land known as Montefiore Woodland at Ramsgate as a new Village Green**

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A report by the Head of Regulatory Services to Kent County Council's Regulation Committee Member Panel on Tuesday 18<sup>th</sup> March 2014.

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

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Local Members: Mr. A. Terry and Ms. Z. Wiltshire

Unrestricted item

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### **Introduction**

1. The County Council has received an application to register land known as Montefiore Woodland at Dumpton Park Road at Ramsgate as a new Village Green from the Ramsgate Town Council ("the applicant"). The application, dated 3<sup>rd</sup> April 2013, was allocated the application number VGA654. A plan of the site is shown at **Appendix A** to this report and a copy of the application form is attached at **Appendix B**.

### **Procedure**

2. Traditionally, Town and Village Greens have derived from customary law and until recently it was only possible to register land as a new Town or Village Green where certain qualifying criteria were met: i.e. where it could be shown that the land in question had been used 'as of right' for recreational purposes by the local residents for a period of at least 20 years.
3. However, a new provision has been introduced by the Commons Act 2006 which enables the owner of any land to apply to voluntarily register the land as a new Village Green without having to meet the qualifying criteria. Section 15 states:  
*"(8) The owner of any land may apply to the Commons Registration Authority to register the land as a town or village green.  
(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land."*
4. Land which is voluntarily registered as a Town or Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of statutory protection as that of all other registered greens and local people will have a guaranteed right to use the land for informal recreational purposes in perpetuity. This means that once the land is registered it cannot be removed from the formal Register of Town or Village Greens (other than by statutory process) and must be kept free of development or other encroachments.

5. In determining the application, the County Council must consider very carefully the relevant legal tests. In the present case, it must be satisfied that the applicant is the owner of the land and that any necessary consents have been obtained (e.g. from a tenant or the owner of a relevant charge). Provided that these tests are met, then the County Council is under a duty to grant the application and register the land as a Town or Village Green.

## **The Case**

### Description of the land

6. The area of land subject to this application (“the application site”) consists of an area of woodland approximately 1.45 acres (0.59 hectares) in size situated adjacent to the Montefiore Medical Centre at Dumpton Park Drive (opposite its junction with Frances Gardens) in the town of Ramsgate. A plan of the application site is attached at **Appendix A**.

### Ownership of the land

7. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant, Ramsgate Town Council, under title number K962026. A copy of the Register of Title is attached at **Appendix C**.
8. It is understood that Ramsgate Town Council acquired the land in 2009 from Thanet District Council, to whom the land had been sold in 2007 by GP Premises Ltd.
9. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

### Notice of Application

10. As required by the relevant Regulations<sup>1</sup>, notice of the application was published on the County Council’s website. In addition, copies of the notice were displayed on the application site itself. The local County Members were also informed of the application.
11. In response to the notice of application, a representation was received from Mr. S. Berger representing Samber Ltd, a registered charity and owner of land to the north-west of the application site (comprising the Montefiore Synagogue and Mausoleum). A copy of the representation is attached at **Appendix D**.
12. Mr. Berger explains that it has been his charity’s intention to rebuild the theological college which once stood on the application site<sup>2</sup>. He notes that the land was placed in trust by way of an 1866 Indenture by Sir Moses Montefiore

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<sup>1</sup> The Commons Registration (England) Regulations 2008

<sup>2</sup> The college was built on the application site in the late 1960s by Sir Moses Montefiore in memory of his late wife. It is shown on old Ordnance Survey maps of the area. However, it was demolished in 1964 and the land upon which the college once stood has now become the woodland comprising the application site.

with guidelines as to the administration of the college and a strict prohibition on the sale of the land. The charity now wishes to carry forward Sir Moses Montefiore's wishes by rebuilding the college and conforming to the guidelines set out in the trust, in order to enhance and promote the memory of Sir Moses and the local community. Village Green status would clearly conflict with this aim and, as such, the representation includes a request for the application to be amended so as to facilitate the reconstruction of the college whilst also providing for an area of woodland.

13. A copy of the representation was forwarded to the applicant for comment. The applicant's position is that the trust has been superseded by various subsequent transactions involving the land, and Ramsgate Town Council is the current lawful owner of the land. As the landowner, the Town Council strongly wishes to see the application site registered as a Village Green.
14. Legal advice has been sought on the representation received from Samber Ltd. The advice received is that the application site is validly registered to Ramsgate Town Council and there is nothing to suggest that any error has been made in that registration; indeed, Land Registry guarantees title to land. Accordingly, there is no reason why the County Council should not proceed with the registration of the application site as a Village Green, as per the applicant's request.

#### The 'locality'

15. DEFRA's view is that once land is registered as a Town or Village Green, only the residents of the locality have the legal right to use the land for the purposes of lawful sports and pastimes. It is therefore necessary to identify the locality in which the users of the land reside.
16. A locality for these purposes normally consists of a recognised administrative area (e.g. civil parish or electoral ward) or a cohesive entity (such as a village or housing estate).
17. In this case, the application is made by the local Town Council and the relevant locality is stated in the application form as being 'Montefiore Ward, Dumpton Park Drive, Ramsgate'. 'Montefiore Ward' is, presumably, a reference to the Sir Moses Montefiore Ward of Ramsgate Town Council.
18. As noted above, an electoral ward is a qualifying locality for the purposes of Village Green registration and, as such, it seems appropriate that the relevant locality in this case should be the Ramsgate Town Council electoral ward of Sir Moses Montefiore.

#### **Conclusion**

19. As stated at paragraph 3 above, the relevant criteria for the voluntary registration of land as a new Town or Village Green under section 15(8) of the Commons Act 2006 requires only that the County Council is satisfied that the land is owned by the applicant. There is no need for the applicant to demonstrate use of the land

'as of right' for the purposes of lawful sports and pastimes over a particular period.

20. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

### **Recommendations**

21. I recommend that the County Council informs the applicant that the application to register the land known as Montefiore Woodland at Ramsgate has been accepted, and that the land subject to the application be formally registered as a Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 01622 221513 or Email: [mike.overbeke@kent.gov.uk](mailto:mike.overbeke@kent.gov.uk)

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221628 or Email: [melanie.mcneir@kent.gov.uk](mailto:melanie.mcneir@kent.gov.uk)

The main file is available for viewing on request at the Countryside Access Service based at Invicta House, County Hall, Maidstone. Please contact the Case Officer for further details.

### **Background documents**

APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Copy of the Register of Title from Land Registry

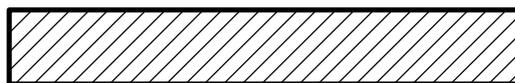
APPENDIX D – Representation received from Samber Ltd.

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



Scale 1:1250

**Land subject to Village Green application  
at Montefiore Woodland at Ramsgate**



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



FORM CA9

Commons Act 2006: section 15

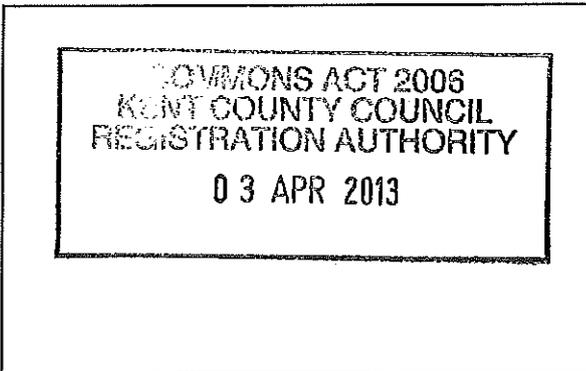
Application for the registration of land  
as a new Town or Village Green

APPENDIX B:  
Copy of the application form



*This section is for office use only*

Official stamp of the Registration Authority  
indicating date of receipt:



Application number:

VCA654

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: VILLAGE GREENS AND COMMONS REGISTRATION  
SERVICE  
KENT COUNTY COUNCIL  
INVICTA HOUSE  
COUNTY HALL  
MAIDSTONE  
KENT, ME14 1XX.

**Note 2**

If there is more than one applicant, list all names. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or unincorporate. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email. If part 3 is not completed all correspondence and notices will be sent to the first named applicant.

**2. Name and address of the applicant**

Name: RAMSGATE TOWN COUNCIL

Full postal address: THE CUSTOM HOUSE  
(incl. Postcode) HARBOUR PARADE  
RAMSGATE CT11 8LP.

Telephone number: 01843 - 598 751  
(incl. national dialling code)

Fax number: \_\_\_\_\_  
(incl. national dialling code)

E-mail address: richard.styles@ramsgate.tc.org.uk

**Note 3**

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

**3. Name and address of representative, if any**

Name: RICHARD STYLES

Firm: RAMSGATE TOWN COUNCIL

Full postal address: THE CUSTOM HOUSE  
(incl. Postcode) HARBOUR PARADE  
RAMSGATE CT11 8LP.

Telephone number: 01843 - 598 751  
(incl. national dialling code)

Fax number: \_\_\_\_\_  
(incl. national dialling code)

E-mail address: richard.styles@ramsgate.tc.org.uk

**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: *MONTEFIORE WOODLAND*

Location: *DUMPTON PARK DRIVE  
RAMSGATE CT 11 AD O/S R6K TR3865NE*

Common Land register unit number (only if the land is already registered Common Land): *K962026*

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:

*MONTEFIORE WARD  
DUMPTON PARK DRIVE  
RAMSGATE*

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

**Note 7**

*Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.*

*This information is not needed if a landowner is applying to register the land as a green under section 15(8).*

**7. Justification for application to register the land as a Town or Village Green**

VOLUNTARY APPLICATION BY LANDOWNER,

**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**

VOLUNTARY APPLICATION BY LANDOWNER,

**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**

MINUTE 163 – RAMSGATE TOWN COUNCIL  
MEETING 7TH NOV 2012.

COPY ATTACHED.

RS

**Note 10**

List all supporting consents, documents and maps accompanying the application. Evidence of ownership of the land must be included for voluntarily registration applications. There is no need to submit copies of documents issued by the Registration Authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

**10. Supporting documentation**

- 1/ COUNCIL MINUTES – 7TH NOV 2012.
- 2/ LAND REGISTRY MAP SCALE 1:1250. IN A4
- 3/ LAND REGISTRY MAP " IN A3
- 4/ COPY OF TRANSFER DOCUMENT FOR LAND.
- 5/ AERIAL PHOTOGRAPHS – VARIOUS OF LAND.
- 6/ HISTORICAL MAP COPIES X2.

**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**

THE RAMSGATE TOWN COUNCIL WISHES TO PROTECT THE WOODLAND IN PERPETUITY BECAUSE:

- (a) RAMSGATE HAS A DEFICIT OF PUBLICLY OWNED OPEN SPACE OR AMENITY LAND.
- (b) LOCAL FEELING EXPRESSED WITHIN RAMSGATE + THE IMMEDIATE AREA HAS REQUESTED THAT RTC TAKE ACTION OF THIS KIND TO PROTECT THE WOODLAND
- (c) RAMSGATE TOWN COUNCIL ARE HOLDING THE OWNERSHIP OF THIS LAND AS A CONSTRUCTIVE TRUST AND DEEM IT IN THE WIDER INTERESTS OF THE PUBLIC + THE LAND THAT THIS ACTION IS CARRIED OUT.

**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: 18<sup>TH</sup> MARCH 2013

  
Ramsgate Town Council  
The Custom House  
Harbour Road  
Ramsgate CT11 5LP  
Tel: 01843 392751

**REMINDER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

**Please send your completed application form to:**

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

***Data Protection Act 1998***

*The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the Commons Registration Authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.*

*A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.*

**APPENDIX C:  
Copy of the Register of Title**

THIS IS A PRINT OF THE VIEW OF THE REGISTER THE ENTRIES SUBSISTING IN THE REGISTER ON THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

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

TITLE NUMBER: K962026

There is no application or official search pending against this title.

## A: Property Register

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

KENT : THANET

- 1 (21.11.1963) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being land to the west of Dumpton Park Drive, Ramsgate.
- 2 The tunnel passing under the land in this title and all rights appurtenant to such tunnel are excepted from this registration.

## B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

### Title absolute

- 1 (15.03.2011) PROPRIETOR: RAMSGATE TOWN COUNCIL of Custom House, Harbour Parade, Ramsgate, Kent CT11 8LP.
- 2 (03.12.2009) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed his conveyancer that the provisions of Clause 12 of Transfer dated 30 November 2009 between (1) GP Premises Limited and (2) Thanet District Council have been complied with.
- 3 (15.03.2011) The value as at 15 March 2011 was stated to be under £100,000.

## C: Charges Register

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

- 1 A Conveyance of the land in this title and other land dated 24 October 1963 made between (1) London Sephardi Trust (Custodian Trustees) (2) Neville Jonas Laski and others (Managing Trustees) and (3) The County Council of The Administrative County of Kent (County Council) contains the following covenants:-

"THE County Council hereby covenant with the Custodian Trustees as follows:-

- (i) To maintain at their own expense the surface of the said roadway in the same condition as it is at the date hereof.
- (ii) Forthwith at their own expense to erect to a height of six feet between the points marked C-B on the said plan where the existing iron

## C: Charges Register continued

fence is inadequate to provide privacy to Temple Cottage and the Synagogue either a close boarded fence or a wall or concrete post and panel fencing with a right to put a chain link fence above it except that where the boundary fence runs in front of Mill House aforesaid dwarf retaining walls only shall be erected around the windows with or without a chain link fence above them so that the access of light and air to the said windows shall not be blocked.

(iii) Not to acquire any rights of light or air to the buildings erected or to be erected on the land hereby conveyed or any part thereof which would prevent the Custodian Trustees or their successors in title to the adjoining land to the North-West of the boundary between the points A-B or the Managing Trustees or their successors in office building on their said adjoining land."

NOTE: The points B and C referred to are marked B and C in blue respectively on the title plan. Point A does not affect the land in this title.

- 2 (03.12.2009) A Transfer of the land in this title dated 30 November 2009 made between (1) GP Premises Limited and (2) Thanet District Council contains restrictive covenants.

*NOTE: Copy filed.*

- 3 (03.12.2009) The land is subject to the rights reserved in the Transfer dated 30 November 2009 referred to above.

- 4 (15.03.2011) A Transfer of the land in this title dated 10 March 2011 made between (1) Thanet District Council and (2) Ramsgate Town Council contains restrictive covenants.

*NOTE: Copy filed.*

- 5 (31.03.2011) The Transfer dated 10 March 2011 referred to above contains a right of pre-emption in favour of Thanet District Council.

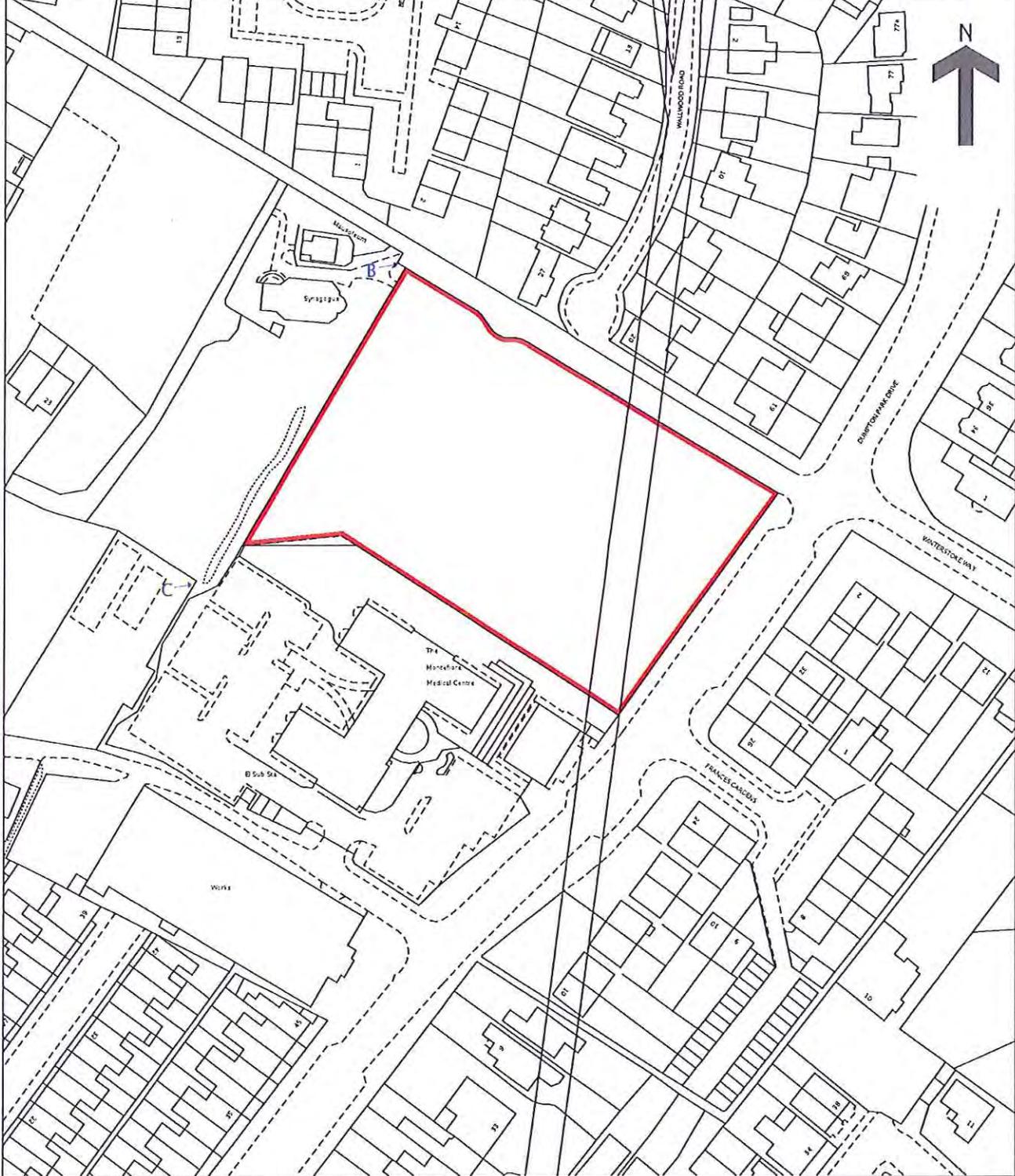
End of register

# Land Registry Current title plan

Title number **K962026**  
Ordnance Survey map reference **TR3865NE**  
Scale **1:1250**  
Administrative area **Kent : Thanet**



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This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 05 March 2014 at 15:02:35. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title plans and boundaries.

This title is dealt with by Land Registry, Nottingham Office.

**SAMBER LIMITED**  
[REDACTED]  
[REDACTED]

Commons Registration Team  
PROW and Access Service  
Kent County Council  
Invicta House  
County Hall  
Maidstone  
Kent  
ME14 1XX

Your ref: VGA654

4 September 2013

Dear Ms McNeir

**Re: Land situate between The Montefiore Medical Centre and Public Footpath  
TRX2 at Dumpton Park Drive in the town of Ramsgate  
Kent County Council  
Commons Act 2006 - Section 14(8)  
Notice of application for the Registration of the Land as a Village Green**

We are a charity registered at the Charity Commissioners under No: 270675, and wish to draw your attention to our observations relating to the above application.

We are the freehold owners of the land to the North West of the subject land and marked on your map TRX3. We purchased this land in or about 2007. One of the objects of our charity includes teaching of Religious education and we were drawn to this area by virtue of the importance that the late Sir Moses Montefiore placed on the study of the Jewish Torah.

Our intention was and still is the reconstruction of the college that was situated on the land that is the subject of this application. Our plans include the rebuilding of a replica of the college on its existing footprint and indeed this campaign is extremely popular and widely supported within the international Jewish Community. We embarked upon this programme almost immediately following the purchase of the land marked TRX3, but regrettably the banking crisis together with the deep recession suffered by all caused the delay in pursuing our aims at that time.

We had initial meetings with the local planning department and instructed Clagues architects to prepare and design a scheme for both the rebuilding of the college on the subject land together with ancillary accommodation on the land we purchased. Moreover, we reimbursed the owners of the Montefiore Medical Centre in respect of the cost of the s.106 agreement

Samber Limited

Reg Office: [REDACTED]

Charity No: 270675

they had with the planners for their agreement that in the event that permission is granted for the reconstruction of the college they would not object. Indeed they would only agree that the said land could only be used for the sole purpose of the rebuilding of the college.

Initially, our scheme was supported which had the effect of bringing back the culture and history of the Town of Ramsgate and would undoubtedly enhance the entire area.

As we are now beginning to exit from the recession, we wish to resurrect our plans and indeed we wish to hold further discussions with all parties concerned to ascertain their views.

We have in our possession a facsimile copy of the Indenture executed by the late Sir Moses dated 24th February 1866 in which Sir Moses conveys the land upon trust and thereby sets out the terms of the said trust. Indeed there was a strict prohibition to mortgage or sell the land.

The Trust provides under the heading of Table of Contents guidelines towards both the administration and procedures in respect of both the day to day observance as well as both management and supervision of the college. We propose to forward to you a copy of the indenture under separate cover.

It is not a coincidence that today is the eve of Rosh Hashana (Jewish New Year). The Indenture provides for certain rituals that the late Sir Moses requested to be observed. The first day of Rosh Hashana (tomorrow) is the anniversary of the passing of the late lamented death of Lady Montefiore and Sir Moses had requested that certain prayers shall be offered up known as the Kaddish during the services on that day.

It is our intention to conform with the wishes of the late Sir Moses, and we believe that the rebuilding of the college and conforming to the guidelines stated in the Indenture would enhance and promote the memory of this great man and the local community.

In the circumstances we would be obliged, if the application could be amended or alternatively include the reconstruction of the theological college whilst at the same time provide for an area of woodland.

We look forward to hearing from you.

Yours sincerely

Shmuel Binyomin Eliezer Berger  
Trustee  
Samber Limited

Samber Limited

Reg Office: [REDACTED]

Charity No: 270675