

Application to register land at The List in the parish of Littlebourne 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 8th April 2014.

Recommendation: I recommend that the applicant be informed that the application to register land at The List in the parish of Littlebourne as a Village Green has not been accepted.

Local Member: Mr. M. Northey

Unrestricted item

Introduction

1. The County Council has received an application to register land known as The List in the parish of Littlebourne as a new Town or Village Green from the Littlebourne Parish Council ("the applicant"). The application, made on 16th April 2013, was allocated the application number VGA655. 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 legal requirement, the County Council also places copies of the notice on site to

¹ Note that after 1st October 2013, the period of grace was 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.

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”) is an irregular shaped piece of land known locally as The List and is situated to the rear of properties at The Hill, Evenhill Road, Jubilee Road, Court Meadows and St. Vincent’s Close. The application site consists of approximately 22.5 acres (9.1 hectares) of grassland. Public Footpath CB147 crosses the application site, and access to the site is also available from Public Footpaths CB154 and CB143 which abut the site. There is also evidence that access to the land has been gained via an unofficial path leading from Evenhill Road, and also from the rear gardens of properties abutting the application site.
7. The application site is shown in more detail on the plan at **Appendix A**.

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 a period in excess of 20 years. The application is made on the basis that such use has continued until (and beyond) the date of the application.
9. Included in support of the application were 45 user evidence questionnaires, with a further 36 forms subsequently submitted, thereby taking the total number of witness forms to 81. A summary of the user evidence submitted in support of the application is attached at **Appendix C**.

Consultations

10. Consultations have been carried out as required and no responses have been received.

Landowner

11. The application site falls within three different ownerships.
12. The majority of the application site, comprising the section south of (but not including) Public Footpath CB184, is registered with the Land Registry under title number K772071. This section is owned by members of the Newing family and Rydon Homes Ltd. hold a option to purchase the land.
13. A strip of land approximately two metres wide immediately abutting Public Footpath CB154 is registered with the Land Registry under title number K909646 to Canterbury City Council. Notice of the application has been served on the City Council but no response has been received.
14. Finally, the parcel of land to the north of (and including) Public Footpath CB147 (with the exception of the strip owned by the City Council) is not registered with

the Land Registry but is believed to be owned by the Littlebourne Parish Council. The Parish Council is also the applicant in this case.

15. An objection to the application has been made by Rydon Homes Ltd. ("the objectors"). The objection relates only to the section of land in which Rydon Homes Ltd. have an interest, i.e. the section to the south of Public Footpath CB147 ("the objection land"), and is made on the following grounds:
- That the objection land was in continuous arable use until 2005 and was therefore not capable of being used for lawful sports and pastimes;
 - That the land has not been used for lawful sports and pastimes by a significant number of local residents;
 - That there is no evidence that Littlebourne is and has during the relevant period been a locality or neighbourhood within a locality; and
 - That a prohibitory notice was erected on the objection land in 2006 which had the effect of bringing any 'as of right' use to an end.

Legal tests

16. 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'?

17. 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.
18. 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.

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

19. In this case, there is no suggestion that informal recreational use has taken place secretly or in exercise of any specific permission granted by the landowners. Nor is there any evidence that access to the application site has been obtained through physical force; indeed, access to the site is easily gained by one of the public rights of way crossing or abutting the application site.
20. However, the objectors rely on a notice that is said to have been erected at various points around the application site in or around 2006. Photographs of the notice, which read 'PRIVATE PROPERTY – NO PUBLIC RIGHT OF WAY' have been provided by the objector as well as a plan showing the seven points at which it was erected around the application site. The objector's position is that this notice would have been sufficient to render use of the application site contentious as from the date of their erection in around 2006.
21. The applicant's view is that none of the user evidence questionnaires refer to the presence of these signs on the application and none of the current members of the Parish Council recall their existence. It is suggested that, if indeed they were erected on the site, their duration was very short-lived and the signs were never replaced.
22. On the one hand, the timing of the signs is consistent with the change of use of the application site from arable crops to set aside; prior to that time, the presence of arable crops on the land would of itself have acted as a deterrent to people straying off of the main Public Footpath crossing the site, but once the growing of crops ceased it would have been necessary for the landowner to employ more direct means of challenging use. However, on the other hand, the alleged signs are inconsistent with the evidence of use submitted in support of the application; of the 71 witnesses who attest to use of the application site in 2006 (half of whom refer to use of it on an at least daily basis), not one person makes any reference to any prohibitive notices on the application site.
23. By the objector's own admission, the signs were torn down by persons unknown within a few days. Under these circumstances (and given that they were never replaced), it is quite possible that the overwhelming majority of users would not have seen the signs and thus the prohibition would not have been communicated to them (which may well explain the lack of any mention of the signs in the user evidence).
24. Nonetheless, on balance, the fact that the landowner has provided photographs of the sign (taken during daylight hours during a time when a significant number of the applicant's witnesses attest to daily use), and the fact that they were erected at numerous locations around the application site, does demonstrate conclusively that a reasonable attempt was made by the landowner to challenge general informal recreational use of the application site. Indeed, this is not a case where it can be said that the landowner simply sat back and acquiesced to such use (by not doing anything about it) but, rather, it is one where the landowner did take positive steps (albeit unsuccessfully) to try to prevent it.
25. In that respect, use of the application site following the erection of the signs in around 2006 is likely to have been contentious and therefore informal recreational use thereafter would not 'as of right'.

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

26. 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.
27. The summary of evidence of use by local residents at **Appendix C** shows the activities claimed to have taken place on the application site. The majority of use of the application site has been for walking (with or without dogs), but there is also evidence of use for blackberrying, flying kites, ball games and birdwatching.
28. A number of the witnesses refer to the existence of well-defined tracks through the woodland and others allude to use of the application site as a short cut to local shops, the primary school or to visit relatives elsewhere in the village. In cases where public rights of way cross or abut the application site, or where use involves walking along defined tracks, it will be important to distinguish between use that involves wandering at will over a wide area and use that involves walking a defined linear route from A to B. The latter will generally be regarded as a 'rights of way type' use and, following the decision in the Laing Homes⁵ case, falls to be discounted. In that case, the judge said: *'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'*.
29. In this case, the objector's position is that the majority of the recreational use of the application site is referable to either to the use of Public Footpath CB147 crossing the application site or to defined tracks created by linear pedestrian use. The applicant accepts that the Public Footpath crossing the application site is well used but disputes that the remaining use is merely trivial and sporadic in nature; he states that the evidence contained within the 81 user evidence questionnaires submitted in support of the application make it abundantly clear that use of the application site has not been confined to the public right of way, but covered the whole of the application site.
30. The extent to which use of the application site has been associated with a 'public rights of way type' use is a matter of fact and degree which would otherwise (were it not for the recommendation set out below) require further examination by way of hearing more detailed oral evidence from the parties involved. It is not possible, on the basis of the evidence currently available, to reach a definitive conclusion on this point but it is not necessary to do so given the other deficiencies with the application discussed in this report.

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

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

31. 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.
32. 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’.
33. In this case, the locality relied upon by the applicant is the civil parish of Littlebourne. The plan at **Appendix D** shows the area within which the users of the application site reside.
34. There can be no dispute (and the objectors accept) that this is a legally recognised administrative unit and this would be a qualifying locality for the purposes of Village Green registration.
35. The objectors do raise the issue of whether the qualifying locality relied upon by the applicant has existed with unchanged boundaries throughout the relevant period, but provide no evidence to bring this into question or to suggest that this has not been the case.

“a significant number”

36. The word “significant” in this context does not mean considerable or substantial: ‘a neighbourhood may have a very limited population and a significant number of the inhabitants of such a neighbourhood might not be so great as to properly be described as a considerable or a substantial number... what matters is that the number of people using the land in question has to be sufficient to indicate that the land is in general use by the community for informal recreation rather than occasional use by individuals as trespassers’⁷. Thus, what constitutes a ‘significant number’ will depend upon the local environment and will vary in each case depending upon the location of the application site.
37. In this case, the application is supported by 81 user evidence questionnaires from various people living across the parish. A substantial number of these refer to use of the application site on a daily basis. On the face of this, this frequency of use would have been sufficient to indicate that the application was in general use for recreation.

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

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

38. However, closer consideration of the evidence and the pattern of use, particularly during the early 1990s when the land was in use for arable crops and access to it would necessarily have been restricted, suggests that this is unlikely to have been sufficient to communicate the landowner that the application site *as a whole* was being used in the requisite manner by a significant number of the residents of Littlebourne parish.

(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?

39. 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.

40. In this case, the application was made on 16th April 2013 under section 15(2) of the Commons Act 2006 – i.e. on the basis that use of the application site was continuing at the date of application.

41. However, as discussed above, it is arguable that informal recreational use of the application site ceased to be ‘as of right’ in 2006 when the ‘private property’ notices were erected. If this is the case, then the application must fail on this test alone on the basis that the application was not made within the prescribed two year period of grace.

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

42. 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, the application has been submitted under section 15(2) on the basis that recreational use of the application site is continuing and the twenty year period relied upon by the applicant is 1993 to 2013. However, on the basis that use of the application site became contentious in 2006, the twenty year period would therefore be 1986 to 2006.

43. The user evidence (summarised at **Appendix C**) suggests that recreational use of the application site has taken place well in excess of the required twenty-year period and much of it also pre-dates the start of the relevant period in 1986.

44. There is, however, a disagreement between the parties as to the precise impact of the agricultural use of the land upon informal recreational use.

45. The objector’s position is that between 1993 and 2005, the application site was in regular use for arable farming, during which time crops such as oil seed rape, barley and wheat were all grown on the land. That assertion is supported by photographs of the site at various points during the 1990s provided by the objectors, copies of which are attached at **Appendix E**. The objector contends that whilst the land was actively used for farming, it cannot in practice have been used by local people, particularly during the period between ploughing and harvest.

46. The applicant does not dispute that the land has, from time to time, been used for arable farming, but notes that such use was seasonal (not continuous) and only covered the land for the growing period until harvest. He adds that such use is not incompatible with Village Green status being granted and draws an analogy with the situation in the Newhaven Beach⁸ case in which the application site was entirely covered by the sea 42% of the time.
47. Despite the applicant's comments to the contrary, it is clear that the use of the application site did, as a matter of fact, have an impact on informal recreational use. This is recorded in some of the user evidence submitted in support of the application. One witness⁹ notes that the extent of his use of the land "*varies with whether crops are grown on part of the land*". Another witness¹⁰ notes on his evidence questionnaire, in response to the question 'have you ever been deterred, or prevented, from using the land because of obstructions?', "*only when crops were growing or ploughing was taking place*". A further witness¹¹ also adds, in response to the question 'has your pattern of use remained the same throughout your use of the land?', "*the land has until recently been planted with a rotation of crops with access to a wide central track*", whilst another response¹² noted that "*footpaths unchanged but land used for growing crops many years ago*".
48. Whilst it is quite likely on the evidence available (particularly given the nature and location of the application site) that, outside of arable use, the application site was widely used by local residents for informal recreation, it is inconceivable that when the land was planted with crops such as oil seed rape, such informal recreational use continued in the same manner. Even if local residents had trampled over or damaged the crops in pursuit of recreational activities, such use may well have constituted criminal damage and would not be a qualifying *lawful* sport or pastime.
49. It is not considered that the applicant's analogy with the situation at Newhaven Beach is appropriate here, because the situation in this case can be distinguished from the circumstances in that case. The Commons Act 2006 specifically provides that a Village Green may include 'land covered by water' and, in the case of land covered by water, it is still possible for local people to engage in lawful sports and pastimes such as swimming and paddling. This is in contrast to a situation where crops are planted, thereby creating a physical restriction to recreational use.
50. As such, it appears that the agricultural use of the land during the period 1993 to 2005 necessarily meant that substantial parts of the application site would have been inaccessible for the purposes of informal recreation for significant periods during the relevant twenty-year period. Accordingly, the application site was not used throughout the relevant twenty-year period.

⁸ *R (Newhaven Port and Properties Ltd.) v East Sussex County Council* [2013] EWCA Civ 276

⁹ See evidence questionnaire of Mr. A. Legge. Note that Mr. Legge also adds, in response to a different question that "*if crops are growing less space available but large areas are still usable...*".

¹⁰ See evidence questionnaire of Mr. and Mrs. Prior, and also that of Mrs. V. Prior who states that "*annual crops in the past*" did impact on her use

¹¹ See evidence questionnaire of Mr. and Mrs. M. Norris, and also that of Mrs. M. Garnett who suggests that her pattern of use changed due to '*agriculture*'.

¹² See evidence questionnaire of Mr. N. Chandler

Conclusion

51. The evidence submitted in support of the application indicates that the application site has been a well-used local amenity for some considerable time. However, the use of the land for agricultural purposes (which is confirmed by the photographs submitted by the objector) suggests very strongly that, when crops were being grown, the pattern and nature of the recreational use taking place on the application site would not have been such as to give rise to a right of general recreation over the whole of the land in question. When in agricultural use, significant areas of the application site were not physically capable of being used for recreational purposes and, during these times, any recreational use would necessarily have been confined to linear defined routes across the land (i.e. akin to a 'rights of way type' use rather than a general right to recreate over the whole of the land).
52. Additionally, the erection of the 'private property' notices in 2006 (again supported by photographic evidence) indicates that use of the application site after that time was contentious and against the landowners express wish for people to keep off the land.
53. It should be noted that the objection by Rydon Homes Ltd. relates only to the part of the application site owned by the Newing family (i.e the land to the south of the Public Footpath); no objection has been raised to the application in respect of the part of the application site owned by the Parish Council. As the County Council has the power to accede to an application in part only¹³, this raises the question of whether this section of the application site should be registered as a Village Green given that there is no apparent opposition to its registration.
54. No information has been provided regarding the state or use of this part of the application site (other than the general evidence of informal recreation submitted in support of the application). Although there is no suggestion that any prohibitive notices have been erected on this part of the land, aerial photographs suggest that it was in agricultural use and, as such, the same arguments regarding inaccessibility apply equally to this part of the application site.
55. In any event, should the Parish Council wish to register the land as a Village Green, it would still be open to it to do so by way of a voluntary dedication application under section 15(8) of the Commons Act 2006.
56. Having carefully considered all of the evidence submitted (both in support of and in opposition to the application), it would appear that the relevant legal tests for the registration of the application site as a new Village Green have not been met.

Recommendation

57. I recommend that the applicant be informed that the application to register land at The List in the parish of Littlebourne as a Village Green has not been accepted.

¹³ *Oxfordshire County Council v Oxford City Council and another* [2006] UKHL 25

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.

List of appendices

APPENDIX A – Plan showing application site

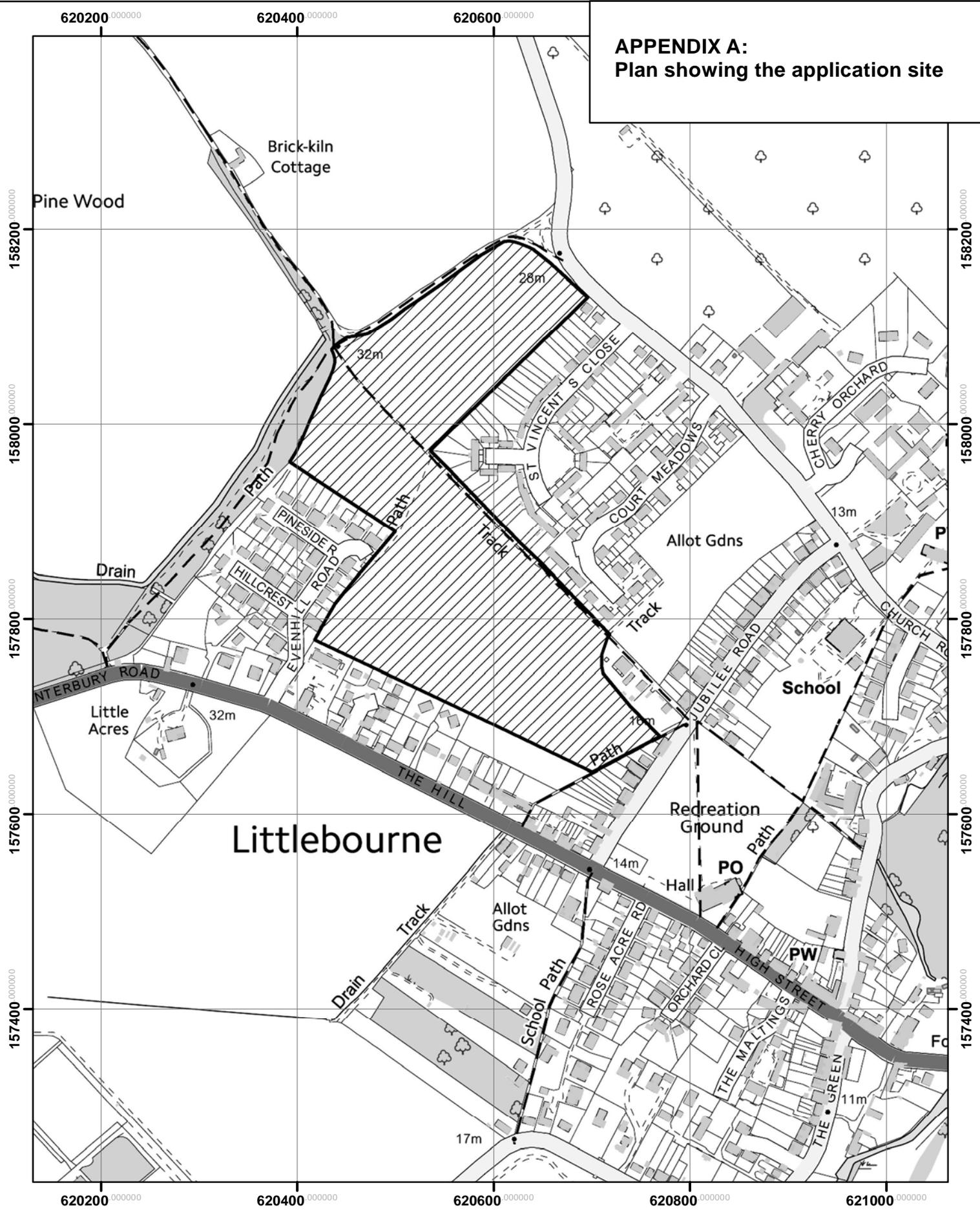
APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing area within which users reside

APPENDIX E – Photographs showing crops on the application site

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



Littlebourne



Scale 1:5000

**Land subject to Village Green application
at The List at Littlebourne**



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:

COMMONS ACT 2006
KENT COUNTY COUNCIL
REGISTRATION AUTHORITY
16 APR 2013

VGA655

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: LITTLEBOURNE PARISH COUNCIL

Full postal address: PARISH CLERK
(incl. Postcode) GAIL HUBBARD
7 BIFRONS ROAD
BEKESTBOURNE,
CANTERBURY CT4 5DE.

Telephone number: CLERK 01227 831197
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address: CLERK@LITTLEBOURNEPC.ORG

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: W. D. MILNE, SOLICITOR, ACTING
PRO BONO FOR THE PARISH COUNCIL

Firm:

Full postal address: [REDACTED]
(incl. Postcode)

Telephone number: [REDACTED]
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address: [REDACTED]

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 9 to the Commons Registration (England) Regulations 2008.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5. Application made under section 15(8):

If the application is made under section 15(1) of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

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

**Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

If section 15(6)* is being relied upon in determining the period of 20 years, indicate the period of statutory closure (if any) which needs to be disregarded:

Note 5

This part is to identify the new green. The accompanying map must be at a scale of at least 1:2,500 and shows the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where known.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

LANDS ADJOINING THE LIST LITTLEBOURNE

Location:

SHOWN CROSS HATCHED ON THE PLAN ATTACHED HERETO.

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:

THE VILLAGE OF LITTLEBOURNE.

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

THIS APPLICATION MEETS ALL THE RELEVANT CRITERIA SPECIFIED IN SECTION 15(1) OF THE COMMONS ACT 2006 IN THAT IT DEMONSTRATES THAT THE LAND HAS BEEN USED

- AS OF RIGHT
- FOR A PERIOD OF AT LEAST 20 YEARS
- FOR THE PURPOSE OF LAWFUL SPORTS AND PASTIMES
- BY A SIGNIFICANT NUMBER OF INHABITANTS OF THE LOCALITY I.E. THE VILLAGE OF LITTLEBOURNE
- USE HAS CONTINUED UP UNTIL THE DATE OF THIS APPLICATION AND IS STILL CONTINUING.

THE EVIDENCE TO SUPPORT THE APPLICATION IS CONTAINED IN THE COMPLETED QUESTIONNAIRES, IN THE FORMAT PRESCRIBED BY THE REGULATION AUTHORITY AND ATTACHED TO THIS APPLICATION.

THE LAWFUL SPORT AND PASTIMES COVERED ARE MANY AND VARIED, BUT INCLUDE, INTER ALIA, WALKING AND GENERAL RECREATION, JOG WALKING AND EXERCISING, INFORMAL PLAY, BIRD AND NATURE WATCHING, KITE FLYING, ~~AND~~ AND BERRY PICKING ETC.

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

- (1) MR NEWING OF 30 JUBILEE ROAD, LITTLEBOURNE, KENT, CT3 1TF.
- (2) RYDON HOMES ARE BELIEVED TO HAVE AN OPTION ON THE LAND AT (1). ABOVE. RYDON HOMES LIMITED, MEAD HOUSE, CANTERBURY ROAD, EAST GRINSTEAD, WEST SUSSEX RH19 3BJ.
- (3) LITTLEBOURNE PARISH COUNCIL (LEAVE-GAIL HUBBARD), 7 BIFRONS ROAD, BEKESBORNE, CANTERBURY, CT4 5DE.

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

COMPLETED QUESTIONNAIRE'S

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

AS SPECIFIED AT 8. ABOVE IT IS BELIEVED THAT RYDAN HOMES LIMITED OF MEAD HOUSE, CANTELOPE ROAD, EAST GRINSTEAD, WEST SUSSEX, RH19 3BJ, HAVE AN OPTION ON THE LAND IN MR. NEWING'S OWNERSHIP.

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):

 M. BE
Chairman Littlebourne Parish Council.

Date: 15/04/2013.

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.

620600

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Littlebourne

Little Recreation Ground

Allot Gardens

Name	Period of use	Frequency of use	Type of use	Access	Comments
ARMAN, R	1961 – present	Monthly	Access to other parts of the village, children used to pay there	Jubilee Road, St Vincent's Close or Court Hill	Observed use by others on a daily basis.
BARTLETT, J	2008 – present	Daily	Dog walking, jogging	Gate from garden (St. Vincents Close)	Observed use by others on a daily basis
BEACHAM, R	1961 – present	Daily	Picking blackberries, dog walking, played as a child, pet farm animals	Jubilee Road, Court Hill, pine woods, Evenhill Road, St Vincents Close	The area is a valued part of the community and it used daily by a vast majority of villagers
BELLINGER, P	1963 – present	Occasionally	Blackberrying, exercise dog, used for children's games, ball games, picnics	End of Evenhill Road, entry off woods, from Jubilee Road	Observed use by others on a daily basis. Over the years the field has provided hours of fun, felt safe taking children there away from traffic
BLOFIELD, T	1993 – present	Daily	Dog walking, children playing, access to woods	Not stated	Commonly know that land is privately owned, but the owner has never prevented use
BRERETON, J&J	1995 – present	Weekly	Family walks, dog walking, nature observation	Jubilee Road and The List	Observed use by others on a daily basis
CHANDLER, N	1982 – present	Several times daily	Dog walking/training, access to village and school, berry picking	From Evenhill Road	Regular access to the land by many for dog walking and access to village. Land used for growing crops many years ago.
COATES, J	1996 – present	3 or 4 times per week	Walking, exercising dog, bird watching, blackberry picking	Path between the Hill and Jubilee Road	Seen others whenever I have been there. It is an important village resource for recreation.
CRACKLE, V	1973 – present	Daily	Dog walking, kite flying, bird watching	From wood end of the List	Observed many people using the land.
CROCKER, V&L	1987 – present	Daily	Dog walking, playing (as a child or with children as an adult), wildlife observation, running/jogging, berry picking	Via Court Hill or The List	Observed use by others on a daily basis. Space provides a safe and secure informal play environment for local children.
DALTON, G	1972 – present	Daily	Blackberrying, walking, bird watching	Woods, back garden and The List	Observed use by others
DALTON, R	1972 – present	Daily	Berry picking, walks, bird watching	Woods, back garden, The List	Observed daily use by others
DAVIS, D	1973 – present	Weekly	Dog walking, children playing, access to woods, nature walks	Jubilee Road	Area has always been used as an access route from Jubilee Road to the top of Evenhill to avoid traffic on the main road.
DOLAN, A	2009 – present	Daily	Dog walking, picking berries, family games	Not stated	Observed use by others on a daily basis
DOLAN, K	2008 – present	Daily	Dog walking, cycling, walking, berry picking, nature studies	The List	Observed use by others on a daily basis
EDGEWAY, S	2004 – present	Not stated	Dog walking	Not stated	
ELLISON-SMITH, S	1986 – present	Weekly since 2009	Walking, jogging, cycling	Jubilee Road or pine wood	Used regularly over last 4 years for jogging, but sporadically before that.

APPENDIX C:
Table summarising evidence of use

GAFFNEY, D	1994 – present	Most weeks	Walking, nature rambles with children, dog walking, cycling, kite flying, flying model aircraft	Jubilee Road, entrance from woods, access from rear gardens	Observed use by others on daily basis
GALLAGHER, M	1988 – present	Weekly	Walking, children playing, blackberrying	Jubilee Road, pine woods	Observed use by others on a daily basis. Land is a safe, landlocked open space without traffic used by villages for their recreation
GARNER, R&M	1960–69, 1971–88, 1995 – present	Regularly	Mainly dog walking, also access to family in village, blackberrying, and nature walks with children		Have spoken to farmers whilst harvesting the land, no objection has ever been raised by them to mine. Seen others every time we use walk there.
GARNETT, M	1970 – present	Weekly	Blackberry picking, dog walking, children playing, incl running, riding, kite flying, nature lessons	Jubilee Road, St Vincents Close, Evenhill Road	This land has remained the same and is used by all the village residents. Pattern of use changed due to agriculture.
GREEN, S	1996 – present	Weekly	Dog walking, walking with children	Jubilee Road	
HARRISON, A	2009 – present	Daily	Walking, children playing, dog walking, kite flying, berry picking, cycling, short cuts	Road or Court Hill	Observed daily use by others
HEADON, R	1993 – ?	Weekly, now occasionally	Walking, dog walking, children's games, cycling	Via woods, Evenhill Road, Jubilee Road and top of Court Hill	No longer using the land on a regular basis. The land is used by others on a daily basis.
HEATHCOTE, N	Not stated	Occasionally	Not stated	Not stated	Observed use by others on a daily basis. Use the land to let my dogs run around.
HEWER, E&G	1953 – present	2/3 times per day	Dog walking, berry picking, short cut to village, bird watching, playing as a child	Jubilee Road, Evenhill Road, pine woods	The area has always been well used by local people
HOWELL, S	1977 – present	Daily	Children playing, dog walking, commuting to local services	Garden gate (St. Vincents Close)	Observed use by others on a daily basis
HOY, R	1986 – present	Daily	Walking, dog walking, berry picking, ball games	The List	Land has always been a lovely place to walk and relax; have spent many hours walking and playing games on the land.
HUNTER, A	1963 – present	Daily	Walking to primary school, playing with children (bike riding, kite flying), safer access to woods	Access via Jubilee Road, path from woods and path at Evenhill Road.	Always met other people when using it. Using field is a safer option when walking children to school or park avoiding main road.
HUNTER, K	1970 – present	Daily	Safe walk to village school, cycling, blackberrying, trail finding, dog exercise/training, socializing, snow play, wildlife education for children, ball games, picnics	Path at Evenhill Road, from Jubilee Road, entrance from woods	Never been challenged whilst using the land; no gates or blockades have ever been present. See local residents using the land on a daily basis.
JEFFRIES, E	1964 –	Various	Walking	From Public Footpaths	Originally the land was cropped but then became

	2012				set aside
JONES, M	1997 – present	Daily	Walking, blackberrying, dog walking, bird watching	Gate from garden (St. Vincents Close)	Observed use by others on a daily basis
JONES, C&M	1973 – present	Daily	Walking, berry picking, watching the wildlife	Jubilee Road, woods, Evenhill Road	Observed use by others on a daily basis. Land is extremely well used by 75% of residents.
KELK, D	1983 – present	Occasionally	Originally employed by farm, later for walking or exercise	From rear of property	Observed use on a daily basis (property backs on to application site)
KENNARD, M	1973 – present	Weekly	Walking on the footpath and rear entry to house at List Meadows	The List	For the last 10 years this field has been agricultural set aside.
KIRK, J	1968 – present	Daily	Dog walking, berry picking, bird watching, nature observation, children playing	Jubilee Road, Pineside Road	Observed use every day
LANE, S&R	1952 – present	Daily	Walking, nature studies, play area for children	Court Road, Jubilee Road, Evenhill Road, St. Vincents Close	Pattern of use varied due to agriculture. The area is widely used by the local community.
LEGGE, A	1974 – present	Weekly or more	Walking, dog exercising, blackberrying, fruit picking, nature excursions, playing with children		It is a very safe place for children to exercise a long way from traffic. Extent of use varies depending on whether crops are grown on part of the land; less space available when crops are growing but large areas still usable. See people there whenever I use the land
LINDSAY, C	2004 – present	Three times daily	Dog walking, nature study, wildlife observation, bird watching	Garden gate (St Vincents Close)	Observed daily use by others
LINDSAY, T	2004 – present	Daily	Berry picking, dog walking, nature observation, kite flying, children playing, cycling, short cut	Back gate or The List	Observed daily use by others
LOWE, Z	2007 – present	Daily	Walking, cycling, den making, picnics, ball games, dog walking	The List	Land is used regularly throughout the seasons, children enjoy this secure space
MACNALLY, S	1993 – present	Weekly or more	Dog walking or general walking	Jubilee Road	Observed others using the land most times I have used it.
MADDOCKS, W	1966 – present	Occasionally	Dog walking, blackberrying	Via The List	
MANNING-PRESS, O	1995 – present	Weekly	Running, kite flying, picnics, blackberrying, bird watching, cycling, playing children's games	From woods or Jubilee Road	Observed daily use by others
MATHIAS-WILLIAMS, J&A	1987 – present	Daily	Dog walking, walking, blackberrying	Evenhill Road, Jubilee Road, from the woods	Observed use by others on a daily basis
MILNE, W	2001 – present	Daily	Walking, dog walking, blackberrying, playing Frisbee	Evenhill Road, Jubilee Road or the woods	Observed use by others on a daily basis. Many children play on the land as it is a safe place to do so.
MOBBS, S	2004 – present	Daily	Dog walking	Road to field	Observed daily use by others
MOUNT, K	1974-87,	Daily	Dog walking, children walk/cycle	Jubilee Road	Observed use by others on a daily basis. Land is

	1994 - present		there		used by a wide range of local people on an hourly basis; we always pass several people.
MUIRHEAD, M	1991 – present	Three times per day	Dog walking, jogging, socializing, star gazing, bird watching, berry picking, cycling, access to allotments	Evenhill Road	Can see the field from rear of property; most of the time there are people there.
MURPHY, L	1983 – present	Occasionally (now)	Walking, playing, kite flying, blackberrying	From Jubilee Road, path from woods, path from Evenhill Road	Always came across others when using the land.
NORRIS, M&W	1969 – present	Weekly	Exercising dogs and children	Jubilee Road, Church Road, The Hill and pine wood	The land has until recently been planted with a rotation of crops with access to a wide central track. The land is in use on a daily basis.
OXTOBY, J	1924 – present	Daily	Blackberry picking, petting farm animals, walking, cycling	Jubilee Road, Court Hill, St. Vincents Close	Observed daily use by others
PALMER, N	1986 - ?	Occasionally	Not stated	From Evenhill Road	No longer use the land (date not stated). Many people would take walks over the land.
PREECE, B	1992 – present	Daily	Dog walking, walking, running, photography, kite flying, meditation	Back garden (St. Vincents Close)	Observed use by others on daily (hourly) basis
PREECE, L	1993 – present	Daily	Dog walking, nature observation	From garden (St. Vincents Close)	Many people use the fields to exercise their animals and themselves
POLLARD, J	1945 – present	Several times per day	Worked on land when it was farmed, now use as access to allotments	Jubilee Road, Court Meadow footpath	The fields have been set aside agricultural land for about 15 years; they are a safe place for local children to play unattended.
PRIOR, A	1984 – present	Weekly	Walking, berry picking, bird watching	Evenhill Road, Jubilee Road	Can see most of the area from our lounge; observed use by others on a daily basis. It is a very well used open space by local people
PRIOR, V	1972 – present	Weekly or daily	Bird watching, cycling, walking, kite flying, children's den making, blackberrying	Via the List from St. Vincents	Annual crops in the past, including wheat. Observed use by others on a daily basis.
RICE, W	1985 – present	Occasionally	Rambling, cycling, blackberrying	Jubilee Road	Have usually been others there when I have used the land. Area is a well used walking route to neighbouring villages.
RIGDEN, G	1978 – present	Weekly	Walking, ball games, berry picking, nature trail with children, bird watching	Jubilee Road, top of Church Road	See others using the land whenever we are there. Has always been public access to this land; it enables access to various parts of the village via the footpaths.
ROGERS, J	1996 – present	Occasionally	Country walks, visiting List meadows	Jubilee Road	
SAYER, J	2001 – present	Daily	Dog walking, walking to shops or local facilities	Evenhill Road, Court Hill, Jubilee Road	Observed use by others on a daily basis
SHAW, K	1977 – present	Monthly	Dog walking, bird watching, berry picking, rambling, cycling	Track	
SMITH, M	2010 –	Daily	Riding bike, walking	Back gate (St. Vincents	Observed use by others on a daily basis

	present			Close)	
SOMER, K&G	1973 – present	Weekly or daily	Dog walking, berry picking, short cut to avoid main road	Evenhill Road, Jubilee Road	
STARR, C	1985 – present	Daily	Dog walking, berry picking, children's activities, cycling	Woods, The List, shortcut from Court Hill	Observed daily use by others
STARR, D	1983 – present	Daily	Dog walking, walking children, berry picking, bird watching	Woods of The List	
STARR, J	1983 – present	Daily	Dog walking, walking	Back garden (St. Vincents Close)	Observed daily use by others
STARR, J	1953 – present	Daily	Dog walking, children walks, berry picking, bird watching	Woods or The List	
STARR, L	1983 – present	Daily	Walking, children playing, nature study, kite flying	The list, Court Hill	Observed dog walking on a daily basis
STARR, R	1969 – present	Daily	Dog walking	The List	Observed daily use by others
SULLIVAN, J	1960 – present	Occasionally	Walking, bird watching	Jubilee Road or woods	Observed use by walkers, bird watchers, cycling and children.
VALE, D	2002 – present	Daily	Rambling, dog walking, playing with children, access to woods	The List or Evenhill Road	Until 2005 it was agricultural land used for growing wheat. Used by others on a daily basis.
WALKER, C	1995 – present	Occasionally	Walking	Church Road	
WALL, R	1973 – present	Weekly	Dog walking, rambling with friends and family	Jubilee Road, Church Road	Observed use by others on a daily basis. Land has always been used by village residents for recreation purposes
WARNER, M	1980 – present	Daily	Walking	The List	Observed use by others on a daily basis
WARREN, P	1968 – present	Weekly or daily	Dog walking, keeping fit, playing with grandchildren	From woods or Jubilee Road	See people using it daily from property. Have seen people use and enjoy the area for many years.
WARD, C&J	1993 – present	Weekly	Walking, flying kites, occasionally playing group games	Jubilee Road, Court Meadows	
WEALLEANS, L	1981 – present	Daily	Dog walking, short cuts, berry picking, children played there	Back garden (St. Vincents Close)	Observed daily use by others
WEAVER, K	1993 – present	Weekly	Walking, picnics, kite flying, treasure hunts	Entrance from Jubilee Road	Observed use by others on a daily basis for dog walking and ball games.
WOOLISCROFT S&N	2006 – present	Daily	Walking, kite flying, ball games, dog training and walking, running, bird watching, nature trails, cycling	Evenhill Road, woods, allotments	

**APPENDIX E:
Photographs showing agricultural
use of the application site**



1993



1995



1996



1996



2000

Question.

① Prior to 1992 we cannot find any details. From then the crops are as follows.

93-94. OS Rape,	94-95 Wheat,	95-96 W. Barley
96-97 Peas	97-98 Wheat,	98-99 W Barley
99-00 Wheat	00-01 Wheat	01-02 S. Barley
02-03 wheat,	03-04 OS Rape	04-05 Wheat
05-06 Set aside	06-07 S.A.S.	07-08 S.A.S
08-09 S.A.S	09-10 E.H.S.	10-11 E.H.S. Keenard.
11-12. E.H.S.S.	12-13 E.H.S.	