

Applications to register lands known as ‘West Wood’ and ‘Recreation Ground’ at Hildenborough as new Village Greens

A report by the Head of Regulatory Services to Kent County Council’s Regulation Committee Member Panel on Tuesday 3rd March 2015.

Recommendation: I recommend that the County Council informs the applicant that the applications to register the lands known as ‘West Wood’ and ‘Recreation Ground’ at Hildenborough have both been accepted, and that the areas of land subject to the applications be formally registered as Town or Village Greens.

Local Member: Mrs. V. Dagger

Unrestricted item

Introduction

1. The County Council has received two applications from Hildenborough Parish Council (“the applicant”) to register lands known as ‘West Wood’ and ‘Recreation Ground’ in the parish of Hildenborough as new Town or Village Greens. The applications, both received on 31st January 2014, were allocated the application numbers VGA659 (Recreation Ground) and VGA660 (West Wood). Plans of the sites are shown at **Appendix A** to this report and copies of the application forms are 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 lands

6. The first piece of land (comprising application VGA659) forms part of the Recreation Ground that is situated on the western side of Riding Lane (opposite its junctions with Riding Park and Mount Pleasant in the parish of Hildenborough. It comprises a large area of grassed open space of approximately 2.56 hectares (6.34 acres) in size. It excludes the tennis courts to the north of the application site, as well as the pavilion and parking area on the southern side. Access to the site is via entrances in Rising Lane and Public Footpath MT25 which crosses the western side of the application site. The application site is shown in more detail in the plan at **Appendix A1**.
7. The second piece of land (comprising application VGA660) is known as 'West Wood' and is situated to the south of Tonbridge Road (B245) in the parish of Hildenborough. The application site extends on its northern side to Public Footpath MT414, on its western side to the Hildenborough Medical Centre and on its eastern and southern sides to the rear of properties in Leigh Road and Stocks Green Road. It comprises an area of largely woodland of approximately 4.6 hectares (11.4 acres) in size, but excludes a play area along the northern boundary. Access to the site is via the unenclosed boundary with Public Footpath MT414. The application site is shown in more detail in the plan at **Appendix A2**.

Notice of Application

8. As required by the regulations, Notice of the applications was published on the County Council's website. The local County Member was also informed of the applications, as was Tonbridge and Malling Borough Council.
9. No responses were received to the consultation.

Ownership of the land

10. Land Registry searches have been undertaken in respect of both pieces of land. These have confirmed that both areas are wholly owned by the applicant; the Recreation Ground site is registered to the applicant under title number K948092, whilst the West Wood site is registered to the applicant under title numbers K691045 and K532217. Copies of the relevant Registers of Title are attached at **Appendix C**.

11. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Registers of Title in respect of the sections of land that are to be registered as Village Green.

The 'locality'

12. 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.
13. 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).
14. In this case, the applications have been made by the local Parish Council. As noted above, a civil parish is a qualifying locality for the purposes of Village Green registration and, as such, it seems appropriate that the relevant locality in both of these cases should be the parish of Hildenborough.

Conclusion

15. 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.
16. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

Recommendations

17. I recommend that the County Council informs the applicant that the applications to register the lands known as 'West Wood' and 'Recreation Ground' at Hildenborough have both been accepted, and that the areas of land subject to the applications be formally registered as Town or Village Greens.

Accountable Officer:

Mr. Mike Overbeke – Tel: 03000 4134227 or Email: mike.overbeke@kent.gov.uk

Case Officer:

Ms. Melanie McNeir – Tel: 03000 413421 or Email: melanie.mcneir@kent.gov.uk

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

Background documents

APPENDIX A1 – Plan showing application site at the ‘Recreation Ground’

APPENDIX A2 – Plan showing application site at ‘West Wood’

APPENDIX B1 – Copy of application form for the ‘Recreation Ground’

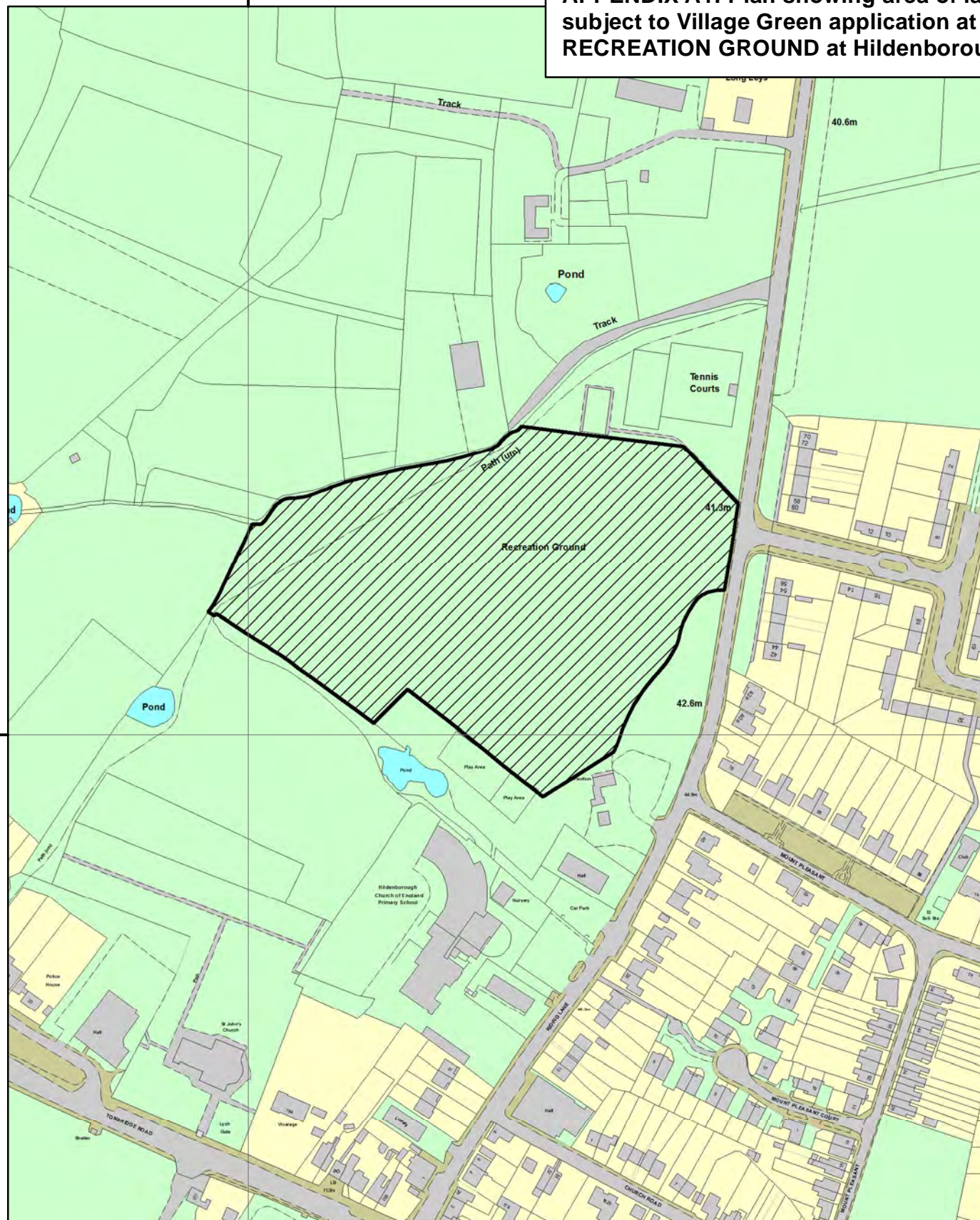
APPENDIX B2 – Copy of the application form for ‘West Wood’

APPENDIX C1 – Copy of the Register of Title from Land Registry for the ‘Recreation Ground’

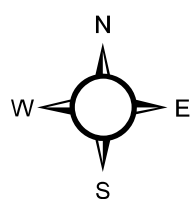
APPENDIX C2 – Copy of the Register of Titles from Land Registry for ‘West Wood’

556500 000000

APPENDIX A1: Plan showing area of land subject to Village Green application at the RECREATION GROUND at Hildenborough



556500 000000



Scale 1:2500

Land subject to Village Green application at the Recreation Ground at Hildenborough



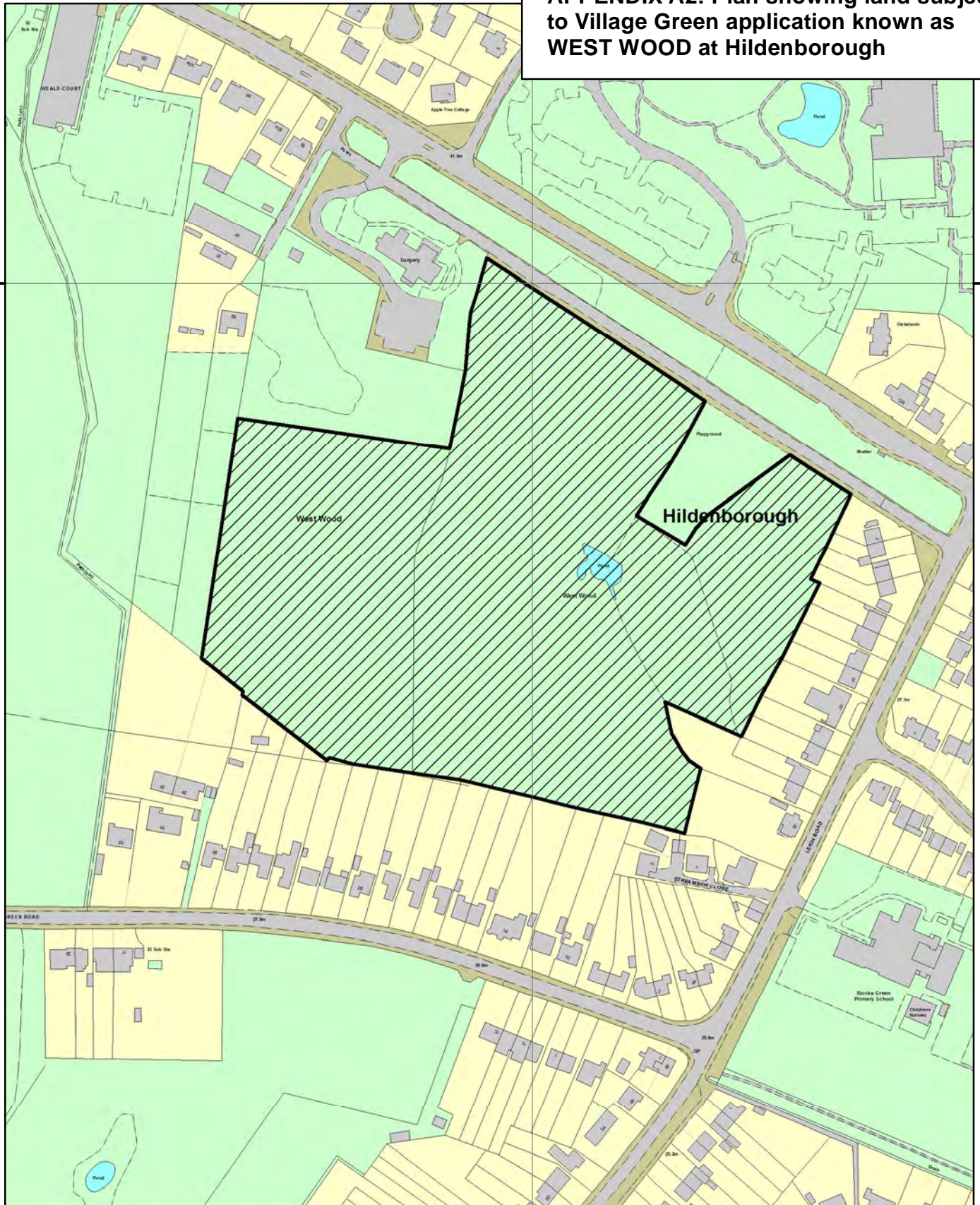
**Kent
County
Council**
kent.gov.uk



5570

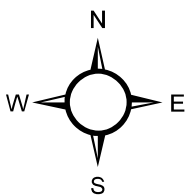
APPENDIX A2: Plan showing land subject to Village Green application known as WEST WOOD at Hildenborough

148500.000000



148500.000000

557000.000000



Scale 1:2500

Land subject to Village Green application at West Wood at Hildenborough



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

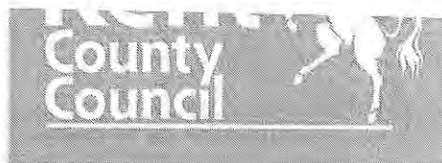


FORM CA9

APPENDIX B1: Copy of the application form
for RECREATION GROUND at Hildenborough

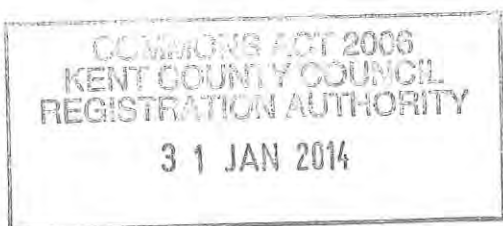
Commons Act 2006: section 15

**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:

VGA659

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:

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: *Hildenborough Parish Council*

Full postal address: *60 Knowoley Way*
(incl. Postcode) *Hildenborough*

Tonbridge
Kent TN11 9LQ

Telephone number:
(incl. national dialling code) *01732 632367*

Fax number:
(incl. national dialling code) *-*

E-mail address: *hpcclerk@btinternet.com.*

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: *N/A*

Firm:

Full postal address:
(incl. Postcode)

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

Note 4

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

4. Basis of application for registration and qualifying criteria

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

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

Section 15(2) applies: ☐

Section 15(3) applies: ☐

Section 15(4) applies: ☐

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

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

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

Note 5

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

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

Name by which usually known:

Recreation Ground

Location: Ridling Lane
Hildenborough
TN11 9HY

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:

off Ridgway Lane, Hildenborough
opposite junction with Mount Pleasant
and Ridgway Park.

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

N/A

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

N/A

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

Hildenborough Parish Council consent to their Recreation Ground being registered as a Village Green see minute 15 January 2014 item 6.2.6

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

copy of minute 15 January 2014 6.2.6

copy of Land Registration K946092
+ map.

copy of conveyance dated 17 November
1931

approx 10.412 acres

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

N/A

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):

on behalf of Hildenborough
Parish Council

Date:

28 January 2014

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.

Official copy of register of title

Title number K948092

Edition date 15.12.2008

- This official copy shows the entries in the register of title on 22 December 2008 at 18:02:52.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 22 December 2008.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Tunbridge Wells Office.

A: Property register

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

KENT : TONBRIDGE AND MALLING

- 1 (19.11.2008) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Recreation Ground, Riding Lane, Hildenborough, Tonbridge.

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 (19.11.2008) PROPRIETOR: HILDENBOROUGH PARISH COUNCIL care of The Clerk, 60 Knowsley Way, Hildenborough, Tonbridge, Kent TN11 9LQ and care of Warners Solicitors, Bank House, Bank Street, Tonbridge, Kent TN9 1BL.
- 2 (19.11.2008) The value stated as at 19 November 2008 was £35,000.

C: Charges register

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

- 1 (19.11.2008) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.

C: Charges register continued

Schedule of notices of leases

	Registration date and plan ref.	Property description	Date of lease and term	Lessee's title
1	Edged and numbered 1 in blue	Gardeners Store	26.01.1989 25 years from 1 January 1989	
2	Edged and numbered 2 in blue	Tennis Courts	03.10.1991 25 years from 1 April 1991	
3	07.08.2007 Edged and numbered 3 in blue	Scout Hut	09.06.2007 20 years from 1 May 2003	K925690

End of register

Land Registry
Official copy of
title plan

Title number **K948092**
Ordnance Survey map reference **TQ5649SE**
Scale **1:2500**
Administrative area **Kent: Tonbridge and Malling**



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 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, Tunbridge Wells Office.

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Title number K948092

Edition date 15.12.2008

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C: Charges register continued

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3	07.08.2007 Edged and numbered 3 in blue	Scout Hut	09.06.2007 20 years from 1 May 2003	K925690

End of register

Land Registry Official copy of title plan

Title number **K948092**
Ordnance Survey map reference **TQ5649SE**
Scale **1:2500**
Administrative area **Kent: Tonbridge and Malling**



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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, Tunbridge Wells Office.

Official copy of register of title

Title number K691045

Edition date 03.12.2007

- This official copy shows the entries in the register of title on 3 December 2007 at 14:51:44.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 3 December 2007.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Tunbridge Wells Office.

A: Property register

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

KENT : TONBRIDGE AND MALLING

- 1 (24.06.1976) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land to the south side of Tonbridge Road, Hildenborough.

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 (16.07.1990) PROPRIETOR: HILDENBOROUGH PARISH COUNCIL care of The Clerk, 60 Knowsley Way, Hildenborough, Tonbridge, Kent TN11 9LQ and care of Warners Solicitors, Bank House, Bank Street, Tonbridge, Kent TN9 1BL.
- 2 The Transfer to the proprietor(s) contains a purchasers' personal covenant.

NOTE: Original covenant filed.

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 2 June 1976 made between (1) Newton Clarence Pilcher (Vendor) and (2) Derrick Barkaway (Purchaser) contains the following covenants:-

"FOR the benefit and protection of the remainder of the Foxbrush Estate Hildenborough aforesaid or any part or parts thereof and so as to bind so far as may be the property hereby conveyed unto whosoever's hands the same may come the Purchaser HEREBY COVENANTS with the Vendor that the Purchaser and the persons deriving title under him will at all times hereafter observe and perform the restrictions and stipulations set out in the First Schedule hereto but so that neither the Purchaser nor those deriving title under him shall be liable for a breach of this covenant occurring on or in respect of the property hereby conveyed or any part or parts thereof after he or they shall have parted with all interest therein.

THE FIRST SCHEDULE before referred to

1. Not to erect any buildings on the property hereby agreed to be sold except on a site first approved in writing by the Vendor's Surveyor and such approval not to be unreasonably withheld whose fee for such approval shall be paid by the Purchaser.

2. Not to use the property hereby agreed to be sold or any part or parts thereof for any purpose which shall be or become a nuisance or annoyance or cause damage to the adjoining land of the Vendor now or formerly forming part of the Foxbrush Estate."

- 2 The land is subject to the following rights reserved by a Transfer of the land in this title dated 6 July 1990 made between (1) Derrick Barkaway (Transferor) and (2) The Parish Council of Hildenborough (Transferee):-

"Except and reserving unto the Transferor and his successors in title the right for the free passage and flow of surface water from the land shown edged blue on the plan in such a manner recommended by the relevant drainage authority in a position to be approved by the Transferee causing as little damage as possible and making good all damage caused by the exercise of the right hereinbefore contained and replanting where necessary."

NOTE: The land edged blue is reproduced on the filed plan.

End of register

H.M. LAND REGISTRY		TITLE NUMBER
		K691045
ORDNANCE SURVEY PLAN REFERENCE	TQ 5648	Scale 1/2500
COUNTY KENT	DISTRICT TONBRIDGE AND MALLING	©Crown Copyright



The boundaries shown by dotted lines have been plotted from the Greater District title plan and may be updated from later survey information.



This is a print of the view of the title plan obtained from Land Registry showing the state of the title plan on 02 July 2007 at 15:23:17. 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 7 - Title Plans.

This title is dealt with by Land Registry, Tunbridge Wells Office.

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Official copy of register of title

Title number K532217

Edition date 03.12.2007

- This official copy shows the entries in the register of title on 3 December 2007 at 14:58:34.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 3 December 2007.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it*.
- This title is dealt with by Land Registry Tunbridge Wells Office.

A: Property register

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

KENT : TONBRIDGE AND MALLING

- 1 (24.06.1976) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land lying to the South-west of Tonbridge Road, Hildenborough.
- 2 The land has the benefit of the rights granted by but is subject as mentioned in a Conveyance dated 15 February 1944 made between (1) John Egginton and William Tristan Templer and (2) William Clarence Pilcher in the following terms:-

"subject to but with the benefit of all easements quasi easements privileges and advantages whether as regards any water drainage or light or otherwise and whether mentioned or referred to or shown in the plans annexed thereto or act as may affect or appertain to the property hereby conveyed".

NOTE: No copy of the plan to the Conveyance was supplied on first registration.

- 3 The Transfer dated 25 March 1982 referred to in the Charges Register contains the following provision:-

"ANY rights of light and air which would prejudicially affect the user for building or any other purpose by the Transferor and his successors in title or his or their adjoining or neighbouring land are hereby expressly excepted from the effect of this Transfer and it is hereby declared that the Transfer and its successors in title shall not become entitled to any such rights for the benefit of the land hereby transferred."

C: Charges register continued

such approval not to be unreasonably withheld whose fee for such approval shall be paid by the Purchaser

2. Not to use the property hereby agreed to be sold or any part or parts thereof for any purpose which shall be or become a nuisance or annoyance or cause damage to the adjoining land of the Vendor now or formerly forming part of the Foxbrush Estate"

3. The land is subject to the following rights reserved by a Transfer of the land in this title dated 25 March 1982 made between (1) Derrick Barkaway (Transferor) and (2) The Parish Council of Hildenborough:-

"Except and Reserving unto the Transferor and its successors in title for the benefit of the remainder of the land comprised in the Title above mentioned a full and free right (in common with all other persons having the like right) to the passage and running of water and soil through the drain or sewer running under the land hereby transferred the approximate position of which is shown by a green line on the plan annexed hereto or any drain or sewer which may be laid in replacement thereof within eighty years of the date hereof and the right at any time hereafter to enter into and upon the land hereby transferred for the purpose of maintaining repairing renewing cleansing any drain or sewer which may from time to time serve the Transferee's retained land or any part or parts thereof either exclusively or in common with any other person Subject to the persons exercising such right making good all damage caused in the exercise thereof and paying a fair proportionate part of the costs and expenses of maintaining repairing cleansing and renewing such drain or sewer hereinbefore mentioned."

NOTE: The green line referred to is shown by a blue broken line on the filed plan.

End of register

ANCE SURVEY
REFERENCE

TQ 5648 - 5748

Scale
1/2500

TY KENT

DISTRICT TONBRIDGE AND MALLING

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NOTE: AREAS ON THIS PLAN ARE EXPRESSED
IN ACRES AND HECTARES.

