

## **Application to register land known as Marlowe Road Green at Larkfield as a new Town or 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 19<sup>th</sup> May 2015.

**Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Marlowe Road Green at Larkfield has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.**

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Local Member: Mrs. T. Dean

Unrestricted item

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### **Introduction**

1. The County Council has received an application to register a piece of land known as Marlow Road Green at Larkfield as a new Town or Village Green from the East Malling and Larkfield Parish Council ("the applicant"). The application, made on 16<sup>th</sup> February 2015, was allocated the application number VGA664. 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 land of approximately 0.95 acres (0.38 hectares) in size, known locally as Marlowe Road Green, that is situated to the rear of properties in Marlowe Road, Betjeman Close and Masefield Road in the parish of East Malling and Larkfield.
7. A plan of the application site is attached at **Appendix A**.

### Notice of Application

8. As required by the regulations, Notice of the application was published on the County Council's website. The local County Member was also informed of the application.
9. No responses to the consultation have been received.

### Ownership of the land

10. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number TT27609. A copy of the Register of Title is attached at **Appendix C**.
11. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

### 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 application has 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 this case should be the civil parish of East Malling and Larkfield.

## **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 application to register the application to register the land known as Marlowe Road Green at Larkfield has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Accountable Officer:

Mr. Mike Overbeke – Tel: 03000 413427 or Email: [mike.overbeke@kent.gov.uk](mailto:mike.overbeke@kent.gov.uk)

Case Officer:

Ms. Melanie McNeir – Tel: 03000 413421 or Email: [melanie.mcneir@kent.gov.uk](mailto: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**

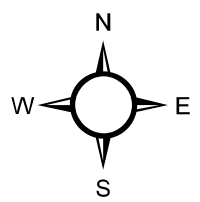
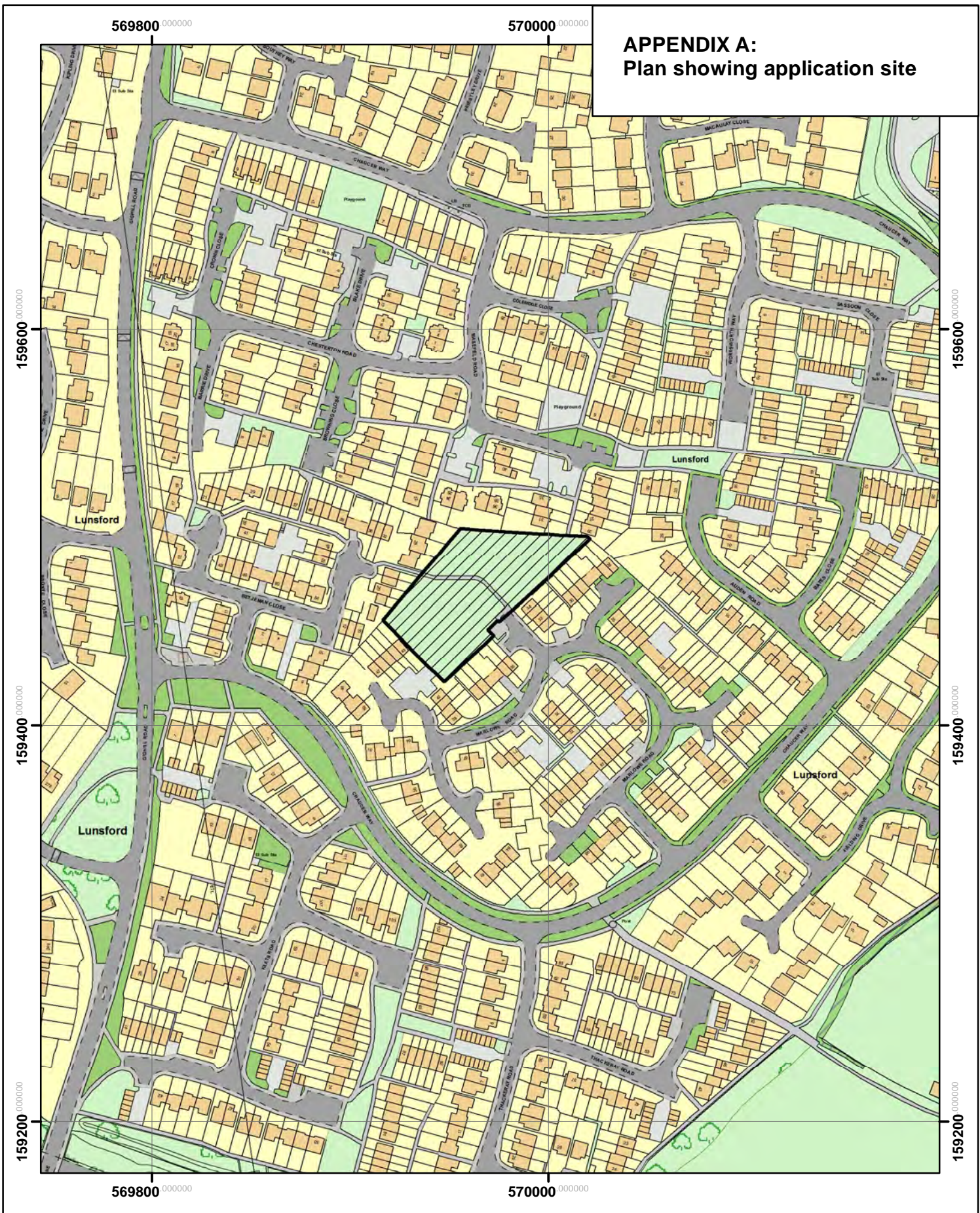
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

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

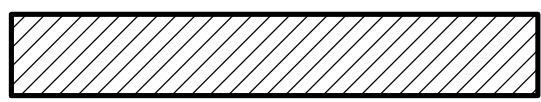


**APPENDIX A:**  
**Plan showing application site**



**Scale 1:2500**

**Land subject to Village Green application  
known as Marlowe Road Green in the  
parish of East Malling and Larkfield**

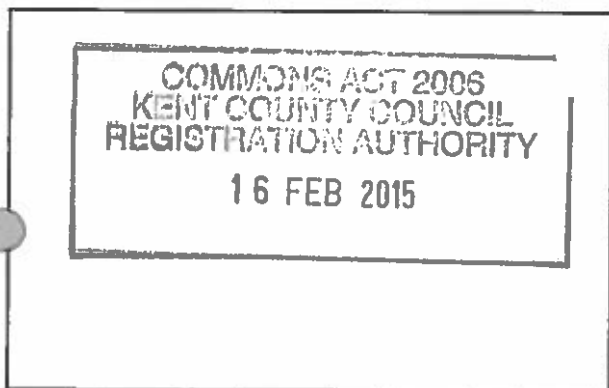




## Commons Act 2006: section 15

**Application for the registration of a town or village green****This section is for office use only**

Official stamp



Application number

VGA664

VG number allocated at registration

Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

- All applicants should complete boxes 1–6 and 10–12.
  - Applicants applying for registration under section 15(1) of the Commons Act 2006 should, in addition, complete boxes 7 and 8. Any person can apply to register land as a green where the criteria for registration in section 15(2) or 15(3) apply; (NB 15(4) is obsolete).
  - Applicants applying for voluntary registration under section 15(8) should, in addition, complete box 9. Only the owner of the land can apply under section 15(8).
- There is no application fee.

**Note 1**

Insert name  
of commons  
registration  
authority.

**1. Commons Registration Authority**

To the:

Kent County Council  
(Commons Registration Team)

Tick the box to confirm that you have enclosed the appropriate fee for this application:

☐

**Note 2**

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association. 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 box 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This box 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, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

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

Name:

EAST MAILING LARKFIELD PARISH COUNCIL

Postal address:

PARISH OFFICE  
CHURCH FARM198, NEW HYTHE LANE, LARKFIELD  
AYLESFORD

Postcode NE206ST

Telephone number:

01732 844546

Fax number:

01732 ~~8478~~ 875857

E-mail address:

office@emandplc.co.uk

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

Name:

N/A.

Firm:

Postal address:

Postcode

Telephone number:

Fax number:

E-mail address:

**Note 4**

For further details of the requirements of an application refer to Schedule 4, paragraph 9 or 10 to the Commons Registration (England) Regulations 2014. Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

**Note 5**

This box is to identify the new green. The accompanying Ordnance map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland, and show the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where if known.

**4. Basis of application for registration and qualifying criteria**

If you are the landowner and are seeking voluntarily to register your land tick the following box and move to box 5:



If the application is made under section 15(1) of the Act, 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:



If section 15(3) applies indicate the date on which you consider that use as of right ended:

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:

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

Name by which the land usually known:

Location:

Common land register unit number (only if the land is registered common land):

Tick the box to confirm that you have attached an Ordnance map of the land:



**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 an Ordnance map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,560.

**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).

**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).

**6. Locality or neighbourhood within a locality in respect of which the application is made**

Show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching an Ordnance map on which the area is clearly marked:

East Malling chalkfield parish.

Tick here if a map is attached:

☐**7. Justification for application to register the land as a town or village green**

Landowner application - see Title No TT 27609.

**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**

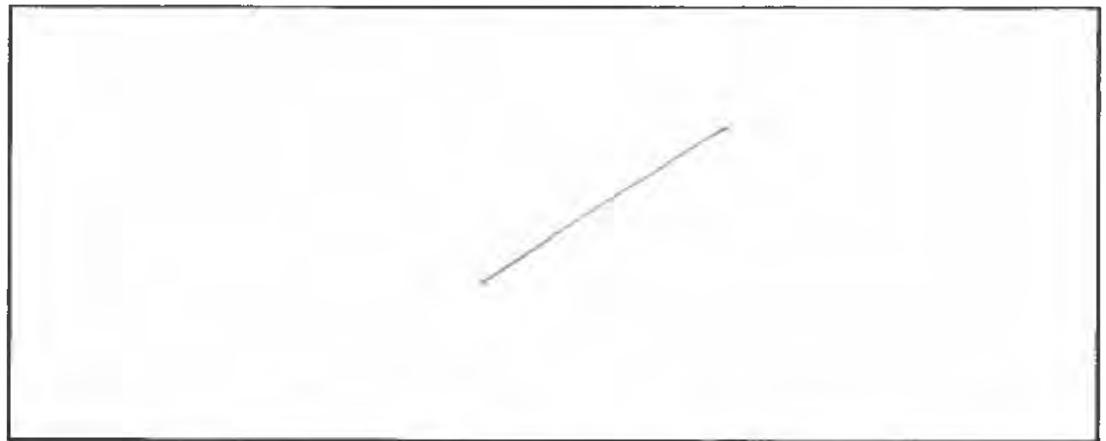
List or enter in the form all such declarations that accompany the application. This can include any written declarations sent to the applicant (e.g. a letter), and also any such declarations made on the form itself.

**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.

**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.

**9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land****10. Supporting documentation**

1. Copy hand Registry entries  
2. Copy Map (land edged red)

**11. Any other information relating to the application**

None

**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 an unincorporated association.*

**12. Signature**

Date:

11th February 2015.

Signatures:

VE Seem.

**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.**

**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 or the Freedom of Information Act 2000.*



# Official copy of register of title

Title number TT27609

Edition date 18.08.2014

- This official copy shows the entries in the register of title on 8 January 2015 at 15:57:39.
- 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 8 January 2015.
- 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](http://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 Nottingham Office.

## A: Property register

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

KENT : TONBRIDGE AND MALLING

- 1 The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Public Open Space Marlowe Road, Larkfield, Aylesford.
- 2 The Transfer dated 15 May 1975 referred to in the Charges Register contains the following provision:-  
  
"IT IS HEREBY AGREED AND DECLARED that the Transferees shall not by implication prescription or otherwise become entitled to any right of light or air which would restrict or interfere with the free use of the Estate by the Transferors for building or for other purposes"
- 3 (18.08.2014) The Transfer dated 13 August 2014 referred to in the Charges Register contains a provision relating to the passing and creation of easements as therein mentioned.

## 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 (18.08.2014) PROPRIETOR: EAST MALLING & LARKFIELD PARISH COUNCIL of Council Offices, Larkfield Village Hall, New Hythe Lane, Larkfield, Aylesford ME20 6PU.
- 2 (18.08.2014) The value stated as at 18 August 2014 was £200,000.

## B: Proprietorship register continued

- 3 (18.08.2014) RESTRICTION: No transfer or lease of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a certificate signed by a conveyancer that the provisions of clause 12.3c of the Transfer dated 13 August 2014 referred to in the Charges Register have been complied with or that they do not apply to this disposition.
- 4 (18.08.2014) The Transfer to the proprietor contains a covenant to comply with the covenants referred to in the Charges Register and of indemnity in respect thereof.

## C: Charges register

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

- 1 The is subject to rights of support and rights of entry for the purpose of inspecting cleaning maintaining repairing and renewing the window and external walls of dwellinghouses or garages which abut the boundaries of the land in this title.
- 2 The land is subject to rights to use the drains, sewers and other conduits therein or thereunder and ancillary rights of entry.
- 3 The footpaths included in the title are subject to rights of way.
- 4 A Wayleave Consent dated 10 June 1958 made between (1) William James Thomson (Grantor) and (2) South Eastern Electricity Board (Board) contains the following agreement:-

HEREBY CONSENT AND AGREE to the placing laying erecting and also to the maintaining repairing and replacing by the South Eastern Electricity Board (hereinafter called "the Board") of the works described in the Second Schedule hereto across the said premises and also to the entry by the Board from time to time upon the said premises by their servants agents contractors and work people for the purpose of inspecting maintaining repairing and replacing or removing the works or any of them

### THE SECOND SCHEDULE hereinbefore referred to

One or more overhead electric lines (including such poles struts and stays as may be required for supporting them, and any ancillary apparatus in the position shown on the said plan by a continuous red line (the proposed situations of any poles being shown by circles and of any struts and stays being shown by a letter T)

One or more underground electric lines and any requisite ancillary apparatus in the position shown on the said plan by a red dotted line.

NOTE: The position of the red lines referred to is shown as a blue broken line on the title plan, so far as it affects the land in this title. No red dotted line was shown on the plan to the agreement lodged for registration.

- 5 A Transfer of the land in this title and other land dated 15 May 1975 made between (1) Roger Malcolm Developments Limited and (2) The Kent County Council contains the following covenants:-

"FOR the benefit of the remainder of the land comprised in the above mentioned title (which is hereinafter referred to as "the Estate") and any and every part thereof the Transferees covenant for themselves and their

## C: Charges register continued

successors in title to perform and observe the covenants contained in the Third Schedule hereto

### THE THIRD SCHEDULE

#### Restrictions and Obligations to be Observed and Performed by the Transferees

(a) Not to use the School Site for any purpose other than for educational purposes under the Education Acts 1944-1971 or any modification or re-enactment thereof

(b) Not to erect any building on nor use the Public Open Space Land for any other purpose except as provided for under the Open Spaces Act 1906

(c) No noisome noxious or offensive trade or business shall be carried on upon the land transferred or any part thereof and nothing shall be done or suffered thereon which might create a nuisance or annoyance or be offensive or objectionable to the Transferors or to the owners or occupiers of any land forming part of the Estate but not so as unreasonably to prevent its use as permitted in paragraph (a) and (b) above"

NOTE: The land in this title forms part of the School site referred. The Public Open Space referred to is not included in the title

- 6 The land is subject to the following rights reserved by the Transfer dated 15 May 1975 referred to above:-

"EXCEPT AND RESERVING the easements and rights set out in the Second Schedule hereto

IN the ..... Second Schedules hereto the meaning of "future drains sewers electricity cables gas pipes or other connecting media" is limited to those coming into existence within eighty years of the date of this Transfer

.....

### THE SECOND SCHEDULE

#### Rights and easements reserved to the Transferors

(a) The right to lay beneath the land transferred drain sewers electricity cables gas pipes or other connecting media causing as little disturbance as possible and making good any damage resulting from the exercise of this right

(b) The right to use the existing and any future drains sewers electricity cables gas pipes or other connecting media belonging to or serving the land transferred which also serve or are required for the purpose of serving any other part of the Estate

(c) The right to enter upon any part of the land transferred in order to connect into inspect test repair or renew the existing and any future drains sewers electricity cables gas pipes or other connecting media provided that Transferors shall

(i) give reasonable notice to the Transferees of their intention to



## C: Charges register continued

exercise this right (ii) cause as little disturbance as possible and (iii) make good any damage resulting from the exercise of this right"

- 7 (18.08.2014) A Transfer of the land in this title dated 13 August 2014 made between (1) Bellwinch Homes Limited and (2) East Malling & Larkfield Parish Council contains restrictive covenants.

*NOTE: Copy filed.*

End of register

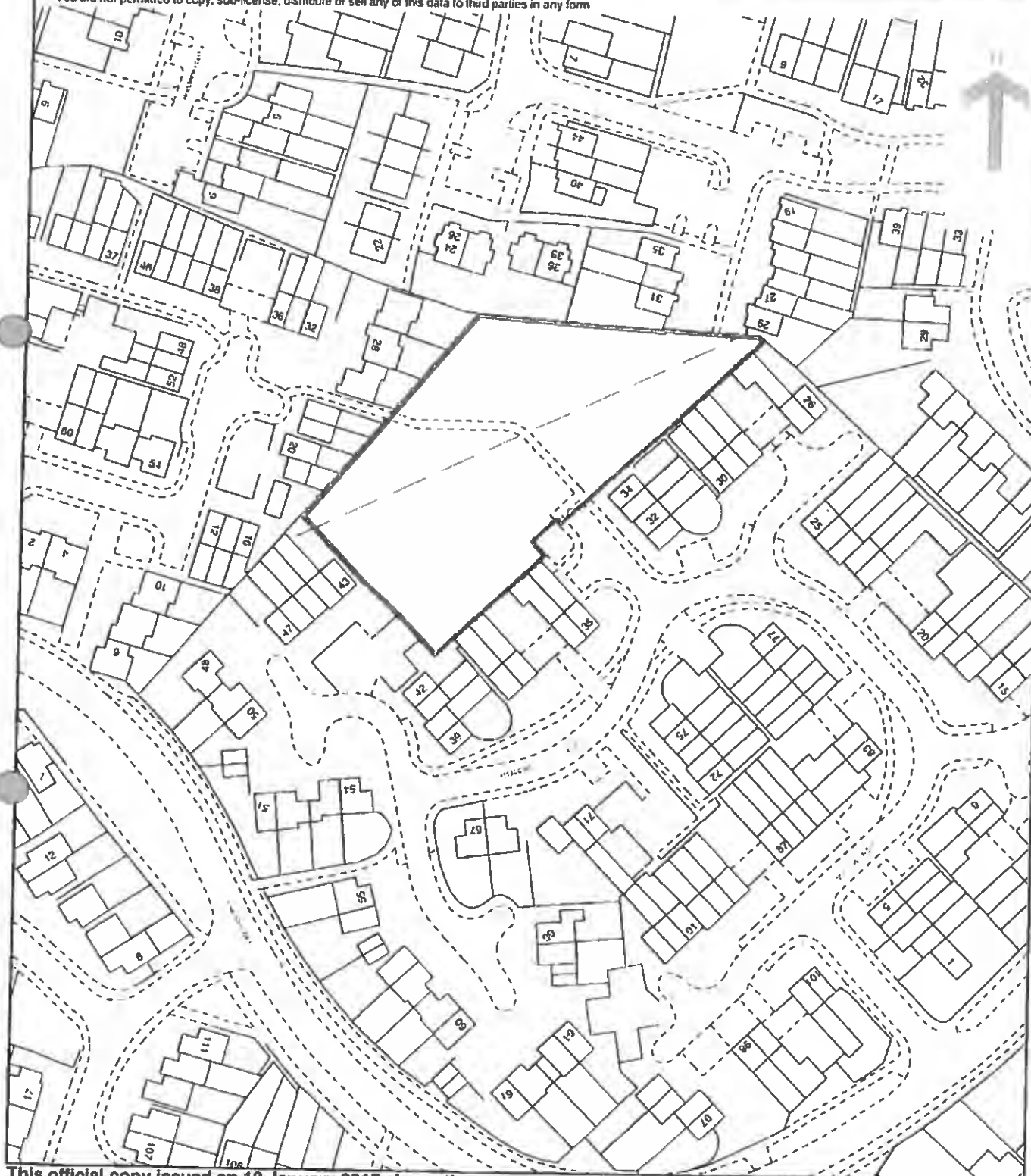
# Land Registry

Official copy of  
title plan

Title number **TT27609**  
Ordnance Survey map reference **TQ6959SE**  
Scale **1:1250**  
Administrative area **Kent: Tonbridge and Malling**



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**This official copy issued on 12 January 2015 shows the state of this title plan on 12 January 2015 at 09:45:12. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).**  
**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.**  
**This title is dealt with by Land Registry, Nottingham Office.**