

Application to register land at Alamein Gardens, Stone (Nr. Dartford) as a new Village Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Friday 7th August 2009.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Alamein Gardens, Stone has been accepted (with the exception of the section of the land owned by Dartford Borough Council), and that the part of the land subject to the application that is under the ownership of Stone Parish Council be formally registered as a Village Green.

Local Members: Mrs. P. Cole

Unrestricted item

Introduction

1. The County Council has received an application to register land at Alamein Gardens at Stone as a new Village Green from the Stone Parish Council ("the applicant"). The application, dated 20th May 2008, was allocated the application number VGA600. 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 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 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. As a standard procedure set out in the Commons Registration (England Regulations 2008, the County Council must also publicise the application in a newspaper circulating in the local area and put a copy of the Notice on its own website. The publicity must state a period of at least six weeks during which objections and representations can be made. In addition, the County Council is required to notify all local Councils of the application.
6. 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 Village Green.

The Case

Description of the land

7. The area of land subject to this application (“the application site”) consists of an area of landscaped open space of approximately 0.3 acres (0.14 ha) in size situated adjacent to London Road and Alamein Gardens in the village of Stone, near Dartford. The application site is bounded on three sides by a metal fence and on the fourth side by a metalled pathway fronting property numbers 129 to 139 Alamein Gardens. It consists of an area of grass surrounded by flowerbeds and shrubs, and it is equipped with several benches and litter bins and a notice board. Photographs of the site are attached at **Appendix C**.

Notice of Application

8. As required by the regulations, Notice of the application was published in the Dartford Messenger on Friday 13th February 2009 and placed on the County Council’s website. In addition, copies of the notice were displayed on the application site itself and served on Dartford Borough Council. The local County Member was also informed of the application.
9. In response to the Notice of Application, six letters of support were received from local residents. These letters stated that the land was popular with local residents as many live in flats with no garden and this was the only area of enclosed land where young children could play safely. Since the land was purchased by the Parish Council it has been used as a Community Garden, maintained by the local residents with assistance from the parish work force. The land has also been used for Community events in the past.
10. The local County Member, Mrs. C. Angell, has also written in support of the application. She added the land was an important green space for the local community in an urban area and is used by a wide age range, thus assisting in community cohesion.

Ownership of the land

11. A Land Registry search has been undertaken to confirm the ownership of the application site. The search revealed that although the significant majority of the application site is owned by Stone Parish Council, a small section is under the ownership of Dartford Borough Council.
12. In addition, and in response to the Notice of Application, the Borough Council wrote to confirm that it owned a small section of the land subject to the application and advised that this section ought to be excluded from the application. A plan showing the land ownership of the application site is attached at **Appendix D**. A copy of the Register of Title for the section owned by Stone Parish Council is attached at **Appendix E**.
13. The fact that part of the application site is not under the Parish Council's ownership is not detrimental to the application itself. In the *Oxfordshire*¹ case, Lord Hoffman endorsed the County of Appeal's suggestion that the Registration Authority is entitled to amend an application and register a smaller area than that applied for.

The 'locality'

14. DEFRA's view is that once land is registered as a 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. At Part 6 of the application, the locality is defined as 'Stone parish'.
15. 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). Since the application has been made by Stone Parish Council, it seems appropriate that the locality should therefore be the parish of Stone so that all the residents of the village have the legal right to use the land.

Conclusion

16. As stated at paragraph 3 above, the relevant criteria for the voluntary registration of land as a new 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.
17. I have concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met in relation to the greater part of the application site that is owned by Stone Parish Council.

¹ *Oxfordshire County Council v Oxford City Council* [2006] UKHL 25 at paragraph 62

18. However, if the County Council decides to register the land as a Village Green, the section of the application site that is owned by Dartford Borough Council should be excluded from the registration.

Recommendations

19. I recommend that the County Council informs the applicant that the application to register the land at Alamein Gardens, Stone has been accepted (with the exception of the part of the land owned by Dartford Borough Council), and that the part of the land subject to the application that is under the ownership of Stone Parish Council be formally registered as a Village Green.

Accountable Officer:

Dr. Linda Davies – Tel: 01622 221500 or Email: linda.davies@kent.gov.uk

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221628 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, 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 – Photographs of the application site

APPENDIX D – Plan showing land ownership

APPENDIX E – Official copy of register of title from Land Registry

556500 000000

556600 000000

**APPENDIX A:
Plan showing application site**

174100 000000

174100 000000

174000 000000

174000 000000

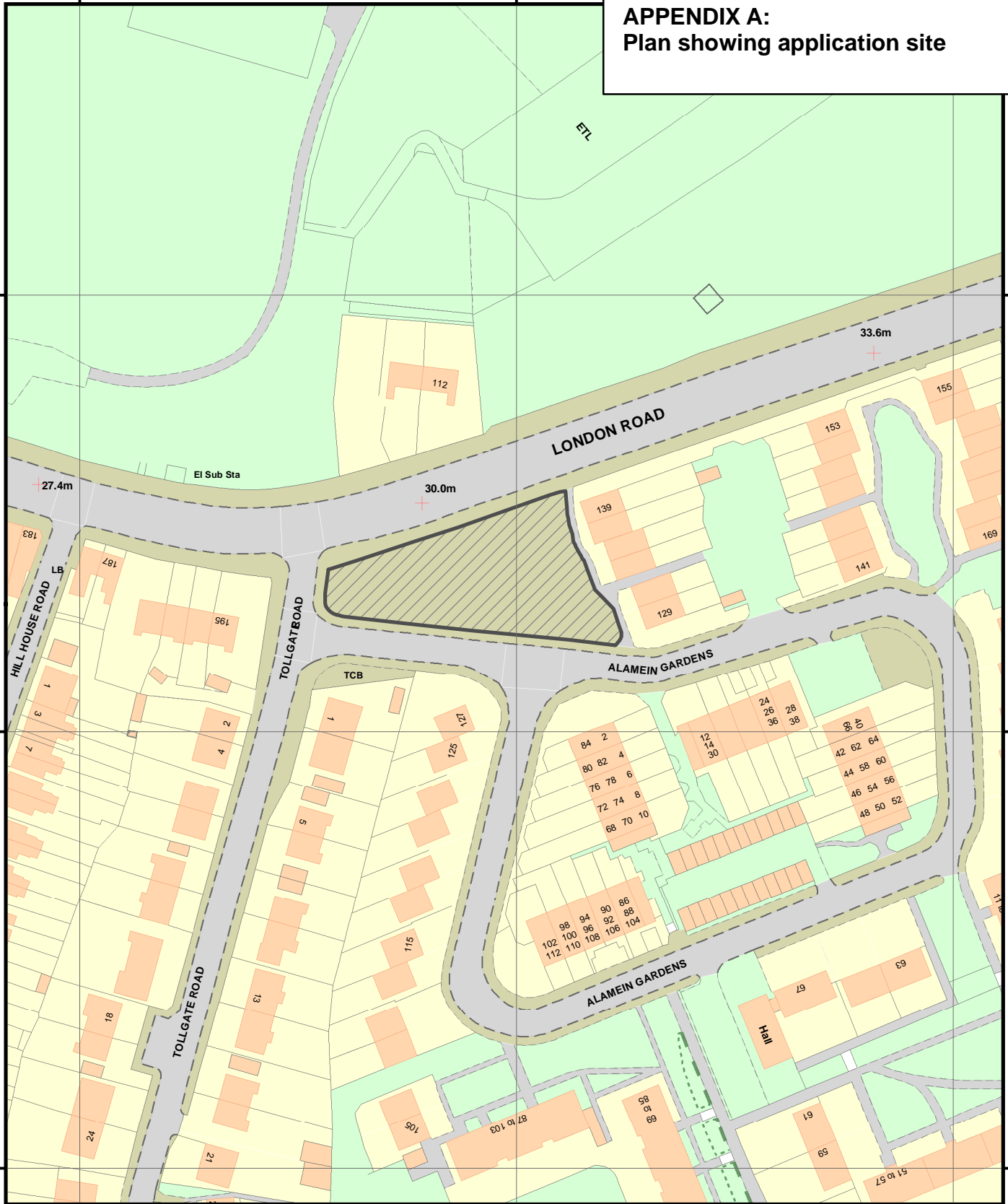
173900 000000

173900 000000

556500 000000

556600 000000

556700 000000



Scale 1:1250

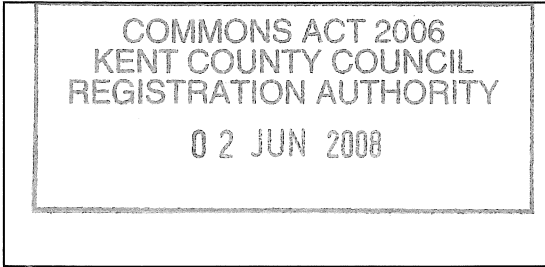
**Land subject to Village Green
application at Alamein Gardens
(off London Road) at Stone**



Commons Act 2006: Section 15

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

Official stamp of registration authority indicating valid date of receipt:



Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to 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 question 9.

1. Registration Authority

Note 1
Insert name of registration authority.

To the

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

** 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.*

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.

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

* Only complete if the land is already registered as common 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 or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

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

Name by which usually known:

The Green

Location:

London Road, Stone, Kent
(bordered by Tollgate Road)

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

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

Please 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 a map on which the area is clearly marked:

Stone Parish

Tick here if map attached:

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

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).

Applying under section 15(8)

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

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, tenant or occupier of any part of the land claimed to be a town or village green

Applying under section 15(8)

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

9. Voluntary registration – declarations of consent from ‘relevant leaseholder’, and of the proprietor of any ‘relevant charge’ over the land

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

10. Supporting documentation

1) Map of residential area showing highlighted area.

Note 11

If there are 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


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.

Date:

20.5.08

Signatures:



REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

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 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.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ *Insert full name (and address if not given in the application form).*

I...Jennie Thomas¹ solemnly and sincerely declare as follows:—

² *Delete and adapt as necessary.*

1.² I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (³ one of the applicants))).

³ *Insert name if Applicable*

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ *Complete only in the case of voluntary registration (strike through if this is not relevant)*

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

⁴ Continued

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said)
STONE PARISH COUNCIL)
COUNCIL OFFICES)
at RECREATION GROUND)
LONDON ROAD, STONE)
KENT DA9 9DQ)
this 20th day of May 08)



Signature of Declarant

Before me *

Signature: 

Address: 2, UPPER CHURCH HILL,
STONE VILLAGE,

Qualification: GREENHITHE, KENT. DA9 9BW.
JP.

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

Thomas



Stone Parish Council – Application for the registration of land as a Village Green.

Land situated at London Road, Stone, Kent – bordered by Tollgate Road and Alamein Gardens.

This plan shows only those pipes owned by Transco plc in its role as a Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned may be present in the area. For this reason, the plan should be obtained from the owners. The information shown on this plan is for information only and does not constitute a guarantee. Service pipes, valves, stopcocks, sub connections, etc. are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Transco plc, its agents or servants for any error or omission. Safe digging practices in accordance with HSG147, must be used to verify and establish the actual position of pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractor's working for you on or near gas apparatus. The information included on this plan should not be referred to beyond a period of 28 days from the date of issue.

SCALE: 1 : 500

USER ID: jfh02

DATE: 15/11/2003

NRSWA RESPONSE

GRID REFERENCE: 556598, 174054, T05674

Approximate scale 1 : 500 printed on A3 Colour Landscape

Legend:

- LP MARKS
- MP MARKS
- IP MARKS
- LHP MARKS
- NHP MARKS
- 0m
- Approximate scale 1 : 500 printed on A3 Colour Landscape
- Stone
- Diagn of
- Cover
- Spoon
- Diagn of
- Change
- Manhole
- Change

**APPENDIX C:
Photographs showing application site**



Above: View from London Road and Tollgate Road junction looking EAST

Below: View from Tollage Road and Alamein Gardens junction looking EAST



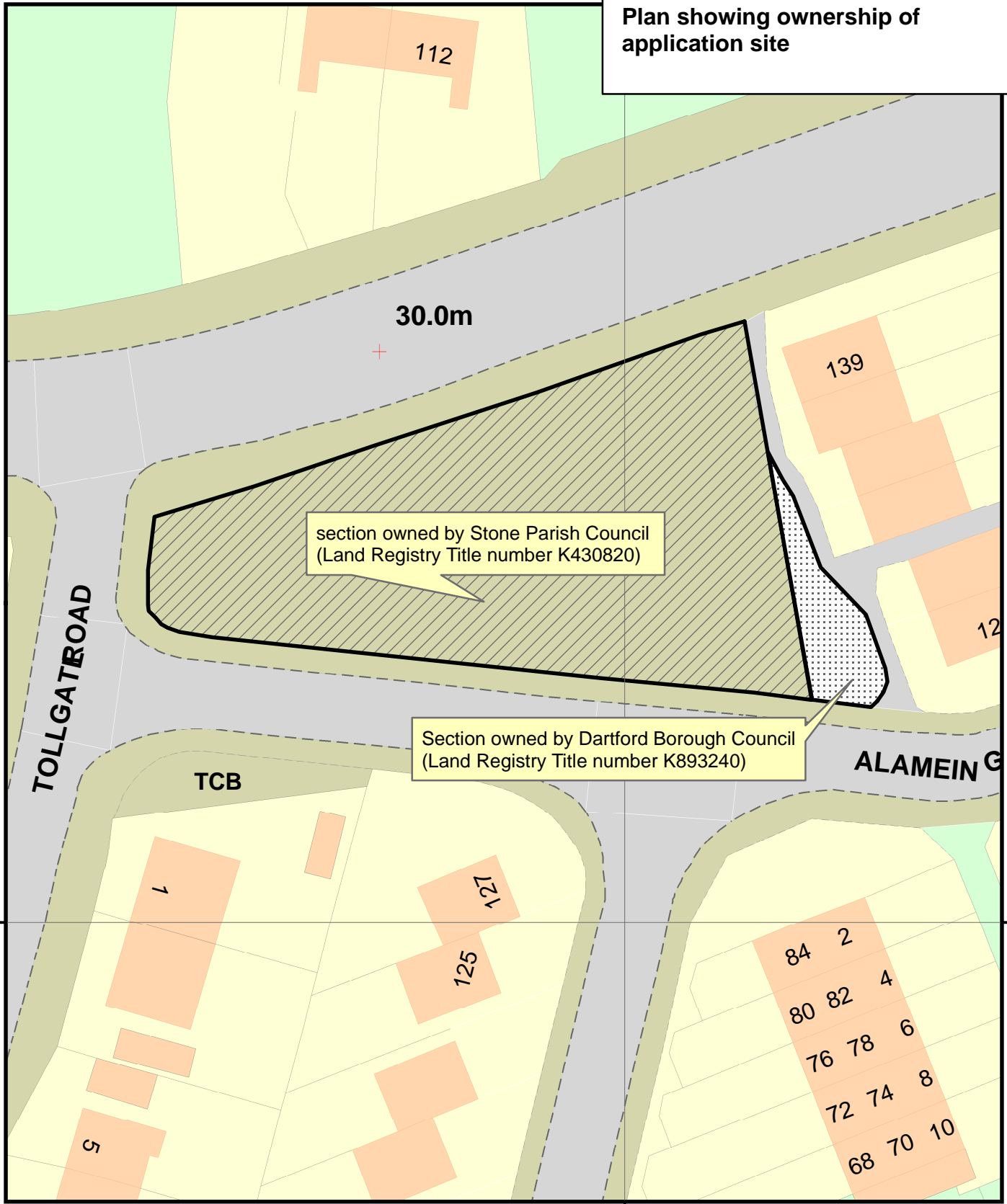


Above: View from Alamein Gardens (adjacent to property number 129) looking WEST

Below: View from London Road (adjacent to 139 Alamein Gardens) looking WEST



**APPENDIX D:
Plan showing ownership of
application site**



section owned by Stone Parish Council
(Land Registry Title number K430820)

Section owned by Dartford Borough Council
(Land Registry Title number K893240)

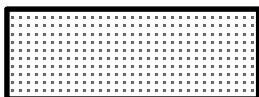


Scale 1:500

Section owned by
Stone Parish Council



Section owned by
Dartford Borough Council



Official copy of register of title

Title number K430820

Edition date 24.01.2007

- This official copy shows the entries in the register of title on 18 November 2008 at 10:42:22.
- 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 18 November 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 : DARTFORD

- 1 (29.07.1975) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land on the south side of London Road, Stone, Dartford.

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 (24.01.2007) PROPRIETOR: STONE PARISH COUNCIL of Council Offices, Recreation Ground, London Road, Stone, Greenhithe, Kent DA9 9DQ.
- 2 (24.01.2007) The price stated to have been paid on 5 January 2007 was £1.
- 3 (24.01.2007) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed on behalf of The Kent County Council of Sessions House, County Hall, Maidstone, Kent ME14 1XQ or its statutory successor by its County Solicitor that the provisions of the first schedule of the Transfer dated 5 January 2007 made between (1) The Kent County Council and (2) Stone Parish Council have been complied with.
- 4 (24.01.2007) The Transfer to the proprietor contains a covenant to observe and perform the covenants in the Deed Clause 3 dated 20 May 1979 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.

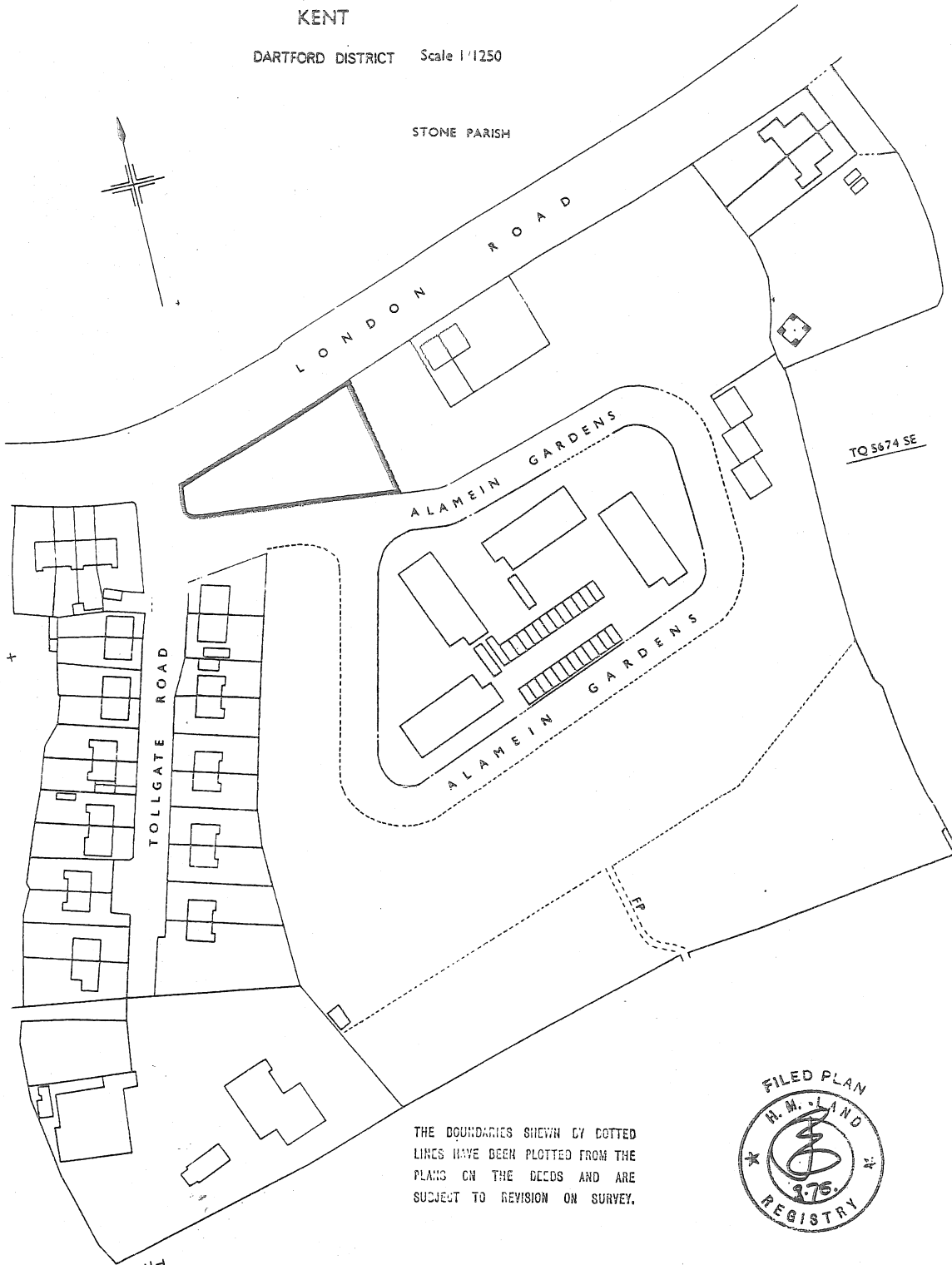
- 1 The part of the land affected thereby is subject to rights granted by a Deed dated 20 May 1979 made between (1) The Kent County Council and (2) British Gas Corporation. The said Deed also contains restrictive covenants.

NOTE: Copy filed.

End of register

H. M. LAND REGISTRY

NATIONAL GRID PLAN TQ 5673 SECTION C
KENT
DARTFORD DISTRICT Scale 1/1250



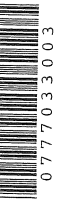
THE BOUNDARIES SHOWN BY DOTTED LINES HAVE BEEN PLOTTED FROM THE PLANS ON THE DEEDS AND ARE SUBJECT TO REVISION ON SURVEY.



TQ 5673 NE
TQ 5673 NN

© Crown Copyright 1973

TITLE No. K 430820



0777033003

This official copy is issued, and shows the state of this title plan, on 18 November 2008 at 10:42:22.

This 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. See Land Registry Public Guide 19 - Title Plans and Boundaries.

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

© Crown Copyright. Produced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence number 100026316.