

Application to register land at Grove Park Avenue in the parish of Borden as a new Town or Village Green

A report by the PROW and Access Manager to Kent County Council's Regulation Committee Member Panel on Monday 23rd October 2017.

Recommendation: I recommend that a Public Inquiry be held into the case to clarify the issues

Local Member: Mr. M. Whiting (Swale West)

Unrestricted item

Introduction

1. The County Council has received an application to register land at Grove Park Avenue at Borden, near Sittingbourne, as a new Town or Village Green from local resident Mr. M. Baldock ("the applicant"). The application, made on 31st May 2016 was allocated the application number VGA668. 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 2014.
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 one year 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 2014 Regulations, the County Council must publicise the application by way of a copy of the notice on the County Council's website and by placing copies of the notice on site to provide local people with the opportunity to comment on the application. Copies of that notice must also be served on any landowner(s) (where they can be reasonably identified) as well as the relevant local authorities. The publicity must state a period of at least six weeks during which objections and representations can be made.

¹ Reduced from two years to one year for applications made after 1st October 2013, due to the coming into effect of section 14 of the Growth and Infrastructure Act 2013.

The application site

6. The piece of land subject to this application (“the application site”) is officially situated within the parish of Borden, although it is also commonly referred to as part of Sittingbourne. It consists of a strip of grassed open space of approximately 0.57 acres (0.23 hectares) in size situated at the junction of Wises Lane and London Road (A2) and extending east along a corridor between the northern side of Grove Park Avenue and the southern side of fencing abutting the London Road (A2). Access to the application site is unrestricted via the footways of Wises Lane and Grove Park Avenue.
7. The application site is shown in more detail on the plan at **Appendix A**.

Preliminary issues

8. As a result of the Growth and Infrastructure Act 2013, when a Village Green application is received (and prior to accepting it for consideration), the County Council is required to write to the relevant planning authorities to ascertain whether the application site is affected by development and, more specifically, one of the ‘trigger events’ set out in Schedule 1A of the Commons Act 2006². If the land is affected by a ‘trigger event’ (and there has been no corresponding ‘terminating event’), then the right to apply for Village Green status ceases to exist and the County Council is unable to entertain the application (which will be returned to the applicant).
9. One such ‘trigger event’ is the publication for consultation of a draft development plan document “*which identifies the land for potential development*”.
10. In this case, Swale Borough Council advised that the application site was affected by a ‘trigger event’ on the basis that it was situated at a junction that had been identified in the emerging Swale Local Plan (by way of a diamond symbol on the accompanying map) as ‘transport issue requiring further consideration’ in connection with the proposed housing development to the south-west of Sittingbourne. A plan was subsequently provided showing potential highway improvements proposed by the developer affecting a strip of land on the western edge of the application site bordering Wises Lane. However, the Borough Council noted that it had not been the subject of any transport assessment and nor had it been agreed with either the Borough Council or Kent Highways.
11. Given that the question of whether ‘transport issue requiring further consideration’ (outside of the ‘red line’ area proposed for development) amounts to the land *actually* being ‘identified for potential development’ is clearly open to debate, further advice on this issue was sought from Kent Legal Services.
12. The advice received was that the draft development plan did not specifically identify the application site for development, but rather noted that the application site abutted an area that may require further assessment for improvements to the highway. The plan provided had not been formally agreed and therefore the

² See <http://www.legislation.gov.uk/ukpga/2006/26/schedule/1A> and subsequent amendments at <http://www.legislation.gov.uk/ukxi/2014/257/article/3/made>. An example of a ‘trigger event’ is the publication of an application for planning permission in respect of the land; a corresponding ‘terminating event’ may include the withdrawal of such an application, or a decision by the planning authority to decline it.

information available was too uncertain to positively conclude that the land had been identified for development, such that the trigger event was not engaged.

13. On the basis of this advice, the Village Green application was accepted for consideration.

The case

14. 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 more than 20 years.
15. Included in support of the application were 13 user evidence questionnaires, comprising 12 from current residents of Grove Park Avenue and one former resident. A summary of the user evidence submitted in support of the application is attached at **Appendix C**.

Consultations

16. Consultations have been carried out as required.
17. Borden Parish Council wrote to confirm its support for the application on the basis that the land had been used for recreational purposes over the past 40 years (and possibly longer).

Swale Borough Council

18. Swale Borough Council ("the Borough Council") has objected to the application. The Borough Council reiterated its earlier comments regarding 'trigger events' (set out above) and expressed concern regarding the impact of the application on planning for future development.
19. The Borough Council explained that following the Examination in Public of its Local Plan, the Inspector had suggested that the Borough's dwelling targets should be increased with additional sites allocated to meet this. One of those sites is land to the south-west of Sittingbourne (policy MUX1), for which the junction of Wises Lane and the London Road (A2) is key to achieving access to the development site and egress from it onto the A2.
20. The Borough Council's view is that it would be inappropriate to designate Village Green status for the application site as it could prejudice proper planning for development needs and supporting infrastructure. The application site, although a pleasant amenity space, does not make a significant contribution to actively used public space and is situated directly opposite the Grove Park Recreation Ground and Community Woodland, which provides a substantial alternative public open space for recreational use.
21. Whilst the Borough Council's position is noted, Members will be aware that the Village Green legislation requires the County Council to consider only the legal tests set out in section 15 of the Commons Act 2006. Issues relating to amenity, desirability, suitability or even possible future use are not relevant to the question

of whether the application site has become a Village Green by virtue of its recreational usage by local residents. Such issues ought therefore necessarily to be disregarded when considering the application for Village Green status.

Montagu Evans LLP

22. An objection to the application has also been received from Montagu Evans LLP on behalf of Mulberry Estates Sittingbourne Ltd. ("the objector"), which has no direct interest in the land in question but is the promoter of development on land to the south of Wises Lane which may require part of the application site for highway improvements.
23. The objection was originally made on the basis that the application site was subject to a 'trigger event', such that the right to apply for Village Green status ceased to apply. This point is dealt with above.
24. A further ground of objection was subsequently advanced by the objector, namely that the application site had been identified as highway land that was not capable of registration as a Village Green. In support of this assertion, an untitled plan (albeit bearing the KCC logo) was provided, purporting to show the highway network shaded in blue. This issue is considered further below.

Landowner

25. The majority of the application site is owned by Taylor Wimpey UK Ltd. and is registered with the Land Registry under title number K91230. A rectangle of land in the north-western corner of the application site is registered to the Highways England Company Ltd under title number K937957.
26. Both landowners have been contacted in respect of the application, but neither has responded.

Legal tests

27. 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, has ceased no more than one year 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'?

28. 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.
29. 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 protest³: "*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*"⁴.
30. In this case, there is no evidence of any attempt by the landowners (or by anyone else) to prevent or impede access to the application site, such that any recreational use would have taken place 'with force'; nor is there any suggestion that the recreational use relied upon took place 'with secrecy'. However, there is a suggestion that use of the application site might have been 'with permission' by virtue of the alleged highway status of the land.
31. As is noted above, the objector's position is that the application site comprises highway land, which renders it incapable of registration as a Village Green. The objector was invited to submit further evidence on this point on the basis that the plan originally provided was untitled, and without any further information on its provenance and evidential basis, it would be difficult to know what weight ought to be attributed to it. In response, the objector provided a covering letter (which had accompanied the map) from Kent Highway Services confirming that the blue shading corresponded to 'the extent of publicly maintainable highway as far as can be ascertained from the County Council's existing records'. However, the letter also includes a lengthy disclaimer to the effect that the Council does not warrant the accuracy of any of the replies. A copy of the letter and plan are attached at **Appendix D**.
32. The applicant's position is that the private ownership of the land would appear to conflict with the alleged highway designation, indicating that there must be some ambiguity regarding the status of the land, particularly as the objector relies only upon a map indicating maintenance by the County Council. The applicant also suggests that the recreational use relied upon exceeds that which would normally be lawfully allowed on a highway (essentially a right to pass and repass) and it would be difficult for a reasonable landowner to assume that the recreational use was associated only with the exercise of a right of passage.
33. The issue to be determined, therefore, is two-fold: firstly, the status of the land as highway land and, secondly, if it is highway land, the nature of the recreational use taking place thereon.

³ *Dalton v Angus* (1881) 6 App Cas 740 (HL)

⁴ *R (Lewis) v Redcar and Cleveland Borough Council* [2010] UKSC 11 at paragraph 92 per Lord Rodger

34. In respect of the first issue, it is not at all clear whether the plan provided by Kent Highway Services officially forms part of the 'list of streets' required to be kept by the Highway Authority under section 36(6) of the Highways Act 1980; that section is silent with regard to the form in which the 'list of streets' is to be kept, but the terminology suggests (at the very least) some form of written list such as the one on the County Council's website⁵. If the plan does form part of the 'list of streets', defined in section 36(6) as "*a list of the street within [the] area which are highways maintainable at public expense*", there is an argument that this list deals only with maintenance and is not conclusive evidence of the public status of any of the highways shown therein (or indeed the extent of the public's rights over them).
35. The issue of highway land was considered in the Cheshire East⁶ case, which concerned an application to register two verges between the tarmaced surface of the public highway and adjoining land as a Village Green. The judge accepted that the plan showing the 'list of streets' was strong evidence that the land in question was highway land, though not determinative and *[the applicant] should be entitled to explore the question of what, if any, evidence supports it*⁷. The Court went on to conclude that a Public Inquiry ought to have been held to determine the issues.
36. With regard to the second issue, even if the land is proven to be highway land, there appears to be nothing in law to prevent highway land being registrable as a Village Green. However, the status of the land as highway land will result in many of the activities relied upon being discounted on the basis that they took place by virtue of an existing right (i.e. permission); in DPP v Jones⁸, it was held that the scope of the public's rights over a highway was wide, provided that such use did not interfere with the fundamental right to pass and re-pass. Applying this logic, it is arguable that activities such as dog-walking ought to be discounted (as this is a highway-type of use), but the playing of ball games or holding of picnics would not fall within the scope of any existing highway rights. In this case, as can be seen from the summary at **Appendix C**, there is evidence of activities such as ball games (including football, cricket and golf), obstacle courses and picnics.
37. Accordingly, it is not possible on the information currently available to reach a conclusion on whether all or any of the recreational use of the application site has taken place 'as of right'.

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

38. 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

⁵ See the Kent County Council Highways Gazetteer at: <http://www.kent.gov.uk/roads-and-travel/what-we-look-after/roads/public-and-private-roads>

⁶ *Somerford Parish Council v Cheshire East Borough Council* [2016] EWHC 619 (Admin)

⁷ See para 68(i)

⁸ [1999] UKHL 5

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*'⁹.

39. The summary of evidence of use by local residents at **Appendix C** shows the activities claimed to have taken place on the application site. These include dog walking, children playing, ball games, picnics and bird watching.
40. Subject to the possibly highway status of the land and the comments at paragraph 35 above, the recreational use relied upon by the applicant would appear to constitute qualifying use for 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?

41. 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.
42. 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 Builders*¹⁰ 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*'.
43. In cases where the locality is so large that it would be impossible to meet the 'significant number' test (see below), it will also be necessary to identify a neighbourhood within the locality. The concept of a 'neighbourhood' is more flexible than that of a locality, and need not be a legally recognised administrative unit. On the subject of 'neighbourhood', the Courts have held that '*it is common ground that a neighbourhood need not be a recognised administrative unit. A housing estate might well be described in ordinary language as a neighbourhood... The Registration Authority has to be satisfied that the area alleged to be a neighbourhood has a sufficient degree of cohesiveness; otherwise the word "neighbourhood" would be stripped of any real meaning*'¹¹.
44. In this case, the applicant relies (at part 6 of the application form) on the neighbourhood of 'Grove Park Avenue in the locality of the parish of Borden'.
45. There can be little debate that the parish of Borden is a legally recognised administrative division and therefore capable of constituting a qualifying locality for the purposes of Village Green registration.
46. However, the question of whether 'Grove Park Avenue' (i.e. a single street) is capable of constituting a qualifying neighbourhood is more subjective, although

⁹ *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

¹⁰ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

¹¹ *ibid* at page 92

neither the Borough Council nor the objector has offered any comments on this issue.

47. In light of the proposed recommendation, it is not necessary to conclude on this point but further consideration of this test would be required before the land could be registered as a Village Green.

“a significant number”

48. 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’*¹². Thus, it is not a case of simply proving that 51% of the local population has used the application site; 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.

49. In this case, of the twelve users, seven attest to having used the application site, and/or having observed use of it by others, on a daily basis. A further three witnesses refer to use on a weekly basis. On the face of it, such use is likely to have been sufficient to indicate that the land was in general use by the community, although this test is to be viewed in the context of the comments at paragraph 36 above (i.e. the nature of recreational use taking place and whether or not such use falls to be discounted if the land comprises highway land).

(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 one year prior to the making of the application?

50. 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 one year from the date upon which use ‘as of right’ ceased.

51. In this case, the application is made under section 15(2) of the 2006 Act and there is no evidence that actual use of the application site for recreational purposes ceased prior to the making of the application. As such, this test is met.

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

52. 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, use ‘as of right’ did not cease prior to the making of the application in 2016. The relevant twenty-year period (“the material period”) is calculated retrospectively from this date and is therefore 1996 to 2016.

¹² *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

53. The user evidence submitted in support of the application (and summarised at **Appendix C**) indicates that use of the application site has taken place for the required twenty-year period. Accordingly, this test is also met.

Conclusion

54. As has been noted above, there is clearly some uncertainty regarding the status of the land as highway land and, if it is highway land, the extent to which the evidence of use relied upon by the applicant ought to be discounted as a result. Further investigation is required into the former issue¹³, whilst the latter can only reasonably be resolved by way of oral testimony thereby allowing much more detailed accounts of use to be provided.

55. In cases which are particularly emotive or where the application turns on disputed issues of fact, it has become commonplace for Registration Authorities to conduct a Public Inquiry into the application; there is no legal requirement to do so, but provision for such Inquiries is made in the 2014 Regulations. The holding of a Public Inquiry involves the County Council appointing an independent Inspector to hear the relevant evidence both in support of and in opposition to the application, and report his/her findings back to the County Council. The final decision regarding the application nonetheless remains with the County Council in its capacity as the Commons Registration Authority.

56. Such an approach has received positive approval by the Courts, most notably in the Whitney¹⁴ case in which Waller LJ said this: *'the registration authority has to consider both the interests of the landowner and the possible interest of the local inhabitants. That means that there should not be any presumption in favour of registration or any presumption against registration. It will mean that, in any case where there is a serious dispute, a registration authority will almost invariably need to appoint an independent expert to hold a public inquiry, and find the requisite facts, in order to obtain the proper advice before registration'*.

57. It is important to remember, as was famously quoted by the Judge in another High Court case¹⁵, that *'it is no trivial matter for a landowner to have land, whether in public or private ownership, registered as a town green... [the relevant legal tests] must be 'properly and strictly proved'*. This means that it is of paramount importance for a Registration Authority to ensure that, before taking a decision, it has all of the relevant facts available upon which to base a sound decision. It should be recalled that the only means of appeal against the Registration Authority's decision is by way of a Judicial Review in the High Court.

58. In light of the issues raised above, and having regard to the judgement in the Cheshire East case, it is considered that a Public Inquiry is the most appropriate course of action in this case.

¹³ In its capacity as the 'Commons Registration Authority' the County Council itself has no investigative powers in respect of Village Green applications and is reliant solely on the information provided to it by the parties. Indeed, given that the determination of such applications is a quasi-judicial function of the Council, it is imperative that a neutral stance is retained until a final decision is taken and, as such, it would be entirely inappropriate for Officers to undertake such research of their own accord.

¹⁴ *R (Whitney) v Commons Commissioners* [2004] EWCA Civ 951 at paragraph 66

¹⁵ *R v Suffolk County Council, ex parte Steed* [1997] 1EGLR 131 at 134

Recommendation

59. I recommend that a Public Inquiry be held into the case to clarify the issues

Accountable Officer:

Mr. Graham Rusling – Tel: 03000 413449 or Email: graham.rusling@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, Invicta House, County Hall, Maidstone. Please contact the Case Officer for further details.

Background documents

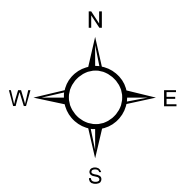
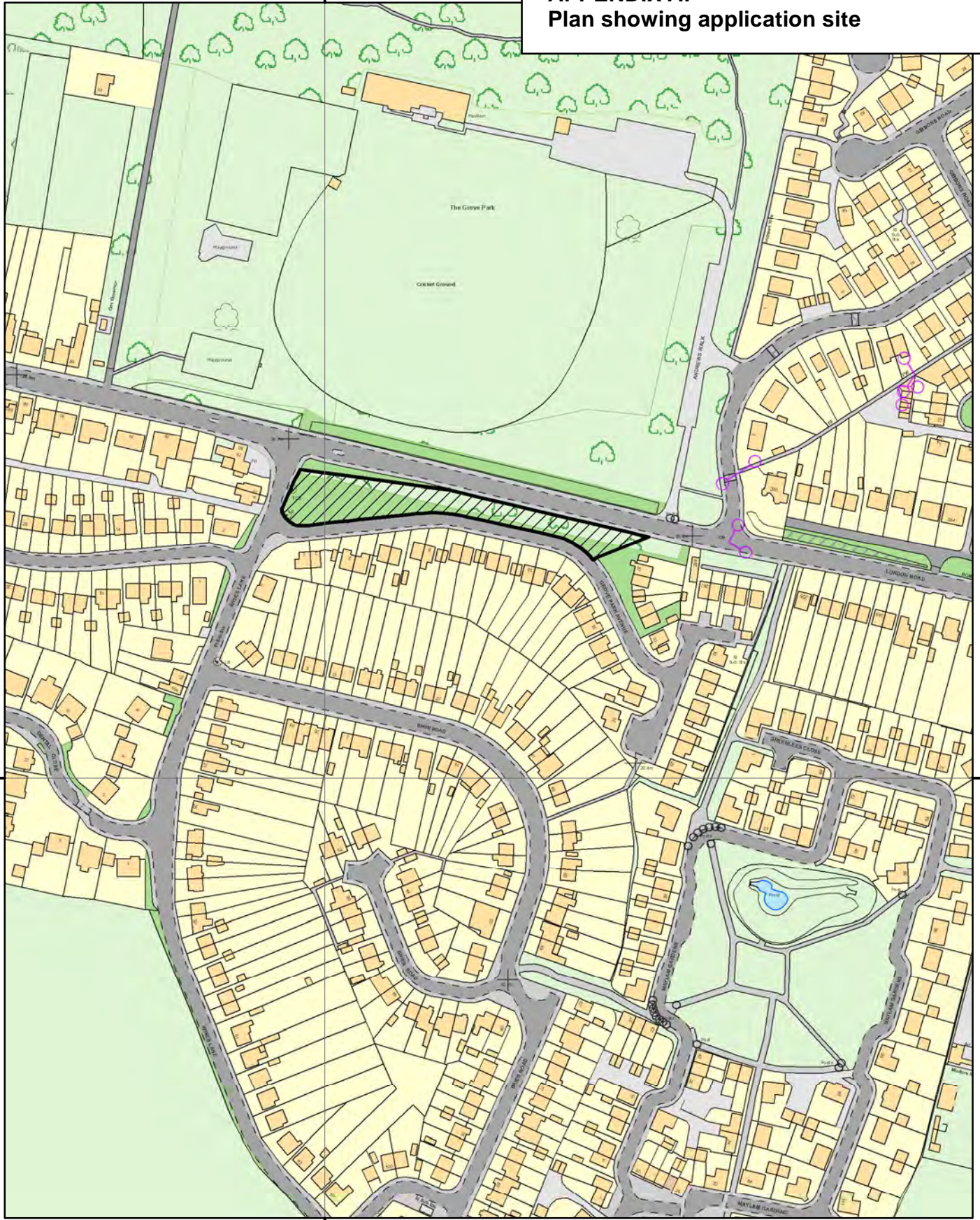
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

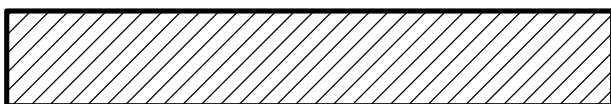
APPENDIX D – Letter from Kent Highway Services dated 27th November 2015 and accompanying plan

**APPENDIX A:
Plan showing application site**



Scale 1:2500

**Land subject to Village Green application
at Grove Park Avenue at Sittingbourne**

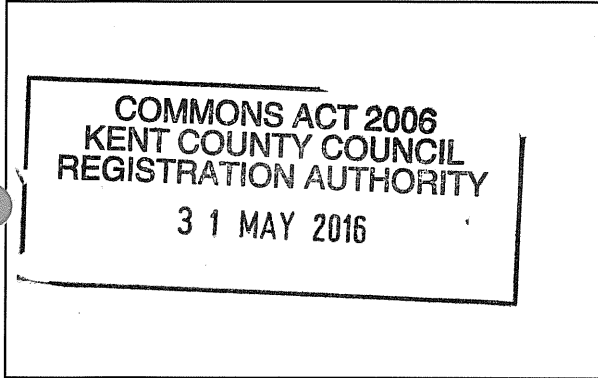


Commons Act 2006: section 15

Application for the registration of a town or village green

This section is for office use only

Official stamp



Application number

VG1A668

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

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:

Postal address:

Telephone number:

Fax number:

E-mail address:

3. Name and address of representative, if any

Name:

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:

[Empty box for date]

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:

[Empty box for period of statutory closure]

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:

The Green

Location:

Grove Park Avenue

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

[Empty box for common land register unit number]

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:

Grove Park Avenue in the locality of the Parish of Borden.
'Grove Park Avenue' is the neighbourhood.

Tick here if a map is attached:

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

Unfettered access to residents for sports & past-times over a period exceeding 20 years.

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

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.

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

12 resident user evidence questionnaires
& one supporting eq from a currently non-resident.

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

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:

31st May 2016

Signatures:

**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.

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Name	Period of use	Frequency of use	Type of use	Comments (incl. any challenges)
Mr. S. AVERY	1998 – present	Daily	Children’s play area, walking	Observed use by local children playing and for dog walking daily.
Mr. C. DELLER	1967 – present	Weekly	Playing with children, dog walking, bird watching	
Mr. A. FISHER	2014 – present	Daily	Children’s play area, dog walking	Observed use by others on a daily basis for dog walking and children playing
Mr. J. GOWER	2008 – present	Weekly	General leisure, dog walking, ball games	Observed use by others for general leisure activities on a daily basis. Local children can use the land to play safely.
Mr. A. HAWES	1994 – present	Occasionally	Playing	Previously lived nearby before moving to Grove Park Avenue in 2010.
Mr. and Mrs. HORSFORD	1970 – present	Daily	Not stated	Observed children playing on a daily basis.
Mr. P. HUDSON	2012 – present	Daily	Walking	
Mr. B. JEMMETT	1985 – present	Daily	Children playing, football, dog walking	Observed use by others for dog walking and children playing on a daily basis.
Mr. and Mrs. JOHNSTONE	1980 – present	Daily	Dog walking	Observed use by others on a daily basis, incl. dog walking and cricket/football for children
Mr. and Mrs. T. KINDRED	2016 – present	Daily	Playing with child, walking, children playing games and riding scooters, birdwatching	Observed use by others on a daily basis, incl. people sitting down and relaxing.
Mrs. M. NORMAN	1985 – 1999	Daily	Playing as a child, cricket, hide and seek, chase, obstacle courses, socialising with friends	Moved away from the area in 1999 but still use the land for walking when visiting relatives in the area.
Mr. D. TITTERTON	2012 – present	Weekly	Walking, running and exercise	
Ms. H. TUMBLER	1986 – present	Most weeks	As a child played many games (eg football, cricket, hide and seek) with other local children. Now do the same with own children.	Moved away in 1997 and returned to the area in 2008. Used daily when children were younger. Observed use by others on a daily basis. It is a safe place for children to play fenced off from the main road.



C & A
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Kent TN13 3QQ

Highway Definition Team

Ashford Highway Depot
Javelin Way
Ashford
TN24 8AD

Phone: 03000 418181
Email: highwaydefinitionsearches@kent.gov.uk
Your Ref: 13-042-001
Our Ref: SMS/47800012
Date 27 November 2015

Dear Sir

Highway Definition Search- Wises Lane, Sittingbourne

Thank you for your e-mail 12 October 2015 with attached plan and letter of 28 October 2015 with enclosed cheque for the sum of £680.00.

I enclose a fresh plan which shows by blue shading in the vicinity of the areas of your enquiry the considered extent of the publicly maintainable highway as far as can be ascertained from the County Council's existing records.

You will see that there are additional areas shaded blue that are not within the vicinity of your sites. These areas have already been researched for other enquiries and this is the reason they are also shown shaded blue on my plan. There will also be areas that have not yet been researched for the Sittingbourne area and therefore there will be areas that have not yet been shaded, but of course this will depend upon the status of the area and if it is considered to form part of the publicly maintainable highway.

Please be advised that the A249 is a Trunk Road and therefore in the immediate vicinity of this particular site I have only shaded those areas considered to be under the County Council's control. Should you wish to have information regarding the areas managed by Highway England, I would advise you to contact H.E direct.

Information relating to Public Rights of Way (PROW) and details of registered Common Lane/Village Green is held by the Council's Countryside Access Service, please direct your enquiry to Invicta House, County Hall, Maidstone, Kent, ME14 1XX. Information about the service can be found via the following link:
<http://www.kent.gov.uk/waste-planning-and-land/public-rights-of-way>.

Fees may be applicable and will be advised accordingly by the PROW team.

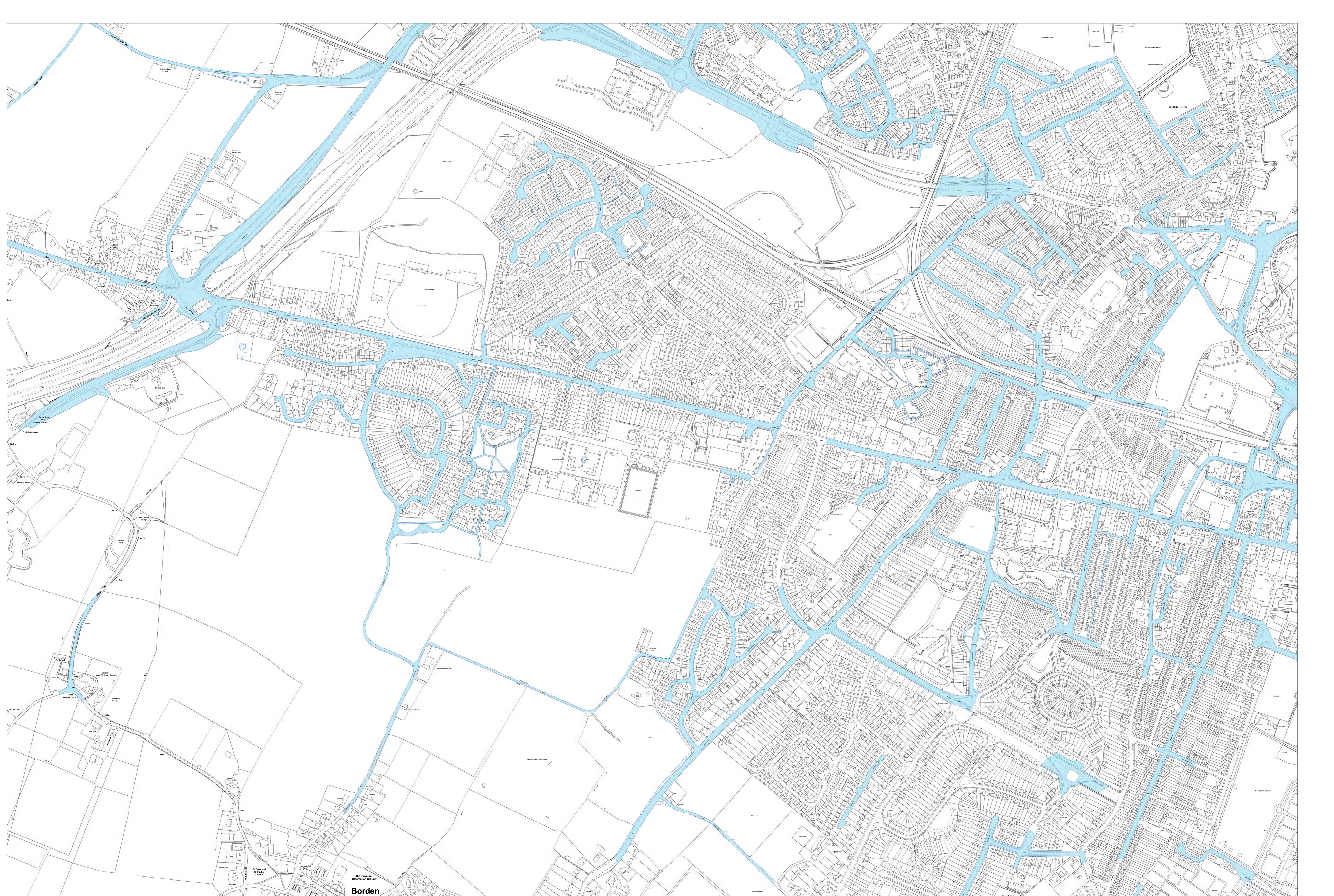
I trust this information proves helpful.

The replies are given on the understanding that the council does not warrant the accuracy of any of the replies and on the basis that neither the council nor any officer, servant or agent of the council is legally responsible, either in contract or tort; with the exception of negligence, for any inaccuracies, errors or omissions herein contained. Any liability for negligence will extend to the person who raised the enquiries and the person on whose behalf they were raised

Yours faithfully

Sara Stevens
Highway Definition Officer

KCC Highways, Transportation and Waste welcome feedback from our customers and we have designed our fault reporting tool so that you can quickly and easily let us know about any problems on the roads and footways or about any of our equipment such as streetlights that may not be working. You can do this by visiting www.kent.gov.uk/highwayfaults From here you can see all known issues, view any planned works, report multiple issues, upload photos as well as track any existing enquiries. It's really important that you provide us with all of the information requested so that we can provide the right response quickly and efficiently. We no longer offer a generic email service as the improved online fault reporting tool has been designed to ensure we capture all of the information that we need to quickly respond to any faults. You can still call us with any complex or urgent matters on 03000 418181 and speak to one of our trained highway specialists.



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