

## **Application to register land known as Rocks Close Green at East Malling as a new Town or Village Green**

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

**Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Rocks Close Green at East Malling 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 MBE (Malling Central)

Unrestricted item

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### **Introduction**

1. The County Council has received an application to register a piece of land known as Rocks Close Green in the village of East Malling as a new Town or Village Green from the East Malling and Larkfield Parish Council ("the applicant"). The application, made on 4<sup>th</sup> July 2017, was allocated the application number VGA674. 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 the application (“the application site”) consists of an area of grassed open space of approximately 0.78 acres (0.31 hectares) in size situated between The Rocks Road and Rocks Close at East Malling. The land is physically separated from the footway of The Rocks Road by way of a stone wall and access to the land is therefore from the unfenced boundary of the southernmost spur of Rocks Close.
7. A plan showing the application site is attached at **Appendix A**, with photographs of it at **Appendix D**.

### 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 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 K709528. A copy of the relevant 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 Registers 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.

### **Recommendation**

17. I recommend that the County Council informs the applicant that the application to register the application to register the land known as Rocks Close Green at East Malling has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Accountable Officer:

Mr. Graham Rusling – Tel: 03000 413449 or Email: [graham.rusling@kent.gov.uk](mailto:graham.rusling@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**

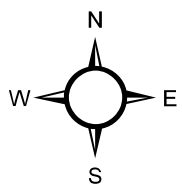
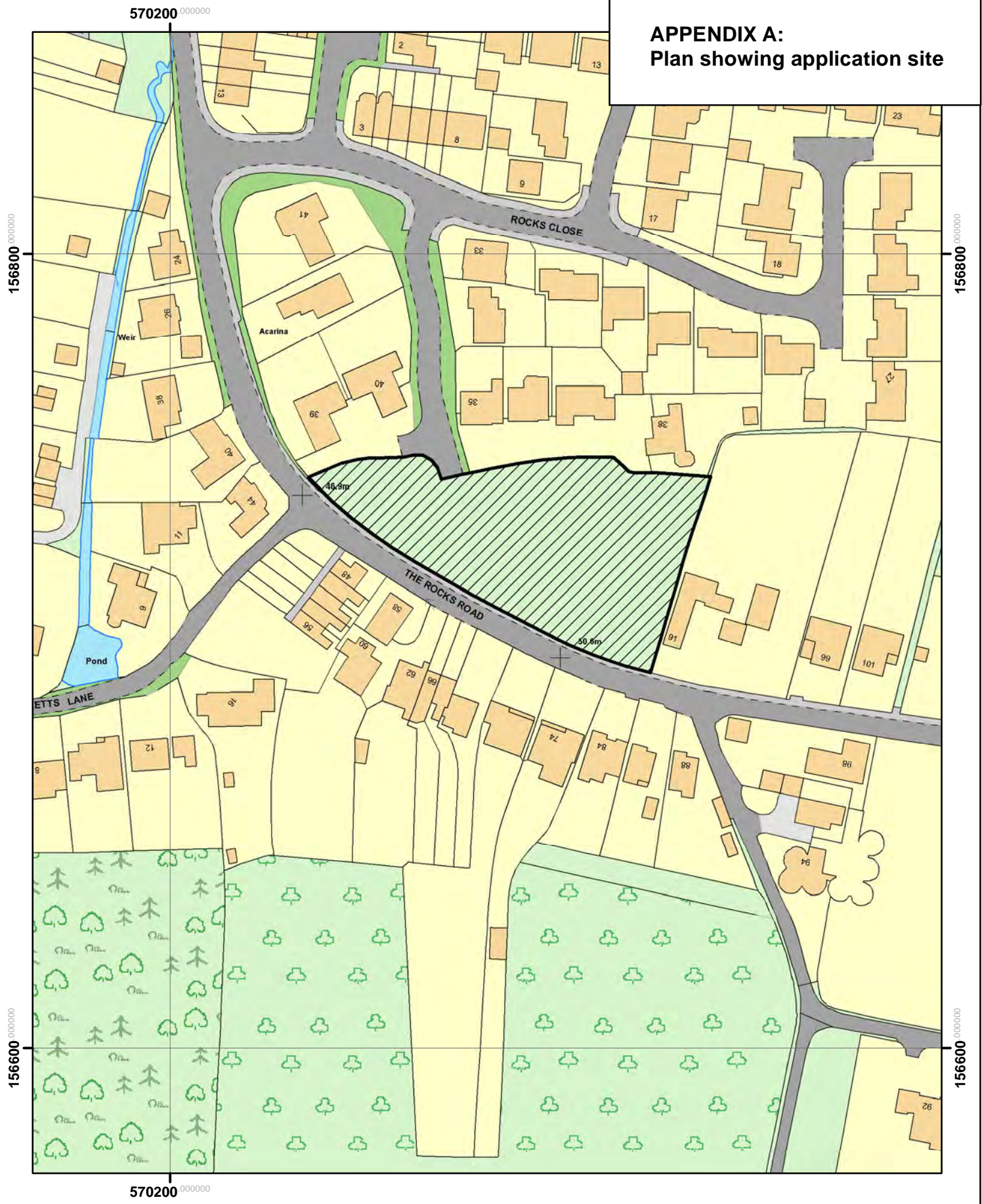
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

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

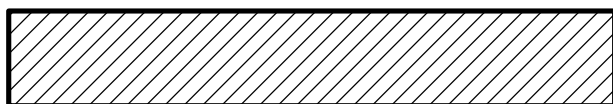
APPENDIX D – Photographs of the application site

**APPENDIX A:  
Plan showing application site**



Scale 1:1250

**Land subject to Village Green application,  
known as Rocks Close Green at East Malling**





FORM CA9

Commons Act 2006: section 15

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



*This section is for office use only*

Official stamp of the Registration Authority  
indicating date of receipt:

<p>COMMONS ACT 2006 KENT COUNTY COUNCIL REGISTRATION AUTHORITY</p> <p>04 JUL 2017</p>
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Application number:

VGA674
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VG number allocated at registration  
(if application is successful):

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### Note to applicants

Applicants are advised to read the 'Part 1 of the Commons Act 2006 (changes to the commons registers): Guidance to applicants in the pilot implementation areas' and to note the following:

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

#### **Note 1**

*Insert name of Commons  
Registration Authority*

#### **1. Commons Registration Authority**

To the: The Commons Registration Team,  
Kent County Council  
Countryside Access Service,  
Invicta House  
County Hall, Maidstone ME14 1XX

**Note 2**

If there is more than one applicant, list all names. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or unincorporate. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email. If part 3 is not completed all correspondence and notices will be sent to the first named applicant.

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

Name: EAST MALLING & LARKFIELD PARISH COUNCIL  
Full postal address: (incl. Postcode) PARISH COUNCIL OFFICE CHURCH FARM, 198 NEW HYTHE LANE, LARKFIELD ME20 6ST  
Telephone number: (incl. national dialling code) [REDACTED]  
Fax number: (incl. national dialling code) [REDACTED]  
E-mail address: [REDACTED]

**Note 3**

This part should be completed if a representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, you may receive communications from the Registration Authority or other persons (e.g. objectors) via email.

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

Name:  
Firm:  
Full postal address: (incl. Postcode)  
Telephone number: (incl. national dialling code)  
Fax number: (incl. national dialling code)  
E-mail address:

**Note 4**

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

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

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

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

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

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

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

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

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**Note 5**

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

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

Name by which usually known:

ROCKS CLOSE GREEN AS EDGED RED  
ON PLAN ATTACHED.

Location:

ROCKS CLOSE, EAST MALLING

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

N/A

Please tick the box to confirm that you have attached a map of the land (at a scale of at least 1:2,500):



**Note 6**

*It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,000.*

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

Indicate the locality (or neighbourhood within the locality) to which the claimed green relates by writing the administrative area or geographical area by name below and/or by attaching a map on which the area is clearly marked:

EAST MALLING

Please tick here if a map is attached (at a scale of 1:10,000):

**Note 7**

*Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.*

*This information is not needed if a landowner is applying to register the land as a green under section 15(8).*

**7. Justification for application to register the land as a Town or Village Green**

LANDOWNER APPLICATION

**Note 8**

*Use a separate sheet if necessary. This information is not needed if a landowner is applying to register the land as a green under section 15(8).*

**8. Name and address of every person whom the applicant believes to be an owner, lessee, proprietor of any "relevant charge", tenant or occupier of any part of the land claimed to be a town or village green**

N/A.



**Note 9**

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

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

NONE

**Note 10**

List all supporting consents, documents and maps accompanying the application. Evidence of ownership of the land must be included for voluntarily registration applications. There is no need to submit copies of documents issued by the Registration Authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

**10. Supporting documentation**

Copy of APPLICANTS  
LAND CERTIFICATE

**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**

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 unincorporate.*

**12. Signature**

Signature(s) of applicant(s):



Date:

3.7.2017

**REMINDER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted. You are advised to keep a copy of the application and all associated documentation.

**Please send your completed application form to:**

**The Commons Registration Team  
Kent County Council  
Countryside Access Service  
Invicta House  
County Hall  
Maidstone  
Kent ME14 1XX**

***Data Protection Act 1998***

*The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the Commons Registration Authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.*

*A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.*



# Official copy of register of title

Title number K709528

Edition date 07.02.1995

- This official copy shows the entries on the register of title on 17 SEP 2013 at 11:38:24.
- 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 17 Sep 2013.
- 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 (05.09.1961) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land on the north side of The Rocks Road, East Malling.

## 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 (02.12.1991) Proprietor: EAST MALLING and LARKFIELD PARISH COUNCIL of Church Farm, 198 New Hythe Lane, Larkfield, Maidstone, Kent, ME20 6ST.

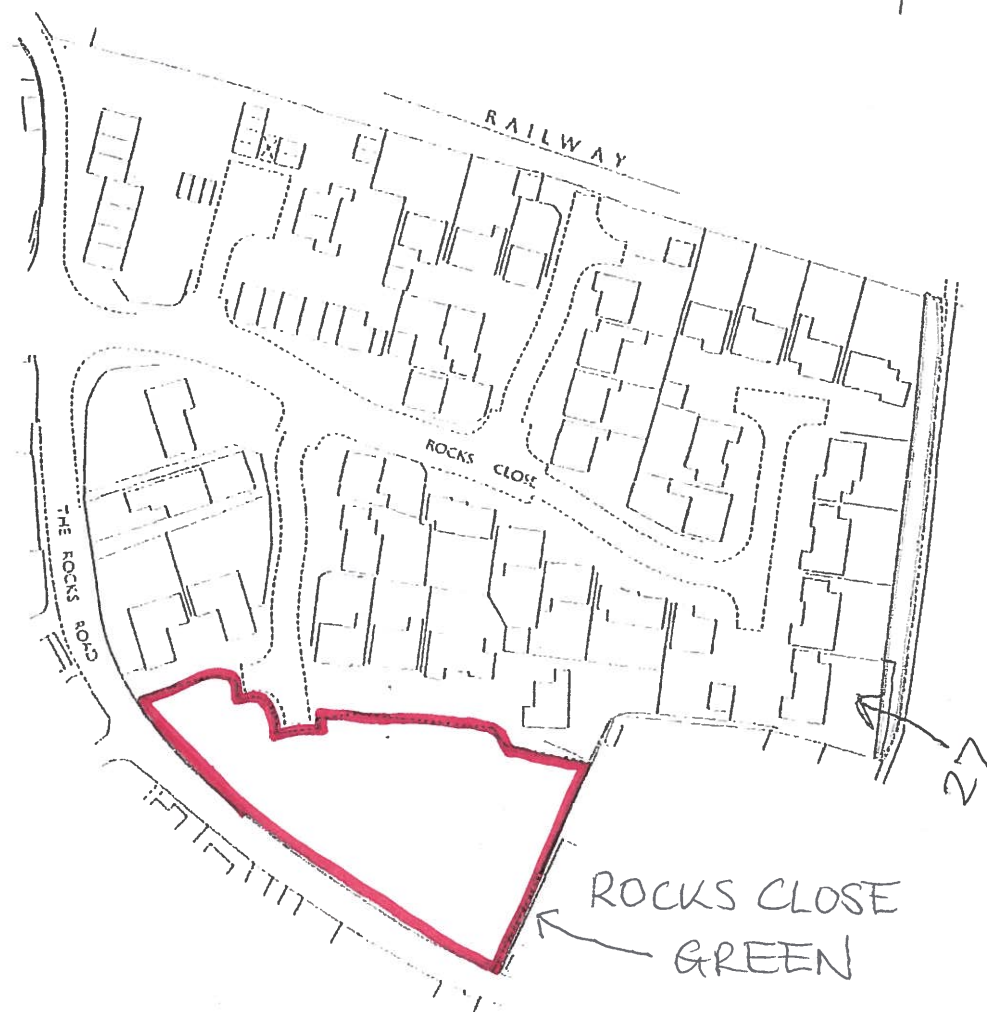
## C: Charges Register

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

- 1 The land is subject to rights of way.
- 2 The land is subject to rights of drainage and rights in respect of water, gas, electricity and other services.

End of register

H.M. LAND REGISTRY		TITLE NUMBER	
		K709528	
ORDNANCE SURVEY PLAN REFERENCE	TQ 7056	SECTION . E	Scale 1/1250
COUNTY	KENT	DISTRICT	TONBRIDGE AND MALLING
			© Crown copyright 1989



Only this to be registered as Village Green.





**APPENDIX D:  
Photographs of the application site**



*2012 aerial photograph*



*Google Streetview image*