

Application to register land known as Riverhead Parkland at Riverhead as a new Town or Village Green

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

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Riverhead Parkland at Riverhead has been accepted, and that the land subject to the application (as amended and shown at Appendix A) be formally registered as a Town or Village Green.

Local Member: Mr. N. Chard (Sevenoaks West)

Unrestricted item

Introduction

1. The County Council has received an application to register a piece of land known as Riverhead Parkland at Riverhead, near Sevenoaks as a new Town or Village Green from the Riverhead Parish Council ("the applicant"). The application, made on 14th December 2016, was allocated the application number VGA670. A plan of the site (as amended) 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 original application included the whole of the land running from the junction of Amherst Hill and Brittain's Lane and extending east towards the rear of Riverhead Infants School and north to the rear of properties in St. Mary's Drive and Montreal Road.
7. However, during initial checks it came to light that two strips of land did not fall within the Parish Council's ownership. Due to difficulties in contacting the registered landowners, it was agreed that this land should be excluded from the application site.
8. A further (minor) amendment to the application site was subsequently made in the vicinity of St. Mary's Drive as a result of a consultation response (set out below).
9. A plan showing the areas of land to be considered for Village Green status ("the application site (as amended)"), which consist of approximately 11.2 acres (4.52 hectares) of mixed woodland and parkland, is attached at **Appendix A**. An aerial photograph is available at **Appendix D**.

Notice of Application

10. 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.
11. One response was received in support of the application.
12. A further response was received from the owner of one of the properties in St. Mary's Drive querying the boundary of the proposed Village Green in the vicinity of his property. As a result of that response, the Parish Council agreed to amend the boundary of the application so as to exclude the driveways of the properties in St. Mary's Drive.

Ownership of the land

13. A Land Registry search has been undertaken which confirms that the application site (as amended) is wholly owned by the applicant under title numbers K608775, K583562 and K884976. Copies of the relevant Registers of Title are attached at **Appendix C**.
14. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Registers of Title.

The 'locality'

15. 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.
16. 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).
17. 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 Riverhead.

Conclusion

18. 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.
19. It can be concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

Recommendation

20. I recommend that the County Council informs the applicant that the application to register the land known as Riverhead Parkland at Riverhead has been accepted, and that the land subject to the application (as amended and shown at **Appendix A**) be formally registered as a Town or Village Green.

Accountable Officer:

Mr. Graham Rusling – Tel: 03000 413449 or Email: graham.rusling@kent.gov.uk

Case Officer:

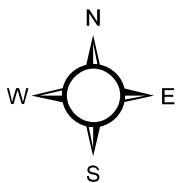
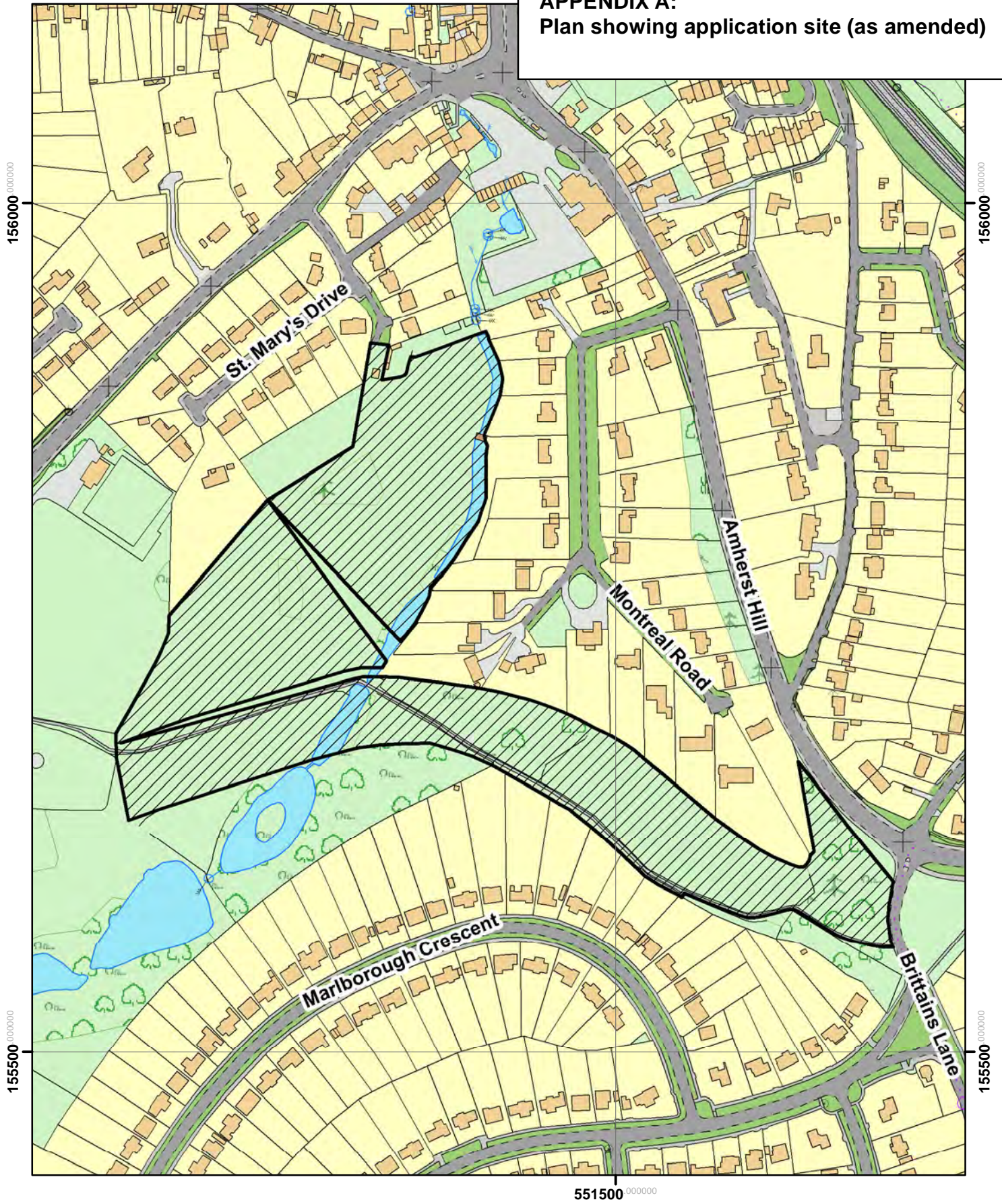
Ms. Melanie McNeir – Tel: 03000 413421 or Email: melanie.mcneir@kent.gov.uk

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

Background documents

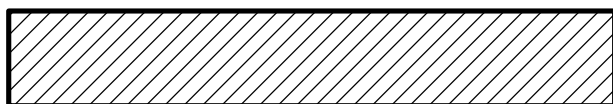
- APPENDIX A – Plan showing application site (as amended)
- APPENDIX B – Copy of application form
- APPENDIX C – Copy of the Registers of Title from Land Registry
- APPENDIX D – Aerial photograph showing the application site

APPENDIX A:
Plan showing application site (as amended)



Scale 1:3000

**Land subject to Village Green application,
known as Riverhead Parkland, at Riverhead**



FORM CA9

Commons Act 2006: section 15

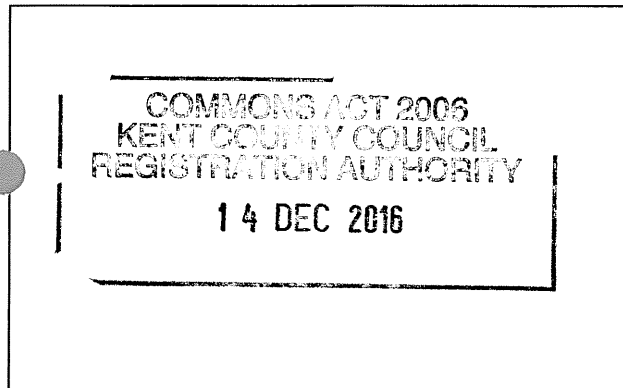
**Application for the registration of land
as a new Town or Village Green**



This section is for office use only

Official stamp of the Registration Authority
indicating date of receipt:

Application number:



VGA670

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

Note to applicants

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

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

Note 1

Insert name of Commons
Registration Authority

1. Commons Registration Authority

To the: THE COMMONS REGISTRATION TEAM
KENT COUNTY COUNCIL
COUNTRYSIDE ACCESS SERVICE
INVICTA HOUSE
COUNTY HALL
MADSTONE
KENT 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: RIVERHEAD PARISH COUNCIL

Full postal address: RIVERHEAD VILLAGE HALL
(incl. Postcode) AMHERST HILL
RIVERHEAD
SEVENOAKS TN13 2EL

Telephone number: [REDACTED]
(incl. national dialling code)

Fax number: N/A
(incl. national dialling code)

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: N/A

Firm:

Full postal address:
(incl. Postcode)

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

Note 4

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

4. Basis of application for registration and qualifying criteria

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

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

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

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

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

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

Note 5

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

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

Name by which usually known: RIVERHEAD PARKLAND

Location: 11 ACRES OF LAND BETWEEN BITTAINS LANE, WORSHIPS HILL and ST MARY'S DRIVE, RIVERHEAD

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

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

Note 6

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

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

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

RIVERHEAD PARISH

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

Note 7

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

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

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

N/A applying 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).

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 applying under section 15(8)

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

MOTION PASSED AT FULL COUNCIL MEETING
21 NOVEMBER 2016 TO REGISTER RIVERHEAD
PARKLAND AS A VILLAGE GREEN.

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

LAND REGISTRY TITLE NUMBERS:

K 583 562

K 608 775

K 884 976

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

- AS OWNER OF RIVERHEAD PARKLAND, RIVERHEAD PARISH COUNCIL IS NOT AWARE OF ANY PERSON WHO WOULD CHALLENGE THE REGISTRATION.
- SO FAR, RIVERHEAD PARKLAND HAS NOT BEEN SPECIFICALLY HELD FOR THE PURPOSES OF PUBLIC RECREATION UNDER THE PUBLIC HEALTH ACT, THE OPEN SPACES ACT OR ANY OTHER ACT.
- THE AREA IS MAINTAINED BY VOLUNTEERS

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: 12.12.16

CAROLINE PENOCUM
PARISH CLERK

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.

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 26 JAN 2017 AT 15:57:00. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: K583562

There is no application or official search pending against this title.

A: Property Register

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

KENT : SEVENOAKS

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land lying to the south east of St Mary's Drive, Riverhead, Sevenoaks,

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 (06.02.1985) PROPRIETOR: RIVERHEAD PARISH COUNCIL of 1 Worships Hill, Riverhead, Sevenoaks.
- 2 (06.02.1985) RESTRICTION:-Except under an Order of the Registrar no disposition by the proprietor of the land is to be registered unless made in accordance with the Local Government Act 1972 and the Public Health Act 1875 or some other Act or authority.

C: Charges Register

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

- 1 A Conveyance dated 25 July 1936 made between (1) Norah Cecil Runge Peter Francis Runge and Edward Henry Herbert (Vendors) and (2) Bernard Thorpe (Purchaser) contains covenants details of which are set out in the schedule of restrictive covenants hereto.

NOTE 1:-By a Deed dated 1 October 1936 made between (1) Norah Cecil Runge Peter Francis Runge and Edward Henry Herbert (Vendors) and (2) Bernard Thorpe (Purchaser) the stipulation Nod. 3 in the third Schedule to the Conveyance dated 25 July 1936 referred to above was expressed to be varied as to part of the land in accordance with provisions details of which are set out in the Schedule hereto.

NOTE 2:-By a Deed dated 21 July 1937 made between (1) Norah Cecil Runge Peter Francis Runge and Edward Henry Herbert (Covenantees) and (2) Bernard Thorpe (Covenantor) it was provided that the words "Surveyor of the Vendors" or "Surveyor" wherever used in the above mentioned Conveyance dated 25 July 1936 or in the above-mentioned Deed dated 1 October 1936 should be read and construed as if they referred to the Covenantor or his Surveyor.

- 2 A Conveyance of the land tinted yellow on the filed plan dated 29

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 26 JAN 2017 AT 15:55:00. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: K608775

There is no application or official search pending against this title.

A: Property Register

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

KENT : SEVENOAKS

- 1 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land lying to the south east of St Mary's Drive, Riverhead, Sevenoaks.

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 (01.07.1986) PROPRIETOR: RIVERHEAD PARISH COUNCIL of 1 Worships Hill, Riverhead, Sevenoaks, Kent.

C: Charges Register

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

- 1 The roads on the land edged and numbered 14 in blue on the filed plan are subject to rights of way and the footpaths on the land edged and numbered 14 in blue on the filed plan are subject to rights of way on foot.
- 2 The land is subject to rights of drainage and to rights in respect of other services.
- 3 The land is subject to the rights of Bernard Thorpe and his successors in title owner or owners for the time being of Montreal Park to lay a nine inch sewer and storm water pipes in approximately the respective positions indicated by the blue and brown broken lines on the filed plan with a right of deviation in each case to the extent of ten feet and to enter upon the property for the purpose of repairing enlarging and renewing the said sewer and storm water pipes doing as little damage as possible and making good all damage thereby occasioned.
- 4 A Conveyance dated 25 July 1936 made between (1) Norah Cecile Runge and Others (Vendors) and (2) Bernard Thorpe (Purchaser) contains covenants details of which are set out in the schedule of restrictive covenants hereto.

By a Deed dated 1 October 1936 made between (1) Norah Cecil Runge, Peter Francis Runge and Edward Henry Herbert (Vendors) and (2) Bernard Thorpe (Purchaser) the stipulation Nod.3 in the Third Schedule to the Conveyance dated 25 July 1936 referred to above was expressed to be

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 26 JAN 2017 AT 15:54:18. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN THE REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: K884976

There is no application or official search pending against this title.

A: Property Register

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

KENT : SEVENOAKS

- 1 (11.05.2005) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Montreal Park, Montreal Road, Sevenoaks.
- 2 (11.05.2005) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of the land edged blue on the title plan dated 16 September 2004 made between (1) The Kent County Council and (2) Mark Ashby Newnham and Sian Katherine Newnham.
NOTE: Copy filed.
- 3 (11.05.2005) The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 3 May 2005 referred to in the Charges Register.
- 4 (11.05.2005) The Transfer dated 3 May 2005 referred to above contains a provision as to light or air and a provision excluding the operation of Section 62 of the Law of Property Act 1925 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 (11.05.2005) PROPRIETOR: RIVERHEAD PARISH COUNCIL of Riverhead Parish Hall, Amherst Hill, Sevenoaks, Kent TN13 2EL.
- 2 (11.05.2005) The price stated to have been paid on 3 May 2005 was £40,000.
- 3 (11.05.2005) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by or on behalf of Kent County Council of Sessions House, County Hall, Maidstone, Kent ME14 1XQ that the provisions of the First Schedule of the Transfer dated 3 May 2005 referred to in the Charges Register have been complied with.

C: Charges Register

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

- 1 (11.05.2005) A Conveyance of the land in this title and other land dated 14 July 1938 made between (1) Bernard Thorpe (2) Burrough De



APPENDIX D:
Aerial photograph of the application site