

Application to register land known as Victoria Recreation Ground at Canterbury as a new Town or Village Green

A report by the Director of Environment and Waste to Kent County Council's Regulation Committee Member Panel on Monday 14th December 2009.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Victoria Recreation Ground at Canterbury has not been accepted.

Local Members: Mr. M. Vye

Unrestricted item

Introduction

1. The County Council has received an application to register land known as Victoria Recreation Ground at Canterbury as a new Town or Village Green from local resident Mr. B. Buggins ("the Applicant"). The application, dated 19th October 2008, was allocated the application number VGA604. 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 Commons Registration (England) Regulations 2008.
3. Section 15(1) of the Commons Act 2006 enables any person to apply to a Commons Registration Authority to register land as a Town or 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 two years prior to the date of application**, e.g. by way of the erection of fencing or a notice (section 15(3) of the Act); or
 - **Use of the land 'as of right' ended before 6th April 2007** and the application has been made within five years of the date the use 'as of right' ended (section 15(4) of the Act).
5. As a standard procedure set out in the regulations, the Applicant must notify the landowner of the application and the County Council must notify every local authority. The County Council must also publicise the application in a newspaper circulating in the local area and place a copy of the notice on the County Council's website. In addition, as a matter of best practice rather than legal requirement, the County Council also places copies of the notice on site to provide local people with

the opportunity to comment on the application. The publicity must state a period of at least six weeks during which objections and representations can be made.

The application site

6. The area of land subject to this application (“the application site”) consists of a recreation ground of approximately 5.5 hectares (13.7 acres) situated to the south of Rheims Way and to the east of Knight Avenue in the city of Canterbury. The application site consists of a grassed open space (incorporating tennis courts, a play area and a pavilion).
7. The perimeter of the application site is fenced with chain link fencing and access to the site is via gaps in the fence on the footway of Rheims Way and via the vehicular entrance to the car park from Knight Avenue.

The case

8. 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.
9. Included in the application were 77 statements of use from local residents asserting that the application site has been available for free and uninhibited use for lawful sports and pastimes over the last twenty years and beyond. A summary of the user evidence is attached at **Appendix C**.

Consultations

10. Consultations have been carried out as required. In response to the consultation, three letters of support have been received.
11. Local resident Mr. P. Taylor-Gooby wrote in support of the application and added his own evidence of use to that already submitted by the applicant. Mr. Taylor-Gooby has used the land at weekends for recreation and sporting activities since 1979.
12. Local resident Ms. M. King also wrote to express her support for the application. She stated that she and her family had used the land for sports and pastimes for over 40 years at least once a day for dog-walking. Ms. King adds that the land has been used for a wide range of activities, including kite-flying, golf, ball games, picnics and family outings with young children. The area also offers unmatched views of the cathedral and provides a safe playing area for all.
13. Mr. M. Vye, County Councillor for Canterbury South, has written to support the application most strongly. He states that the land was bought with money raised by public subscription and dedicated for use by the residents of Canterbury. Registration of the land as a Town or Village Green would recognise the vital role that the land plays to the local community and would protect it against future encroachment which would limit its use.

Landowner

14. The application site is owned by Canterbury City Council (“the City Council”), as illustrated on the plan attached at **Appendix D**.
15. The greater part of the application site was acquired by the City Council by way of a Conveyance dated 27th July 1905. The Conveyance refers to the land having been acquired under the provisions of the Public Health Act 1875 and requires the City Council to “*forthwith lay out [the land] as a Public Recreation Ground with all necessary paths and forever hereafter maintain and keep the said piece of land hereby conveyed as an open space for public recreation*”.
16. The remainder of the site was acquired by the City Council by way of a Compulsory Purchase Order in October 1949. This was originally acquired for housing purposes, but on 29th January 1951, consent was obtained from the Minister of Health for the appropriation of the land to ‘public walks and pleasure grounds’.
17. Land Registry documents show that both sections of the application site remain within the ownership of the City Council.
18. The City Council has objected to application on the basis that the application site is held by the City Council for the purposes of public recreation and, as such, use of the land has been ‘by right’ and not ‘as of right’. This issue is considered in further detail below.

Legal tests

19. 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 has taken place over period of twenty years or more?*
 - (e) *Whether use of the land 'as of right' by the inhabitants has continued up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?*

I shall now take each of these points and elaborate on them individually:

(a) *Whether use of the land has been 'as of right'?*

20. The definition of the phrase ‘as of right’ has been considered by the House of Lords. Following the judgement in the *Sunningwell*¹ case, it is considered that if a person uses the land for a required period of time without force, secrecy or permission (*nec vi, nec clam, nec precario*), and the landowner does not stop him or advertise the fact that he has no right to be there, then rights are acquired and further use becomes ‘as of right’.

¹ *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

21. In this case, there is no evidence of any of the users ever having been verbally challenged or physically prevented from gaining access to the land. Nor is there any evidence that use of the land has been with secrecy. Although the site is fenced around its perimeter and thus, in theory it would be possible to close it off, in practice, the significant body of user evidence from 77 local residents makes no mention of any overt challenges to use. It is also clear from a visit to the application site that the land is well established and well used as a recreation ground; no doubt any attempt at closure, however temporary, would be met with strong opposition from local residents.
22. The key issue in this case concerns the third limb of the 'as of right' concept: permission. Permission in this context can take various forms. It can be express or implied, and it may or may not be communicated to the recreational users of the land.
23. Particularly in cases where the application site is owned by a local authority, it is important to determine the powers under which the site was acquired in order to determine whether the use of the land by the local residents has been by virtue of an express permission.
24. The City Council asserts that the whole of the application site is held under section 164 of the Public Health Act of 1875 ("the 1875 Act"), which provides that '*any urban authority may purchase or take on lease, lay out, plant, improve and maintain lands for the purpose of being used as public walks or pleasure grounds...*'. It is the City Council's case that land which is held under these provisions is not capable of registration as a Town or Village Green since the recreational use of such land by local residents is therefore not 'as of right'.
25. The applicant contends that although reference is made in the Conveyance to the 1875 Act, there is no specific reference to section 164 of that Act. Whilst it is true that the Conveyance is silent as to the exact provision under which the land was conveyed and it is equally true that the 1875 Act made provisions for land to be acquired for other purposes (e.g. road widening), it is important to consider the document as a whole. The fact that the conveyance specifically refers to the land being conveyed as an open space for public recreation provides strong evidence of the intention to appropriate the land under these provisions. The wording in the Minister of Health's consent to the land being appropriated for the purposes of 'public walks and pleasure grounds' is clearly a phraseology borrowed from and a reference to section 164 of the 1875 Act. It can therefore be concluded there is clear and incontrovertible evidence that the whole of the application site is held by the City Council for the purposes of section 164 of the 1875 Act.
26. The specific issue of the effect of this provision on an application to register land as a Town or Village Green has never been before the Courts. There is, however, judicial support for the proposition that land held under section 164 of the Public Health Act 1875 is the subject of a statutory trust, with members of the public being the beneficiaries of the trust.

27. In *Hall v Beckenham Corporation*², the land concerned was held under the 1875 Act and the judge found in that case that “*as far as the local authority is concerned, if the land is purchased under their statutory powers, it is dedicated to the use of the public for the purpose of a park*”³. He added later in his judgement “*I think that the Beckenham Corporation are the trustees and the guardians of the park...*”⁴.
28. In *Blake v Hendon*⁵, it was considered that “*the purpose of section 164 of the Act of 1875 is to provide the public with public walks and pleasure grounds. The public are not a legal entity and cannot be vested with the legal ownership of the walks and pleasure grounds which they are to enjoy. But if they could be given the beneficial ownership, that is what they should have...*”.
29. More recently, the House of Lords has considered the effect of a similar provision (namely the Open Spaces Act 1906) on an application to register land as a Town or Village Green. In *Beresford*⁶, Lord Walker said this: “*where land is vested in a local authority on a statutory trust under section 10 of the Open Spaces Act 1906, inhabitants of the locality are beneficiaries of a statutory trust of a public nature, and it would be very difficult to regard those who use the park or other open space as trespassers... the position would be the same if there were no statutory trust in the strictest sense, but land had been appropriated for the purpose of public recreation*”.
30. The fundamental principle behind the concept of ‘as of right’ is that, in order to acquire rights, those using the land must start off as trespassers. The acquisition of rights cannot occur if those using the land for recreational purposes already have a right to do so. Therefore, if land is held by a local authority specifically for the purposes of recreation, those using the land are not trespassers – they are already there ‘by right’. Since they do not start off as trespassers, their use cannot be ‘as of right’ and thus they cannot acquire a new right. Therefore, it can be concluded that use of the land in this case by the local residents has been in exercise of an existing right created by virtue of a public statutory trust and as such was not ‘as of right’.

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

31. Lawful sports and pastimes can be commonplace activities including dog walking, children playing, picnicking and kite-flying. It is not necessary to demonstrate that both sporting activities *and* pastimes have taken place since the phrase ‘lawful sports and pastimes’ has been interpreted by the Courts as being a single composite group rather than two separate classes of activities⁷.
32. 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 Courts have held that ‘*dog walking and playing*

² *Hall v Beckenham Corporation* [1949] 1 All ER 423

³ *Hall v Beckenham Corporation* [1949] 1 All ER 423 at 426

⁴ *Hall v Beckenham Corporation* [1949] 1 All ER 423 at 427

⁵ *Blake (Valuation Officer) v Hendon Corporation* [1961] 3 All ER 601 at 607

⁶ *R(Beresford) v Sunderland City Council* [2003] UKHL 60 at paragraph 87

⁷ *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

*with children [are], in modern life, the kind of informal recreation which may be the main function of a village green*⁸.

33. In this case, the evidence demonstrates that the land has been used for a wide range of recreational activities, including walking (with and without dogs), ball games, picnics, playing with children, running, watching other sports activities and relaxation. The table summarising evidence of use by local residents at **Appendix C** shows the full range of activities claimed to have taken place.
34. The City Council does not dispute the fact that the land has been used for lawful sports and pastimes. It is clear from the evidence submitted that the land has been used for such activities and therefore it can be concluded that this test has been met.

(c) Whether use has been by a significant number of inhabitants of a particular locality, or a neighbourhood within a locality?

35. In considering this issue, the starting point is to establish whether there is a relevant locality within which the users of the land reside. The definition of locality for the purposes of a Town or Village Green application has been the subject of much debate in the Courts and there is still no definite rule to be applied. In the *Cheltenham Builders*⁹ 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'*. In another case, it was suggested that an ecclesiastical parish would be sufficient to constitute a relevant locality¹⁰.
36. Having established a relevant locality, it must be shown that a significant number of the residents of that locality must have used the land in question. The Courts have held that 'significant' in this context does not necessarily mean considerable or substantial: what matters is that the number of users has to be sufficient enough to indicate that *'their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers'*¹¹ (the "sufficiency test").

'locality'

37. At part 6 of the application form, the applicant gives 'the Westgate Ward of Canterbury City Council' as the locality. This is clearly a legally recognised administrative unit which is capable of forming a locality for the purposes of Town or Village Green registration.

⁸ *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 and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385

⁹ *R (Cheltenham Builders Ltd.) v South Gloucestershire District Council* [2004] 1 EGLR 85 at 90

¹⁰ *R (Laing Homes Ltd.) v Buckinghamshire County Council and another* [2003] 3 EGLR 70 at 83

¹¹ *R (Alfred McAlpine Homes Ltd.) v Staffordshire County Council* [2002] EWHC 76 at paragraph 71

38. As shown at **Appendix E**, the majority of those who have submitted evidence live within the City Council ward of Westgate. The fact that not all of the users live within this ward is not fatal to the application and the Courts have accepted that the legal test does not require the applicant to demonstrate use merely by the residents of the locality: *"It does not say user only by the inhabitants of the locality... I think it is sufficient that the land is used predominantly by the inhabitants of the village"*¹².
39. On the basis solely of the evidence of use presented in support of the application, it is possible to say that use of the land for informal recreation has been predominantly by the residents of the Westgate ward.
40. However, the City Council argues that use has not been predominantly by the residents of the locality since the application site has been used for organised sports, such as football matches. The application site is marked out with three football pitches that are regularly used between April and June each year. Most home teams that play there are from outside the Westgate ward and away teams are from all over the Canterbury area. Members of the public who have attended major organised events on the application site were not residents of the locality.
41. There is therefore a question as to whether use of the land has been used predominantly by the residents of the locality. There is clearly a conflict of evidence on this point and this is the type of issue that could normally be resolved by way of oral evidence presented at a Public Inquiry. However, in light of the recommendation, it is not necessary to conclude on this issue.

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

42. 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. Where there has been no challenge to the use of the land and use 'as of right' is continuing, then the twenty-year period is to be calculated retrospectively from the date that the application was made.
43. In this case, the application was made in December 2008. Therefore, the relevant twenty-year period ("the material period") is 1988 to 2008.
44. Of the 77 statements submitted in support of the application, at least 59 people have used the land throughout the material period. The remainder have used the land over a shorter period, but still within the material period. Therefore, it can be concluded that use of the land has taken place over a period of over twenty years.
45. However, the City Council argues that the use of the land by the local inhabitants has been interrupted by various major events¹³ as well as the use of the football pitches for organised games. On these occasions, the local residents have not had free and uninhibited access to the land, and their informal recreational use has been interrupted by the more formal activities taking place. As such, it is the City

¹² *R v. Oxfordshire County Council and another, ex parte Sunningwell Parish Council* [1999] 3 All ER 385 at 397

¹³ The events said to have taken place include: the national Sports Open Day (May 2002), Charlton Athletic Summer slam (August 2005), Extreme Sports day (2006), Tour of Britain cycle race (2006), Chinese State Circus (October 2007), Carnival Fun Fair (June 2007) and the Moscow State Circus (October 2008)

Council's view that the informal recreational use of the site by local inhabitants has not taken place for a full period of twenty years.

46. The most notable event was the Canterbury finish of the Tour de France in July 2008 during which the application site was the race technical area and used for the parking of official race and support vehicles and the press. The Event Safety Management plan states *"the ASO technical team area will be enclosed within the Herras fencing. The rest of the Victoria Recreation Ground will not have any additional fencing. Much of it is already inaccessible to the public, but there will be a steward team in this zone to keep the public from entering"*.
47. In rejecting this position, the applicant relies upon the provision contained within section 15(6) of the 2006 Act which states that in determining the 20 year period, *"there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment"*. So, for example, where land was closed by way of formal statutory order due to the foot and mouth outbreak in 2001, such an interruption to use would not automatically defeat an application for the registration of land as a Village Green.
48. It is not clear from the evidence available as to whether the closure of the land for major events was as a result of a statutory closure or a formal legal process. It is therefore not possible to reach a conclusion regarding the effect that such closure has had on the use of the land for recreational purposes and whether the major events which have taken place on the land have interrupted the informal recreational use of the local residents.
49. However, the fact that the City Council has allowed the land to be used for purposes which would necessarily have interfered with the informal recreational use of the land by local inhabitants raises a much wider question. In a recent Court of Appeal case known as *Redcar*¹⁴, it was considered that *"in a case where there is a conflict between the activities of the owner and the local inhabitants, and the activities of the local inhabitants can only be accommodated with those of the owner by the local inhabitants deferring to the owner's use, then the activities of the local inhabitants may not have the appearance of asserting a right against the owner"*. This is because *"by adjusting their behaviour, they give the impression to the owner that they are not claiming a right to do what they are doing"*. This is often referred to as the "deference issue".
50. It is the City Council's position that when the football pitches were hired out for organised games and the application site was being used for major events, the local inhabitants did not have free and unhindered access to the application site. By letting out the land for such activities, the City Council was asserting its right, as landowner, to purposely exclude local residents from the application site (or parts of it). This would therefore have constituted an interruption to use.

(e) Whether use of the land by the inhabitants is continuing up until the date of application or meets one of the criteria set out in sections 15(3) or (4)?

51. 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

¹⁴ *R (oao Lewis) v Redcar and Cleveland Borough Council* [2009] EWCA Civ 3 at paragraph 47

application, to fulfil one of the alternative criterion set out in sections 15(3) and 15(4) of the 2006 Act (as set out at paragraph 4 above).

52. In this case, there is no suggestion from the evidence submitted both in support of and in objection to the application that the use of the land by the local residents for the purposes of informal recreation has ceased prior to the making of the application.

53. Therefore, it appears that use of the land has continued up until the date of application and as such it is not necessary to consider the other tests set out in sections 15(3) and 15(4) of the Act.

Conclusion

54. It is clear from the evidence submitted in support of the application that the application site has been used by a significant number of the residents of the locality for the purposes of lawful sports and pastimes over a considerable period. However, as discussed above, it would appear that such use has been in exercise of the public statutory trust created by the Public Health Act 1875; it has been 'by right' and not 'as of right'.

55. Notwithstanding this 'knock-out blow' to the application, there are also serious problems with regard to whether use of the land has been by the public at large as opposed to the inhabitants of the locality, whether there have been interruptions to the use of the land and whether in using the land the local inhabitants have deferred to the other activities that have taken place upon the land. These are essentially questions of fact and degree that are difficult to resolve on paper and might otherwise benefit from further examination in a public forum.

56. However, the fact that the whole of the application site is held under the Public Health Act 1875 presents an impenetrable bar to the registration of the land as a Town or Village Green. This is an issue that cannot be overcome, regardless of the significant amount of user evidence that has been adduced in support of the application.

57. It is therefore concluded that the legal tests concerning the registration of the land as a Town or Village Green (as set out above) have not been met.

Recommendations

58. I recommend that the County Council informs the applicant that the application to register the land known as Victoria Recreation Ground at Canterbury has not been accepted.

Accountable Officer:

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

Case Officer:

Miss. Melanie McNeir – Tel: 01622 221511 or Email: melanie.mcneir@kent.gov.uk

The main file is available for viewing on request at the Countryside Access Service, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

Background documents

APPENDIX A – Plan showing application site

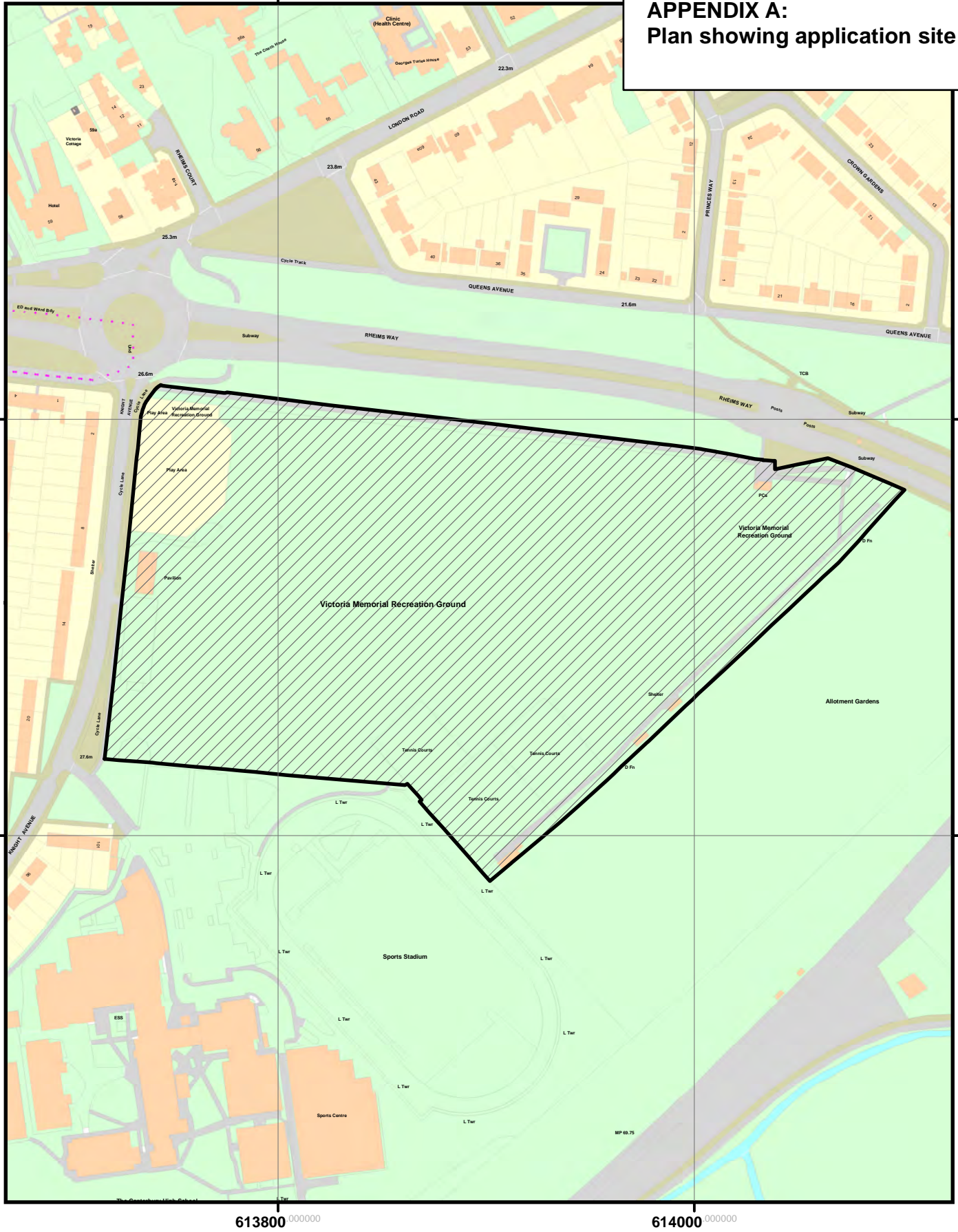
APPENDIX B – Copy of application form

APPENDIX C – Table summarising user evidence

APPENDIX D – Plan showing ownership of the application site

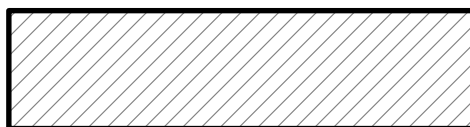
APPENDIX E – Plan showing the area within which users reside

**APPENDIX A:
Plan showing application site**



Scale 1:2500

**Land subject to Village Green application
at Victoria Recreation Ground, Canterbury**



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 28 OCT 2008</p>
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Application number:

<p>604</p>

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

<p> </p>

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:

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: Brian Frank Bugaivs
 Full postal address: 22 Queens Avenue
 (incl. Postcode) Canterbury Kent
 CT2 8BA
 Telephone number: 01227 459324
 (incl. national dialling code)
 Fax number:
 (incl. national dialling code)
 E-mail address: brianbug@msn.com

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: CLR IDA LINFIELD
 Firm:
 Full postal address: 93 THE STREET
 (incl. Postcode) BOUGHTON UNDER BLEAN
 KENT ME13 9BQ
 Telephone number: 01227 750146
 (incl. national dialling code)
 Fax number:
 (incl. national dialling code)
 E-mail address: ida.linfield@canterbury.gov.uk

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:

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

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:

VICTORIA RECREATION GROUND

Location:

OFF RHEMS WAY CANTERBURY &
ADJACENT TO KNIGHT AVENUE,
CANTERBURY

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:

IN THE WESTGATE WARD OF
CANTERBURY DISTRICT COUNCIL

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

The Victoria Recreation Ground was originally purchased by public subscription in 1905 and is an open space. Since then it has been used as of right by Canterbury's residents for all open space activities. Sports ~~are~~ include formal & informal football, tennis and cricket; kite flying & frisbee matches; picnics; dog walking; walking; sunbathing, building snowmen etc. There has been no break in this usage so not only has it been in continuous use as of right for the past 80 years but it has been so for the past 101 years since the opening in 1907.

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

There is a covenant between the District Council & the Church Commissioners which protects the land.

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
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

SEE SEPARATE SHEET

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

A local school has planning permission for part of the Recreation ground for use as the "National Beach Volley Ball Centre" – their description.
If the decision goes ahead to lease this part of the Recreation ground, a document (lease) will be issued by Canterbury District Council. None has been issued to date.

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:

B Fuggin

19/10/08

P. A. Huntford

19.10.08

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.

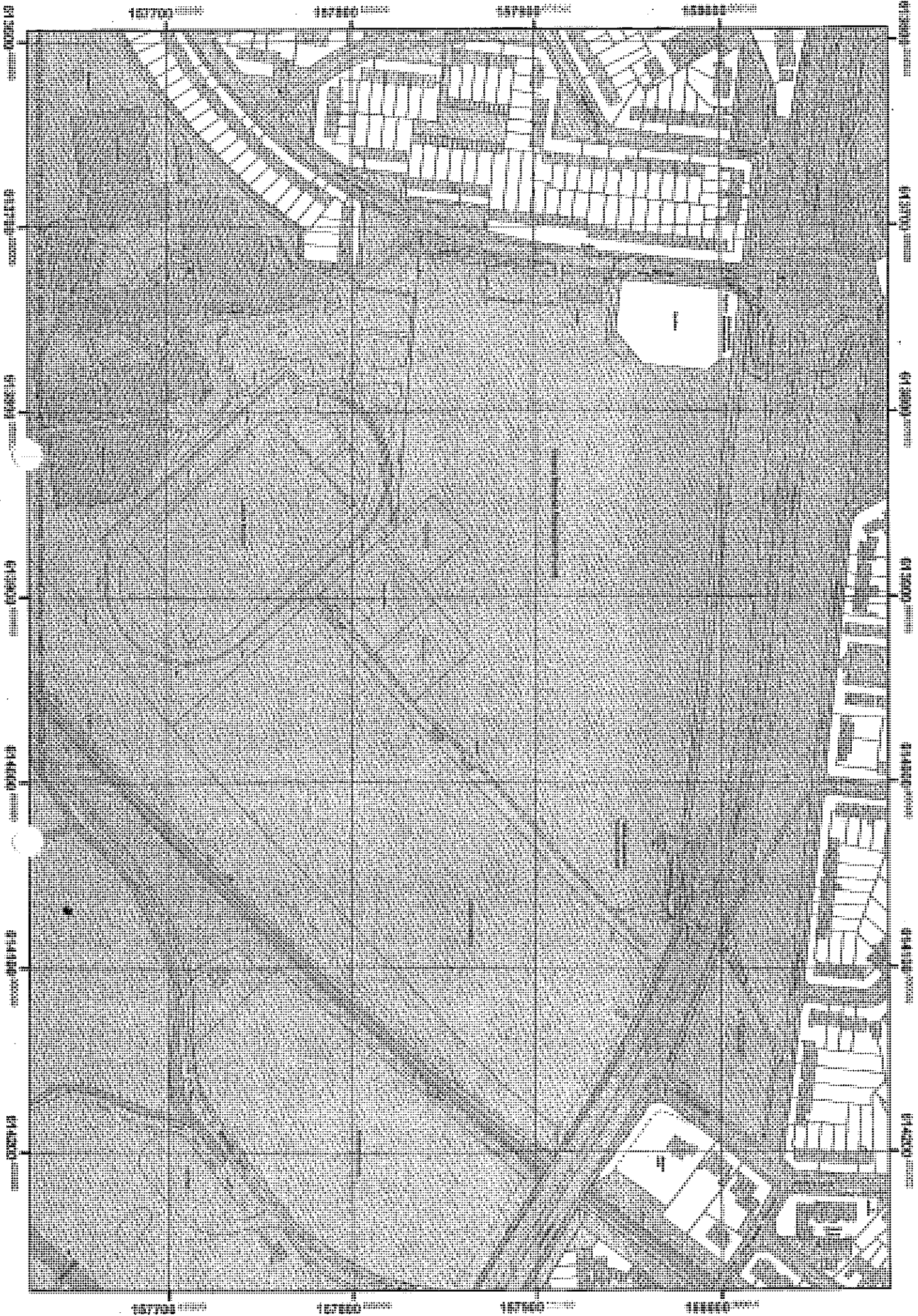
Please send your completed application form to:

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.



APPENDIX C:**Summary of user evidence submitted in support of the application**

Name	Address	Period of use	Frequency of use	Activities undertaken	Challenges/interruptions to use?	Other comments (e.g. use by others, notices etc)
Ms J Allcorn	13 Summer Hill	1967-2009	Casual use	Football, cricket, tennis		School sports matches, local people walking, sports, playing
Mr R Ashton	5 Priest Avenue	1952-1961; 1964-1976	Weekly	Football, cricket, walking		School and club sports, fetes, Bonfire Party
Mrs J Baker	28 Priest Avenue	1973-2009	Weekly	Walking and sports		Jubilee celebrations, local school and club sports, walking, playing
Mrs K Batten	52 Knight Avenue	1954-2009	Few times a week	Ball games, walking, picnics	Tour de France; Papal visit	Local sports, fairs, circus, walking, playing, kite flying
Mrs A Beeching	84 Shipman Avenue	1981-2009	Frequent in summer, less in winter	Sports spectator, sit and socialise	Tour de France	Crickets and football clubs, seasonal activities, walking, playing, picnics
Ms M Berg	5 Orchard St	1995-2009	Varies	Walking and leisure		Football, walking, picnics, playing
Mr Bryan	18 Whitehall Bridge Rd	1970-2009	Weekly	Walking, recreation and sport		Sport, playing, walking, picnics, fetes, kite flying, bonfire party
Mr and Mrs Buggins	22 Queens Avenue	1963-2009	Currently weekly, more when children growing up	Playing as child and then with own children, sports, outdoor games, local scout activities		Local Scout groups, school sports, fairs, Bonfires, local sport clubs, walking, kite flying, picnics
Mr F Buggins	36 Queens Avenue	1956-2009	Frequently	Football, Tennis, walking, cricket, playing with children		Local sports clubs, scout groups, funfairs, walking, fetes, picnics, kite flying, children playing
Ms M Buggins	22 Queens Avenue	1979-2009	Daily	Walking, playing games with family, picnics, bird watching, kite-flying, tennis, rounders		Scout games, sports clubs, children playing, walking, picnics
K Burgess	52 Shipman Avenue	1979-2009	Always	Tennis, rounders, football, children playing		Football, cricket, picnics "only safe place children can play"
Ms J Canning	6 Princes Avenue	1972-2009	Frequently/every day with children	Tennis, walking, childrens play		Local sports matches, rounders, games, kite-flying
Mr and Mrs J Carver	10 Whitehall Road	1980-2009	Not regularly	Walking		Football, cricket, walking, children playing, games, Tour de France
B Cassidy	12 St Dunstan's Terrace	1953-present	Not recently	Tennis, walking		Football, rounders, children playing
Mrs K Chowne	7 Whitehill Lane	1956-2009	Once or twice weekly	Walking, children playing when younger		Sports, picnics, games, walking

Ms J Cochrane	30 Priest Avenue	1953-2009	Quite often	Walking, football spectating		Football, cricket, walking, games, picnics, circus
Mr K Condon	21 St Dunstons Terrace	1975-2009	Weekly	Walking, enjoy open space		Football, cricket, tennis, playing, kite flying, picnics
J Coulthard	39 Queen Avenue	1985-2009	Daily	Tennis, children playing, walking, ball games, collecting conkers	One day for Tour de France	Local sports clubs, scouts, picnics, local school activities
Mrs A Davies	25 Orchard Street	1978-2009	Weekly	To play as child, now sports & family games		Football, games, Club matches, picnics, walking, kite-flying
Mr. D de Boick	7 Priest Avenue	1983-2009	Varies	Sports, playing with grandchildren, kite-flying, picnics	Only specialist events ie. Tour de France	Football, cricket, tennis, circus, fair, playing, walking
Mrs W de Boick	7 Priest Avenue	1954-1969, 1976-2009	Weather dependent	Rounders, tennis, playing with grandchildren, exercise	"special events"	Football clubs, school sports day, picnics, playing, kite flying
Mr & Mrs A Edwards	7 Miller Avenue	1945-2009	4 time per week	Football, cricket, tennis, kite flying	Building volleyball court	Local sports every week, walking, circus, fetes, Tour de France
Miss J Edwards	61 Merchants Way	2000-2009	Every weekend	Rounders, running, football, fun with family		Children's activities, pub fun days, football club, cricket club, walking, fetes
Ms C Eisenhuth	16 Mill Lane	1998-2009	Weekly	Dog walking, badminton, play with children	Tour de France	Local clubs, picnics, kite-flying, rounders, fetes
Miss D Eisenhuth	16 Mill Lane	1999-2004, 2005-2009	At least once a week	Dog walking, running, running, play games		Local scout group, circus, local sports clubs, rounders
Mr M Eisenhuth	16 Mill Lane	1998-2009	Weekly	Football matches, scout activities, sports	Tour de France	Sport, dog walking, scout activities, cricket, fetes, picnics
Mr J Flanagan	2 Merchants Way	1981-2009	As child (1981-1994) weekly, currently every fortnight	Playing as child and now with own children, picnics, watch football, kite-flying	Rare occasions – Pope visit 1982	Circus, Football & cricket clubs, fetes, dog walking, picnics, playing
Mr & Mrs Flanagan	92 Knight Avenue	1953-2009	Weekly	Recreation, to relax		Football and other sports, picnics, community activities

Mrs M Fuller	7 Crown Gardens	1934-2009	Every day, less now	Dog walking, playing with grandchildren, tennis, picnics, kite-flying	Tour de France, fencing erected for Papal visit	Football & cricket clubs, school sports days, funfair, fetes
C Harrison	4 Princes Way	1976-2009	Weekly	Walking, playing with family		Football & cricket clubs, local scout activities, picnics, games
Mr and Mrs H Hart	31 Wife of Bath Hill	1963-2009	Nearly every day	Dog walking, tennis, watch football		Fairs, fetes, local sports, picnics, kite-flying
Dr S Henry	23 St Dunstons Terrace	1998-2009	Every few weeks	Jogging, cycling, general family play		Football clubs, children playing, dog walking,
W James	18 Orchard St	1997-2009	Regularly	Dog walking		Football, ball games, children playing, rounders, kite-flying
Mrs P Kerr	51 Mill Lane	1930-1939, 1945-2009	Occasionally	Walking, tennis, watching football & cricket	Rare "official use"	Local sports groups, picnics, walking, children playing
Ms M King	48 Mill Lane	1986-1988, 1987-2009	Daily	Dog walking, watch cricket	Tour de France staging post	Cricket & football matches, tennis, fairs, fetes, picnics, children playing, walking
Mrs J Knowles	14 Summer Hill	1987-2009	Weekends & holidays	Kite-flying, ball games, tennis, dog walking, playing with grandchildren		Football & cricket clubs, circus, dog walking, picnics
Mr G Langton	26 Richmond Gardens	1962-2009	Every weekend, now couple of weeks	Football, tennis		Football & cricket clubs, regular Boxing Day football match, picnics, playing, walking
Mrs D Lewis	30 Shipman Avenue	1976-2009	Whenever want to	Walking, playing with grandchildren		Football, cricket, walking, picnics, kite-flying
Mr and Mrs D Litton	46 Knight Avenue	1960-2008	Weekly	Games with grandchildren, dog walking		Football, cricket clubs, picnics, kite-flying, children playing, tennis
Mr R Maltby	1 Queens Avenue	1983-2009	Weekends & school holidays	Family recreation	Dignitaries landing by helicopter	Local clubs sports, scout activities, local group activities
Mr D Martin	1 Windmill Rd	2005-2007, 2008-2009	Once/twice a year	Football, cricket, rounders, tennis, walking dog		Football club games, cricket matches
A W Matthews	38 Queens Avenue	1970-2009	Weekly, more in summer	Football, kite-flying, tennis, cricket, Frisbee	During special events	Local sports clubs
Mrs L McCarthy	53 Shipman Avenue	1974-2009	Daily	Dog walking, tennis, playground	Popes visit 1982	Local sports clubs, walking, playing
Mr P McCarthy	53 Shipman Avenue	1954-1963, 1976-2009	Daily	Football, Cricket, dog walking, playground	Council activity	Picnics, local team sports, walking, kite-flying, playing

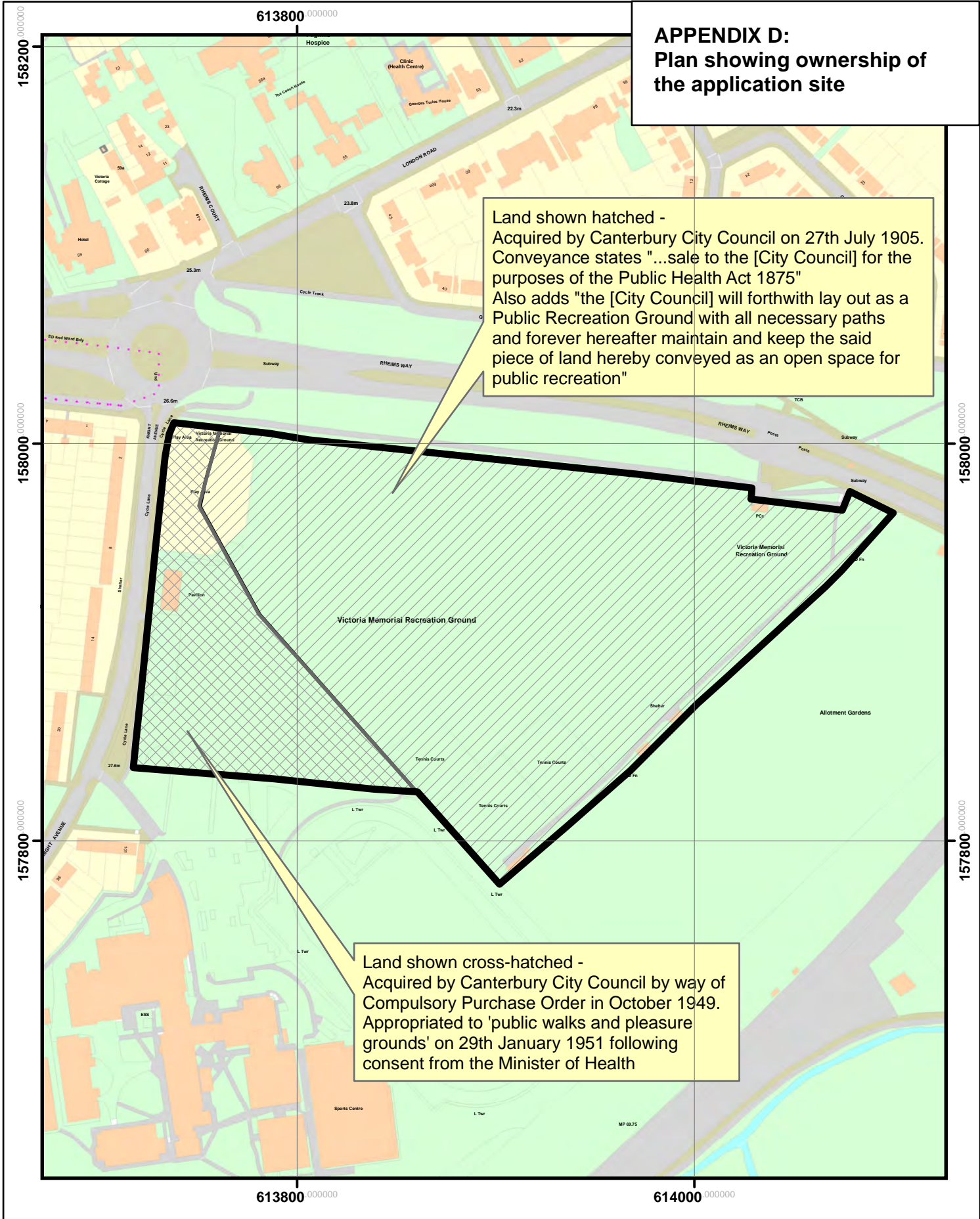
Ms L McConnell	19 Orchard Street	1984-2009	Weekly	Sports, walking, children's play		Sports matches, circus, fairs, picnics, games, kite-flying, children playing
Mr R Megan	52 Somner Close	1966-1971, 1975-2006	Once or twice a month	Kite-flying, family recreation, sports		Cricket matches, scout activities, football club, tennis, team games, walking, kite-flying
Mr P Morris	9 Cross Street	1976-2009	Frequently	Picnics, dog walking, ball games, children playing	Fencing "recent"	Sports, picnics, circus, fair, walking
Mrs A Newman	11 Manciple Close	1997-2009	Whenever I can	Walking, spectating sports	When closed due to helicopter landing	Football & cricket matches, funfairs, circus
Mr C Newman	11 Manciple Close	1961-1965, 1976-2009	As often as possible	Walking	When closed for eg. royalty	Football & cricket matches, fairs
Mr R Page	99 Knight Avenue	1950's -?	Used to a lot when children were young	Football		Football & cricket clubs, walking, picnics, kite-flying, school games
Mr M Pearson	12 Cherry Drive	1997-2009	Once/twice a week	Tennis, cricket, golf		Local football & cricket clubs, dog walking, kite-flying, playing
Mr and Mrs J Phipps	29 Crown Gardens	1979-2009	Daily, now weekly	Walking, exercise, tennis, playing with children, spectating sport		Local football & cricket teams, funfair, various local groups for activities
Mr M Pocock	21 Whitehall Gardens	1983-2009	Daily	Bird-watching, jogging, playing with children		Football & cricket clubs, funfair, circus, walking
K Poole	15 Summer Hill	1999-2009	Infrequently	Playing with grandchildren		Cricket, walking, children playing
Mr G Port	42 Hillside Avenue	1960-1972, 1988-2009	Weekly	Football, cricket, walking, tennis, kite-flying, play area		Football, cricket, annual Boxing Day Scout match, picnics, fetes
Ms T Powell	23 St Dunstons Terrace	2004-2009	Weekly	Football, kite-flying, jogging, children playing		Local sports clubs
Dr G Raines	8 Crown Gardens	2001-2009	Daily	Watch football & cricket, play tennis, dog walking		Local sports clubs, children playing, picnics
Mr and Mrs D Ratcliffe	42 Heathfield Way	1960-1982	Most days of week	Walking, exercise, playing with children	When volleyball courts were built	Local sports clubs, scout group & church activities
Ms M Ripington	15 Queens Avenue	1954-2009	Daily, less now due to age	Dog walking, children's play	Tour de France	Cubs activities, fetes, football, cricket, picnics
Ms J Roberts	7 Princes Way	1986-2009	When I can (due to age)	Walking, observing sport		Football, tennis, cricket, children playing, picnics, dog walking, kite- flying

Mr R Ruck	19 Queens Avenue	1934-2009	Several times a week	Cricket, football, playing with grandchildren	Tour de France	Football, cricket, scout games, dog walking, kite-flying
Mr R Sargeant	28 Knight Avenue	1955-2009	Every day, now once a week	Football, dog walking, playing with children, cricket	Tour de France	Fairs, football, cricket, tennis, children's play, kite-flying, picnics
Ms J Savage	4 Richmond Gardens	1959-2009	Once a week	Walking, tennis, using playground, watching kids sports, socialising		Fairs, fetes, local sports clubs, scout groups, picnics
Mr and Mrs M Scamp	47 Miller Avenue	1957-2009	Daily	Dog walking, grandchildren playing, cricket	During Papal visit	Cricket, football, picnics, fairs, circus
Ms S Sherman	24 Crown Gardens	1987-2009	Once or twice a week	Dog walking, picnics, children playing, supporting football		Local sports, picnics, kite-flying, walking, playing
Mr J Shilling	61 Priest Avenue	1970-2009	Most days, more in summer	Playing with grandchildren	Pope's visit, Tour de France	Local sports matches, playing, picnics, walking, games
Ms C Shuter	70 Priest Avenue	2003-2009	Once a month	Play games, walk	Special events	Playing, sports, walking, kite-flying
Mr Spillett	27 Crown Gardens	1958-2009	3 or 4 times a year	Walking, play sport, use play area		Football, cricket, playing, walking, picnics
Mrs P Tapsell	6 Priest Avenue	1935-2009	Frequently	Walking, playing with children & grandchildren		Football, fairs, picnics, games, walking
Ms P Wall	57 Shipman Avenue	1963-2009	Every day	Dog walking, games with children		Football & cricket teams, picnics, fairs, circus
J Want	34 Miller Avenue	1966-2009	Daily or twice daily	Dog walking, children's games		Tennis, cricket, kite-flying, walking, picnics
Mrs M West	8 Miller Avenue	1953-2009	Weekly	Walking, children playing	Restricted access when used for helicopters	Fairs, Local sports teams, picnics, kite-flying, fetes
Mrs E Wiffen	26 Pardoner Close	1973-1989; 1992-2009	Daily	Dog walking, football, picnics	Royal visits, Tour de France	Football & cricket teams, picnics, tennis, fireworks
Mr J Wilson	14 Temple Road	1950-2009	Approx 5 times a week	Football & cricket, dog walking		Fair, sports matches, picnics, walking, children playing
Mrs M Wolfe	25 Cross Street	1980-1994	As and when had time	Recreation and spectating sports		Children playing, dog walking, kite-flying, cycling, ball games
Mrs P Woodcock	26 City View, London Rd Estate	55 years	All the time	Children play		Football, cricket, dog walking, fetes
Mrs E Yeomans	8 Merchants Way	1952-2009	Most days	Various sports, walking, children playing	Royal & Papal visits	Fair, football & cricket, walking, picnics

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

Land shown hatched -
Acquired by Canterbury City Council on 27th July 1905.
Conveyance states "...sale to the [City Council] for the
purposes of the Public Health Act 1875"
Also adds "the [City Council] will forthwith lay out as a
Public Recreation Ground with all necessary paths
and forever hereafter maintain and keep the said
piece of land hereby conveyed as an open space for
public recreation"

Land shown cross-hatched -
Acquired by Canterbury City Council by way of
Compulsory Purchase Order in October 1949.
Appropriated to 'public walks and pleasure
grounds' on 29th January 1951 following
consent from the Minister of Health



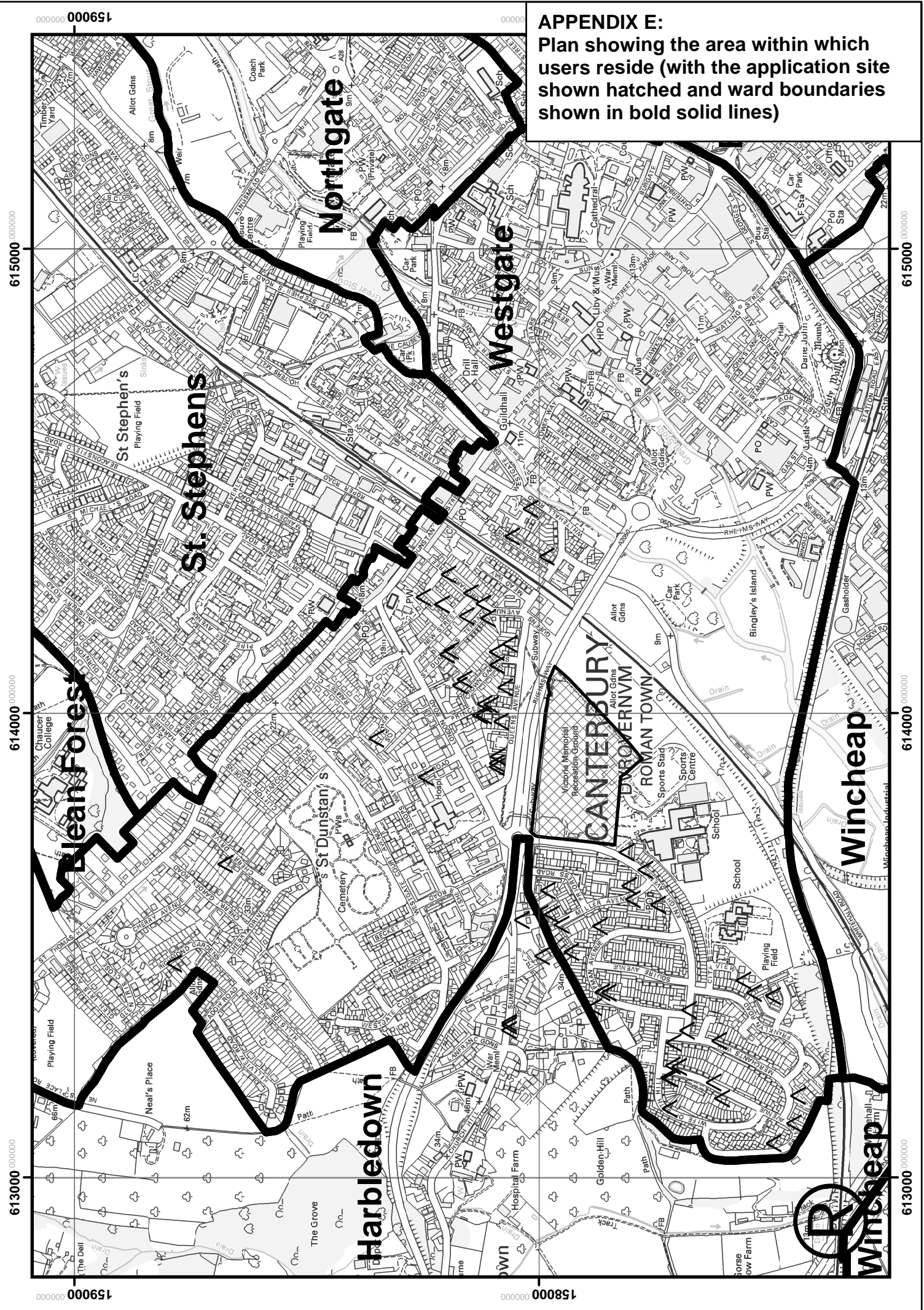
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**Land subject to Village Green application
at Victoria Recreation Ground, Canterbury**



APPENDIX E:

Plan showing the area within which users reside (with the application site shown hatched and ward boundaries shown in bold solid lines)



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