

## Application to register land at Valley Road, Barham (Nr. Canterbury) as a new Village Green

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A report by Divisional Director, Environment and Waste to the Kent County Council's Regulation Committee Member Panel on Monday 11<sup>th</sup> February 2008.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land at Valley Road, Barham has been accepted, and that the land subject to the application be formally registered as a Village Green.

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Local Members: Mr. M. Northey

Unrestricted item

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### Introduction

1. The County Council has received an application to register land at Valley Road, Barham as a new Village Green from the Barham Parish Council ("the applicant") who own the land in question. The application, dated 28<sup>th</sup> August 2007, was allocated the application number 593. A plan of the site is shown on Appendix A to this report and a copy of the application form is attached at Appendix B.

### Procedure

2. Since 6<sup>th</sup> April 2007, applications to register new Village Greens are made under section 15 of the Commons Act 2006: applications prior to this date were made under section 13 of the Commons Registration Act 1965, which has now been repealed (except for outstanding applications that were made under the 1965 Act).
3. Traditionally, village greens derive from customary law and until recently it was only possible to register land as a new village green where certain qualifying criteria were met: i.e. where it could be shown that the land in question had been used 'as of right' for recreational purposes by the local residents for a period of at least 20 years.
4. 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."*
5. Land which is voluntarily registered as a Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of statutory protection as that of all other registered greens and local people will have a guaranteed right to use the

land for informal recreational purposes in perpetuity. This means that once the land is registered it cannot be removed from the Register (other than by statutory process) and must be kept free of development or other encroachments.

6. The procedure for such applications is very simple. Once the application has been made, there is no requirement for the County Council to undertake a public consultation exercise, to advertise the proposal or even to consider the merits of the application. Provided that the County Council is 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), then it is under a duty to grant the application and register the land as a Village Green.

## **The Case**

### Description of the land

7. The area of land subject to this application (“the application site”) consists of an area of grassy, unenclosed open space approximately 1.3 acres (0.5 ha) in size situated in the centre of the village of Barham. The land is equipped with a number of benches and litter bins, a parish sign as well as an informal football pitch complete with goal posts, which all indicate that the land is already in general recreational use. Photographs of the site are attached at Appendix C.

### Ownership of the land

8. The Parish Council has owned the land since 1956 when it was bequeathed to the Council by way of a Deed of Gift from the previous owner, Mr. Louis Charles Groombridge *‘in consideration of his desire to provide land for the recreation of the children in particular and also the residents in the parish of Barham’*.
9. On receipt of the application, a Land Registry search was undertaken which confirmed the registered ownership of the land by the Barham Parish Council (copy attached at Appendix D).
10. The search also revealed a relevant charge relating to a private right of way with a width of 20ft running from Barham Street to a field along the easternmost edge of the land. The owner of the charge has been contacted and is in agreement with the proposal (letter of consent attached at Appendix E).

### The ‘locality’

11. DEFRA’s view is that once land is registered as a Village Green, only the residents of the locality have the legal right to use the land for the purposes of lawful sports and pastimes. It is therefore necessary to identify the locality in which the users of the land reside. At Part 6 of the application, the locality is defined as ‘opposite school, Valley Road, Barham, Canterbury, Kent’. This appears to be more of a description of the location of the land rather than of ‘locality’ in the sense intended by the Commons Act 2006.

12. A locality for these purposes normally consists of a recognised administrative area (e.g. civil parish or electoral ward) or a cohesive entity (such as a village or housing estate). Since the application has been made by Barham Parish Council, it seems appropriate that the locality should therefore be the parish of Barham so that all of the residents of the village have the legal right to use the land. This certainly appears to be what was intended by the 1956 Deed of Gift.

### **Conclusion**

13. I have concluded that all the necessary criteria concerning the voluntary registration of the land as a Village Green have been met.

### **Recommendations**

14. I recommend that the County Council informs the applicant that the application to register the land at Valley Road, Barham has been accepted, and that the land subject to the application be formally registered as a Village Green.

#### **Accountable Officer:**

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

#### **Case Officer:**

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

The main file is available for viewing on request at the Environment and Waste Division, Environment and Regeneration Directorate, Invicta House, County Hall, Maidstone. Please contact the case officer for further details.

### **Background documents**

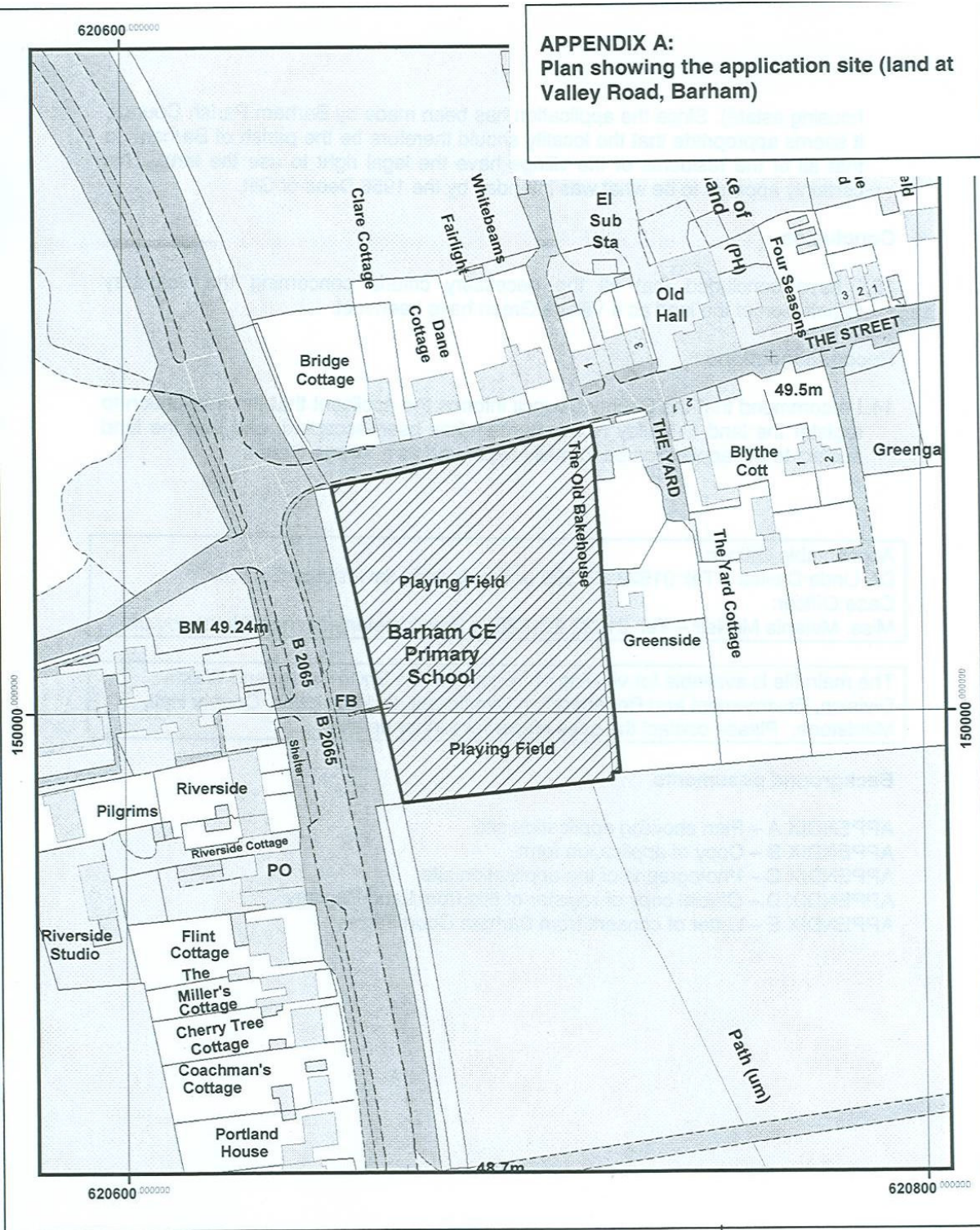
APPENDIX A – Plan showing application site

APPENDIX B – Copy of application form

APPENDIX C – Photographs of the application site

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


APPENDIX E – Letter of consent from Barham Court Farms



**APPENDIX A:**  
 Plan showing the application site (land at Valley Road, Barham)

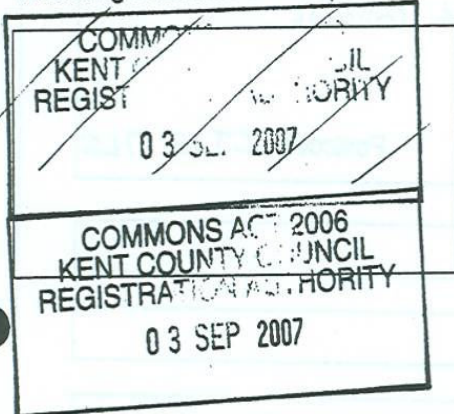


Land subject to Village Green application at Valley Road, Barham (Nr. Canterbury)




**Commons Act 2006: Section 15**  
**Application for the registration of land as a Town or Village Green**

Official stamp of registration authority indicating valid date of receipt:



Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

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

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

**Note 1**  
Insert name of registration authority.

**1. Registration Authority**

To the

**Note 2**

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

**Note 3**

This question should be completed if 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.

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

Name:

Full postal address:  
  
  
  
 Postcode

Telephone number:  
(incl. national dialling code)

Fax number:  
(incl. national dialling code)

E-mail address:

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

Name:

Firm:

Full postal address:  
  
  
  
 Post code

Telephone number:  
(incl. national dialling code)

Fax number:  
(incl. national dialling code)

E-mail address:

**Note 4**

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

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

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

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under section 15(8):

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

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

If section 15(3) or (4) applies please indicate the date on which you consider that use as of right ended.

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

**Note 5**

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

\* Only complete if the land is already registered as common land.

**Note 6**

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

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

Name by which usually known:

THE VILLAGE GREEN  
BARHAM

Location:

EAST SIDE OF VALLEY ROAD, BARHAM,  
CANTERBURY, KENT

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

Common land register unit number (if relevant) \*

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

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

OPPOSITE SCHOOL  
VALLEY ROAD  
BARHAM, CANTERBURY  
KENT

Tick here if map attached:



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

**Note 7**

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

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

A large, empty rectangular box with a thin black border, intended for the applicant to provide a summary of their case for registration. The box is currently blank.

**Note 8**

*Please use a separate sheet if necessary.*

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

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

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

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

N/A

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

N/A

**Note 9**

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

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

**10. Supporting documentation**

**Note 10**

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

*Please use a separate sheet if necessary.*

Copy Land Registry title entries and plan

**Note 11**

*If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.*

**11. Any other information relating to the application**

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.*

Date:

28/08/07

Signatures:



**REMINDER TO APPLICANT**

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

**Data Protection Act 1998**

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

I, **LINDA JOAN DAVIES**, of 16 The Grove, Barham, Canterbury, Kent, do solemnly and sincerely declare as follows:

1. I am Chairman of Barham Parish Council and I am the person who has signed the foregoing application.
2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the Registration Authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.
3. The map now produced as part of this declaration, marked LJD1, is the map referred to in part 5 of the application.
4. I hereby apply under Section 15 (8) of the Commons Act 2006 to register as a green the land indicated on the map. I declare that the land is in the ownership of Barham Parish Council and registered at the Land Registry under title number K896798 and I declare that no consents are required from any other party.

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

Declared by the said **Linda Joan Davies** at

On the 28<sup>th</sup> day of *August* 2007

Before me:

**BRADLEYS**  
SOLICITORS

Jayne Sweeney LL.B  
Solicitor

19 Castle Street, Dover, Kent CT16 1PU

Solicitor/Commissioner for Oaths



TITLE NUMBER  
**K896798**



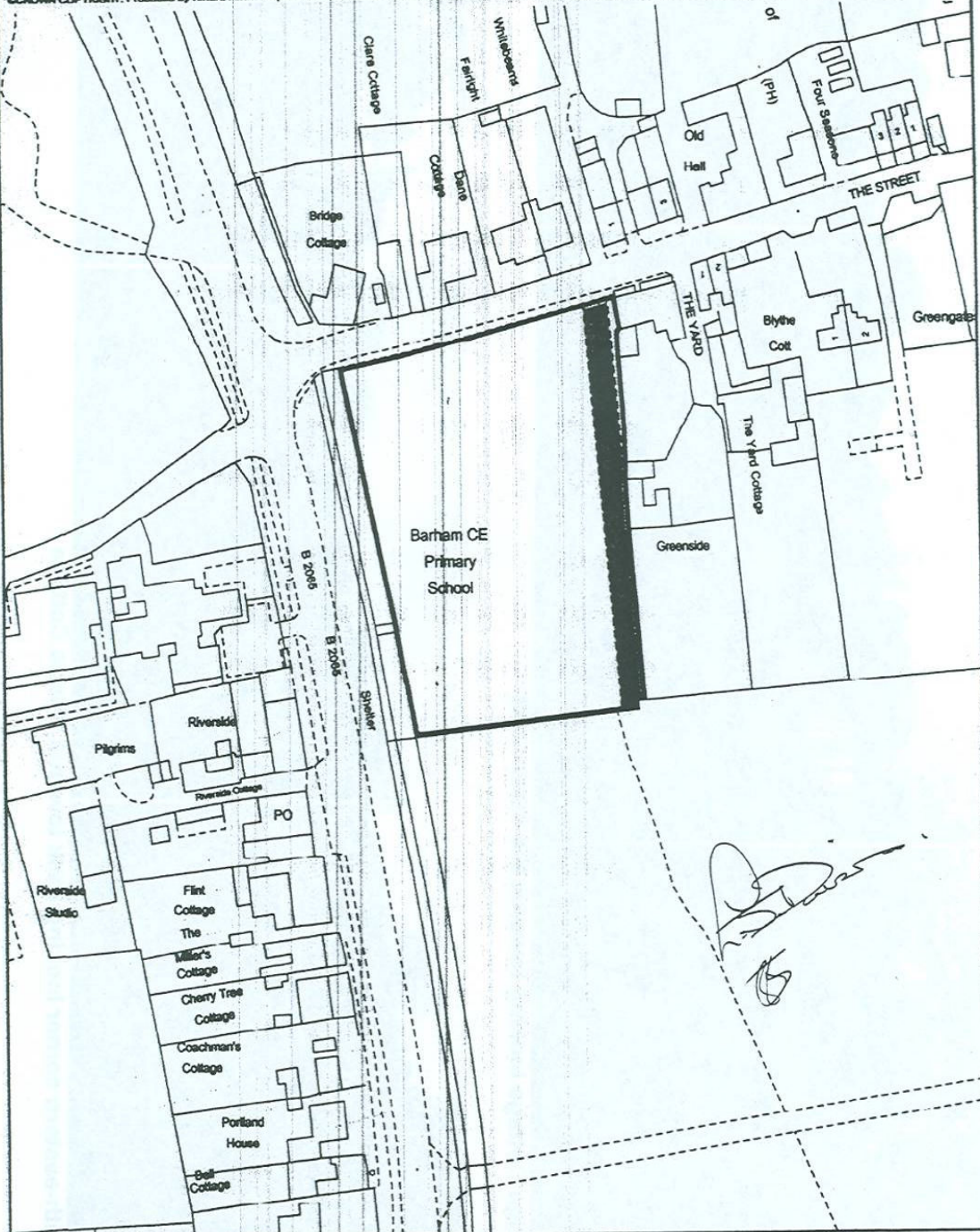
KENT : CANTERBURY

ORDNANCE SURVEY MAP REFERENCE:

TR2050SE

SCALE 1:1250 Enlarged from 1:2500

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This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

This official copy shows the state of the title plan on 6 February 2006 at 11:45:42. It may be subject to distortions in scale. Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original. Issued on 6 February 2006.

This title is dealt with by the Tunbridge Wells District Land Registry.



**APPENDIX C:  
Photographs of application site**



**View from Bridge Cottage looking towards the south-east**



**View from south-eastern corner looking back towards Bridge Cottage**

# Official copy of register of title

Title number K896798

Edition date 06.02.2006

- This official copy shows the entries in the register of title on 20 September 2007 at 12:09:20.
- 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 20 September 2007.
- 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 Tunbridge Wells Office.

## A: Property register

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

KENT : CANTERBURY

- 1 (06.02.2006) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land on the east side of Valley Road, Barham, Canterbury.

## 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 (06.02.2006) PROPRIETOR: BARHAM PARISH COUNCIL of 8 Hazling Dane, Shepherdswell, Dover, Kent CT15 7LS.
- 2 (06.02.2006) The value stated as at 6 February 2006 was £20,000.

## C: Charges register

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

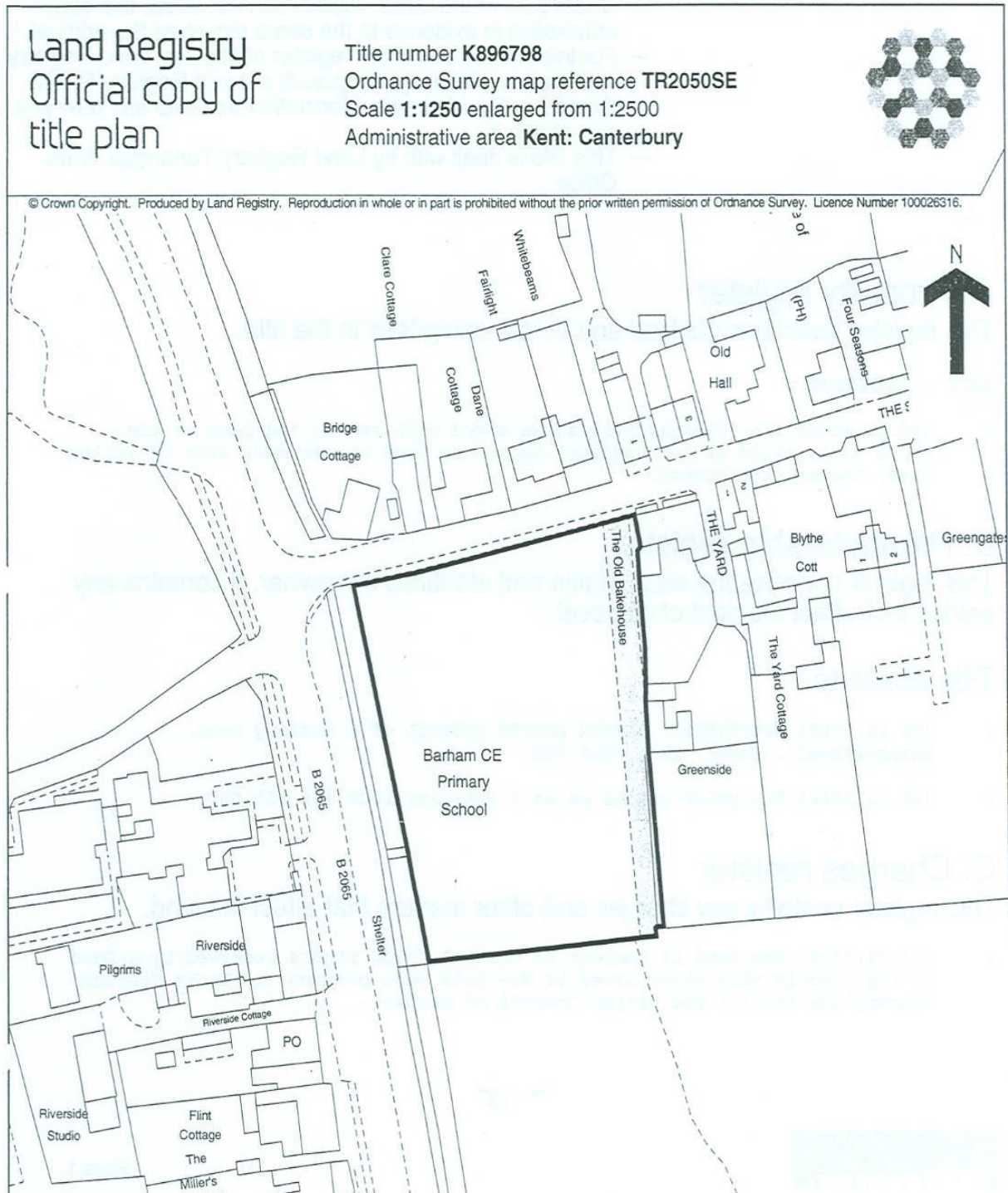
- 1 (06.02.2006) The land is subject to the following rights reserved by a Deed of the land in this title dated 12 May 1956 made between (1) Louis Charles Groombridge and (2) The Parish Council Of Barham:-



"Except and reserved unto the Donor a right of way for all purposes twenty feet in width along the eastern boundary of the said piece of land and coloured brown on the said plan and connecting with Barham Street"

NOTE: The brown land referred to above is tinted blue on the title plan.

## End of register





# BARHAM COURT

CHURCH LANE, BARHAM, CANTERBURY  
TELEPHONE 01227

APPENDIX E:  
Letter of consent from Barham Court  
Farms

7th December 2007

Barham Parish Council  
Mrs. L. J. Davies  
Chair Parish Council  
16 The Grove  
BARHAM  
Canterbury  
Kent CT4 6PP

Dear Linda

Ref: Right of Way on Village Green

Thank you for your letter of 30th November 2007 regarding the above subject.

We have no objection for our consent to be given to include the Right of Way in the registration of the Village Green, which we donated to the village in 1956, assuming that this in no way detracts from our right of way too.

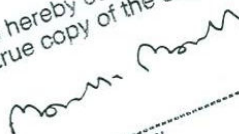
Please get back to us if we have overlooked anything in your letter. We are glad to continue to do something for the village.

Yours sincerely



Keith Groombridge  
Partner

We hereby certify this to be  
a true copy of the original



Mowl & Mowl  
Solicitors

VAT REG. No. 201 2301 51

K. G., D. J. & R. T. GROOMBRIDGE