

Application to register land known as Whimbrel Green at Larkfield 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 Tuesday 3rd December 2019.

Recommendation: I recommend that the County Council informs the applicant that the application to register the land known as Whimbrel Green at Larkfield has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Local Member: Mrs. T. Dean MBE (Malling Central)

Unrestricted item

Introduction

1. The County Council has received an application to register a piece of land known as Whimbrel Green at Larkfield as a new Town or Village Green from the East Malling and Larkfield Parish Council ("the applicant"). The application, made on 28th September 2018, was allocated the application number VGA678. A plan of the site is shown at **Appendix A** to this report.

Procedure

2. Traditionally, Town and Village Greens have derived from customary law and until recently it was only possible to register land as a new Town or Village Green where certain qualifying criteria were met: i.e. where it could be shown that the land in question had been used 'as of right' for recreational purposes by the local residents for a period of at least 20 years.
3. However, a new provision has been introduced by the Commons Act 2006 which enables the owner of any land to apply to voluntarily register the land as a new Village Green without having to meet the qualifying criteria. Section 15 states:
*"(8) The owner of any land may apply to the Commons Registration Authority to register the land as a town or village green.
(9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land."*
4. Land which is voluntarily registered as a Town or Village Green under section 15(8) of the Commons Act 2006 enjoys the same level of statutory protection as that of all other registered greens and local people will have a guaranteed right to use the land for informal recreational purposes in perpetuity. This means that once the land is registered it cannot be removed from the formal Register of Town or Village Greens (other than by statutory process) and must be kept free of development or other encroachments.

5. In determining the application, the County Council must consider very carefully the relevant legal tests. In the present case, it must be satisfied that the applicant is the owner of the land and that any necessary consents have been obtained (e.g. from a tenant or the owner of a relevant charge). Provided that these tests are met, then the County Council is under a duty to grant the application and register the land as a Town or Village Green.

The Case

Description of the land

6. The area of land subject to this application (“the application site”) consists of an area of land of land, mainly laid to grass, approximately 0.5 acres (0.2 hectares) in size, known locally as Whimbrel Green, that is situated on the western side of Plover Road (between property numbers 47 and 49) at Larkfield. Access to the application site is via the open frontage onto the footway of Plover Road and also via a taracadam path which crosses the application site and connects Plover Road with Public Footpath MR570.
7. A plan of the application site is attached at **Appendix A**, with photographs of it at **Appendix B**.

Notice of Application

8. As required by the regulations, Notice of the application was published on the County Council’s website.
9. The local County Member, Mrs. T. Dean, was also informed of the application and wrote to confirm her support for it.
10. No other responses to the consultation have been received.

Ownership of the land

11. A Land Registry search has been undertaken which confirms that the application site is wholly owned by the applicant under title number K4988875.
12. There are no other interested parties (e.g. leaseholders or owners of relevant charges) named on the Register of Title.

The ‘locality’

13. 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.
14. 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).

15. In this case, the application has been made by the local Parish Council. As noted above, a civil parish is a qualifying locality for the purposes of Village Green registration and, as such, it seems appropriate that the relevant locality in this case should be the civil parish of East Malling and Larkfield.

Conclusion

16. 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.

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

Recommendations

18. I recommend that the County Council informs the applicant that the application to register the land known as Whimbrel Green at Larkfield has been accepted, and that the land subject to the application be formally registered as a Town or Village Green.

Accountable Officer:

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

Case Officer:

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

Appendices

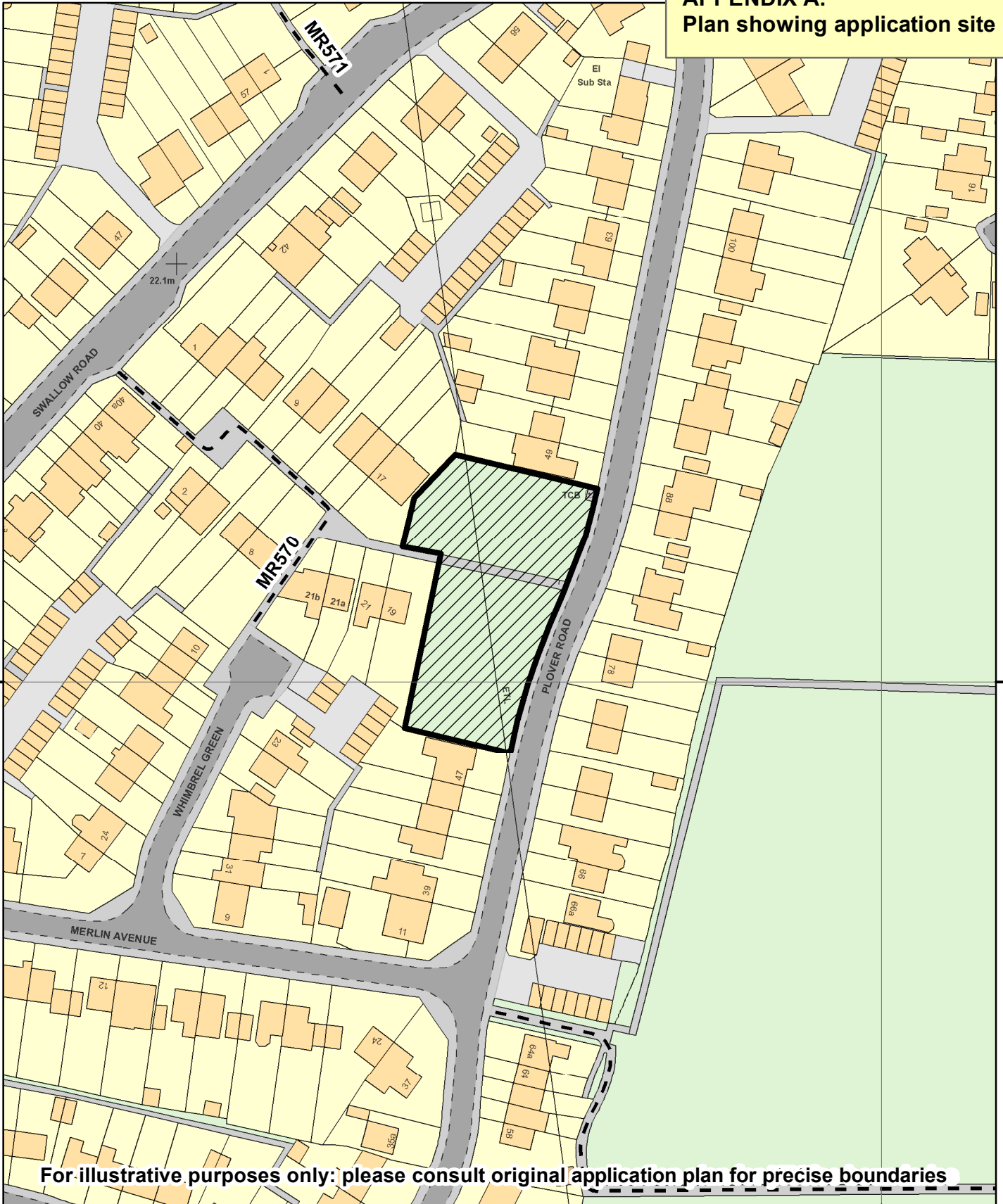
APPENDIX A – Plan showing application site

APPENDIX B – Photographs of the application site

Background documents

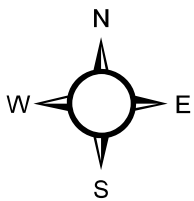
The main file is available for viewing on request at the PROW and Access Service based at Invicta House, County Hall, Maidstone. Please contact the Case Officer for further details.

**APPENDIX A:
Plan showing application site**



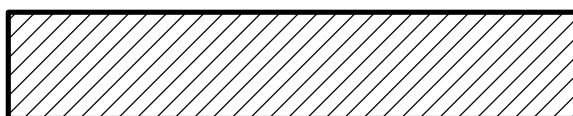
For illustrative purposes only: please consult original application plan for precise boundaries

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**Land subject to Village Green
application, known as Whimbrel Green,
at Plover Road, Larkfield**



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



