



APPLICATION PACK

for the registration of land as a Town or Village Green

Containing:

- **Advice to applicants**
- **Summary of the investigation procedure in Kent**
- **Frequently asked questions**
- **Application form (Form CA9)**
- **Sample evidence questionnaire**

Please note that this pack applies primarily to applications made under section 15(1) of the Commons Act 2006 on the basis of twenty years' usage of the land. If you are a landowner seeking to register the land voluntarily (under section 15(8)), there is no need to submit evidence of use and you will simply be required to complete the relevant sections of the application form and provide evidence of ownership (and any other necessary consents that may be required).

Advice to applicants for applications under section 15(1)

Applications to register land as a new Town or Village Green are normally made under section 15(1) of the Commons Act 2006. Under this section, anyone can apply provided that it can be shown that the land has been used:

- 'as of right' (i.e. without secrecy, permission or force);
- for a period of at least 20 years;
- for the purposes of lawful sports and pastimes;
- by a significant number of the inhabitants of any locality, or of any neighbourhood within a locality; and
- use has continued up until the date of application or, if this is not the case, use ceased to be 'as of right' no more than one year prior to the date of application.

However, regardless of whether the above tests have been met, please be aware that it will not be possible to apply to register land as a new Village Green in cases where that land is the subject of a planning application or it has already been identified for development in a Local or Neighbourhood plan. If you think this may be the case, please contact your local planning authority (normally the District Council) to check the status of the land.

Your application must be accompanied by a plan at a scale of not less than 1:2500 as well as evidence of use of the land in accordance with the legal tests set out above. This evidence can be in the form of written statements of use or by way of a user evidence questionnaire. A sample questionnaire is provided at the end of this pack and may be used for the collection of user evidence.

In determining your application, the County Council must stick rigidly to the legal criteria summarised above and will be unable to take into account any other matters such as amenity, desirability or suitability.

If the application site is owned by a local authority prospective applicants are advised to contact the owner and establish under what powers the land is held by the authority. Please be aware that if the land is already held by the authority specifically for recreational purposes it is unlikely to be possible to register it as a Town or Village Green.

On the application form, you will be asked to identify the section of the Act under which you wish to make your application.

- where access to the site has not been challenged and use 'as of right' is continuing up until the date of the application, **section 15(2)** applies; and
- where use of the land 'as of right' ended (e.g. as a result of the site being fenced) not more than one year prior to the date of application, **section 15(3)** applies.

Please note that the County Council is unable to advise on the merits of individual applications. However, you may wish to contact the Open Spaces Society who have published a helpful guide for applicants entitled 'Getting Greens Registered' and may be able to provide further advice or guidance for your application. The Open Spaces Society can be contacted at 25A Bell Street, Henley-on-Thames, Oxon RG9 2BA. Information is also available on their website at www.oss.org.uk.

Once you are ready to submit your application, please return the completed application form, plan (which must be at 1:2500 scale) and accompanying evidence to the Commons Registration Team at the address provided on the last page of the application form.

Summary of the procedure for applications under section 15(1)

The procedure for managing an application under section 15(1) is set out in the *Commons Registration (England) Regulations 2014*.

Once your application has been received, it will be checked to ensure that the paperwork has been correctly completed. If any significant errors or omissions are identified, you will be provided with an opportunity to rectify these. Before accepting your application, the County Council will also write to the relevant Local Planning Authorities to check that the land is not subject to any planning application or identified in a Local or Neighbourhood Plan for development. If it is, then the County Council will be unable to accept your application.

If the County Council is able to accept your application for consideration, it will be allocated a unique reference number (which you will need to quote on all future correspondence) and you will receive a formal acknowledgment of receipt as soon as practicable.

Due to recent changes in the law, we currently have a slight backlog of applications and therefore work is unlikely to begin on your application immediately. Applications are normally dealt with in order of receipt but if there are exceptional circumstances why the application should be investigated more urgently then it *may* be possible to accelerate the application (but we cannot guarantee this).

Once your application reaches the top of the queue, it will be allocated to a case officer for investigation. The case officer will contact you to notify you that work is about to begin on your application. The case officer will also draft a notice of the application which will be advertised on the County Council's website and in the local newspaper. As the applicant, you will be required at this stage to serve a copy of the notice on the landowner.

This notice will provide a six-week period for any representations either in support of or objection to the application. If objections are received, these will be sent to the applicant for comment. The County Council may, if necessary, direct you (as the applicant) to provide any further information or documents necessary to enable the application to be determined.

Your application will then be carefully considered by the County Council in accordance with the legal tests. In some cases, it may be possible to determine the application on the evidence provided. Occasionally, where there is a significant conflict of fact or evidence that cannot be resolved through written representations, it may be that the County Council will appoint an independent Barrister to hold a non-statutory Public Inquiry to hear evidence from all interested parties, and to produce a report detailing his/her findings.

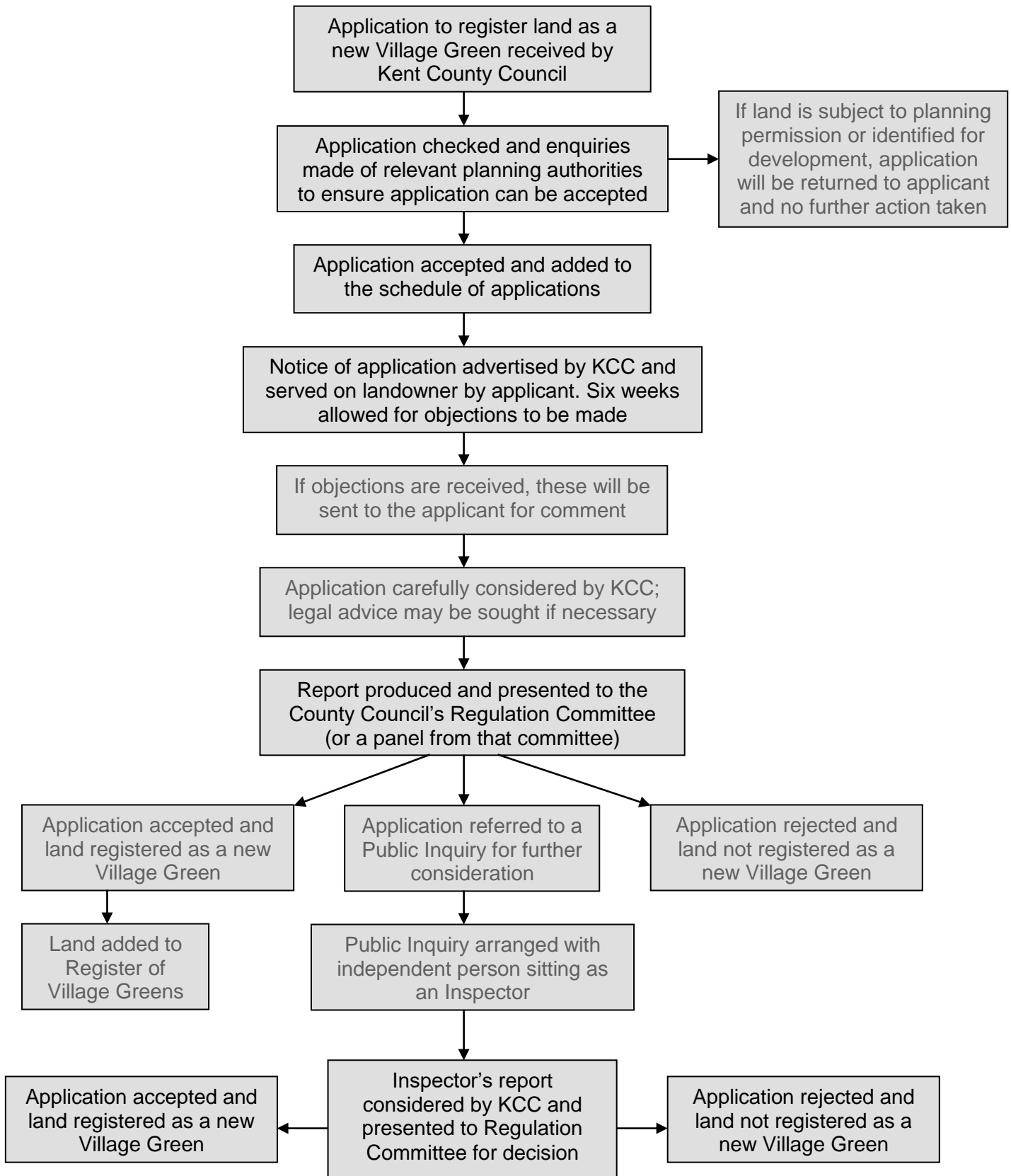
Once the investigation is complete, the case officer will produce a report summarising the facts of the case and providing a recommendation as to whether the application should be accepted or rejected. The final decision will be taken by a panel of County Members from the County Council's Regulation Committee who will visit the site and then return to County Hall where a meeting will be held (to which all interested parties will be invited) in order to make their decision.

Once a decision has been made, the only right of appeal is by way of an application to the High Court for a Judicial Review of the decision.

For ease of reference, this process is summarised in the flow chart on the following page.

Flow chart summarising the process for Village Green applications in Kent

Please note that this diagram is intended as an indicative summary only and the process may vary as necessary according to individual cases.



Village Green applications: frequently asked questions

What is the effect of registration as a Town or Village Green?

Registration on land as a Town or Village Green means that the residents of the locality will have the right to use the land for lawful sports and pastimes. The piece of land will be recorded in a legal document known as the Register of Town or Village Greens.

Village Greens also enjoy considerable statutory protection under Victorian statutes, namely the Inclosure Act 1857 and the Commons Act 1876. These statutes make it an offence, amongst other things, to encroach, enclose or erect structures (other than with a view to the better enjoyment) on a Village Green, or to do anything which interrupts the use of the Village Green as a place for exercise and recreation.

For further information, DEFRA has published a guidance note entitled 'Management and protection of registered town and village greens' which is available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/477980/tvg-faq.pdf

What if the land in question is potentially subject to development?

If the land has been identified for development in a local or neighbourhood plan, or is the subject of an application for planning permission, it will not be possible to apply for Village Green status. If you think this might be the case, please contact your local planning department to check before making your application as we will not be able to consider it if any development is due to take place on the land.

Further information regarding the 'trigger events' that preclude a Village Green application from being made is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298534/com-monland-cra-guide.pdf

How many user evidence questionnaires or statements should I submit?

There is no definite rule to be applied in respect of the numbers of user evidence questionnaires or statements to be submitted. One of the tests for registration is that use must be by a "significant number" of the local residents. This means that you should be able to demonstrate that the land is in general use by the community rather than by a few trespassers. It will also mean that the number of questionnaires or statements will vary depending upon the nature of the locality. For example, we would expect to see more evidence questionnaires or statements in an urban locality which is heavily populated.

What happens if use of the site has already been challenged?

If use of the application site has been challenged by the landowner (for example, by the erection of prohibitive notices, the erection of fencing or some other form of barrier preventing access to the land, or the submission of a landowner statement), it is still possible to make an application to register the land as a Village Green, but the application must be made within one year from the date upon which use of the land ceased to be 'as of right'. Applications made after that date cannot be considered by the County Council.

Can I withdraw or amend my application?

There are no specific provisions within the legislation for an application to be withdrawn or amended. You must therefore be prepared for your application to be determined (i.e. granted or refused) as made.

If it becomes necessary for you to amend your application, the County Council may be prepared to consider such a request, but will invite comments from other interested parties before reaching a decision.

In the case of a withdrawal, as the application is likely to be of public interest, the County Council would need to advertise the proposed withdrawal locally and it may well be that, even if the applicant no longer wishes to proceed, another resident of the locality is prepared to proceed with the application.

What if the land is owned by a local authority?

If you know that the land is owned, or is likely to be owned, by a local authority (i.e. the Parish Council, the District or Borough Council, or KCC) you are strongly advised to contact the local authority before making your application to find out under what power the land is held.

If you think the land is owned by KCC, please contact the Terrier Team for this information (terrier@kent.gov.uk).

If the land is held specifically for the purposes of public recreation (e.g. under the Public Health Act 1875 or the Open Spaces Act 1906) it will generally not be possible to register the land as a Village Green, as the public would already have the right to use the land for recreational purposes. Please refer to the Supreme Court's decision in *R (Barkas) v North Yorkshire County Council* [2014] UKSC 31, which is available at:

http://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0035_Judgment.pdf

Are there any fees for making an application?

No, there are no fees for making an application under section 15 of the Commons Act 2006. However, if the application is referred to Public Inquiry, you may incur your own costs in preparing for that Inquiry. For example, for photocopying documents and preparing Inquiry submissions, or, if you choose to do so, employing a solicitor to represent you.

Who will be responsible for the maintenance of the land if it is registered as a Village Green?

There are no provisions in law regarding the maintenance of Village Greens that have been registered under section 15 of the Commons Act 2006 and there is no obligation on the landowner to actively maintain the Village Green.

However, the District Council does have the power to make a Scheme of Regulation under the Commons Act 1899, which would effectively transfer the management of the Village Green to the local authority. In some cases, Village Greens are managed and maintained by community groups, working in conjunction with the Council and/or the landowner (if there is a known owner). If there is no known landowner, the Parish and District Councils have powers under the Open Spaces Act 1906 to manage the Village Green.

Can a Village Green be de-registered?

Although Village Greens are heavily protected by Victorian statutes, there is a limited provision in section 16 of the Commons Act 2006 whereby the owner of land registered as a Village Green (or part of it) can apply for the land to be de-registered. If the land to be de-registered is greater than 200 square metres in area, additional land must be given in exchange.

The County Council does not deal with de-registration applications. For further information, please contact the Planning Inspectorate or view their website at:

<http://www.planningportal.gov.uk/planning/countryside/commonland/commonland>

What happens to the ownership of the land post-registration?

When land is registered as a Village Green, the ownership of the land does not change. Village Green registration is concerned solely with the recording of recreational rights over the land in question.

If land is registered as a Village Green, the landowner will retain ownership of the land and will be able to continue using the land provided that his use does not interfere with the recreational use of the land and does not involve a breach of the Victorian statutes described above.

Where can I find further information?

Further information is available on the DEFRA website at: www.gov.uk/common-land-management-protection-and-registering-to-use#commons-registration. Please note that Kent County Council is a pioneer authority for the implementation of Part I of the Commons Act 2006 and therefore you should refer specifically to the guidance associated with the pioneer implementation.

You may also wish to contact the Open Spaces Society for advice or view their website at: <http://www.oss.org.uk/>

Alternatively, if you have any questions, please do not hesitate to contact the Commons Registration Team at Kent County Council on 03000 417171. Although we cannot provide specific advice on individual applications, we would be happy to assist with general queries and procedural issues.

Commons Act 2006: section 15

Application for the registration of a town or village green

This section is for office use only

Official stamp

Application number

VG number allocated at registration

Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

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

Note 1
Insert name of commons registration authority.

1. Commons Registration Authority

To the:

Tick the box to confirm that you have enclosed the appropriate fee for this application:

Note 2

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association. 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 box 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This box 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, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

2. Name and address of the applicant

Name:

Postal address:

 Postcode

Telephone number:

Fax number:

E-mail address:

3. Name and address of representative, if any

Name:

Firm:

Postal address:

 Postcode

Telephone number:

Fax number:

E-mail address:

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 9 or 10 to the Commons Registration (England) Regulations 2014. 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.

Note 5

This box is to identify the new green. The accompanying Ordnance map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland, and show the land by means of distinctive colouring within an accurately identified boundary. State the Land Registry title number where if known.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land tick the following box and move to box 5:

If the application is made under section 15(1) of the Act, 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:

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

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:

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

Name by which the land usually known:

Location:

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

Tick the box to confirm that you have attached an Ordnance map of the 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). If this is not possible an Ordnance map should be provided on which a locality or neighbourhood is marked clearly at a scale of 1:10,560.

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).

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).

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

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 an Ordnance map on which the area is clearly marked:

Tick here if a map is attached:

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

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

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 (e.g. a letter), and also any such declarations made on the form itself.

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.

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.

9. Voluntary registration – declarations of consent from any relevant leaseholder of, and of the proprietor of any relevant charge over, the land**10. Supporting documentation****11. Any other information relating to the application**

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 an unincorporated association.

12. Signature

Date:

Signatures:

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.

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 or the Freedom of Information Act 2000.

**COMMONS ACT 2006 – SECTION 15:
EVIDENCE QUESTIONNAIRE IN SUPPORT
OF VILLAGE GREEN APPLICATION**



Notes for completion

The object of this questionnaire is to reach the truth of the matter whatever that may be. You are requested to answer the questions as accurately as possible and not to withhold any information, whether for or against the application.



Kent County Council will process the information you provide in connection with the application for Village Green status only and it will not be used for any other purposes without your consent. Please note that all or part of the information provided on this form may pass into the public domain during the processing of the application and therefore cannot be treated as confidential.

Our full privacy notice can be found at the end of this form.

Name:

Address (incl. postcode):

THE LAND CLAIMED AS A VILLAGE GREEN

1. Please confirm that you agree with the boundaries of the land shown on the attached plan supplied by the applicant. *** YES / NO**
2. Please mark the location of your house on the plan with an 'X'.
3. Have you lived at the address given above during the entirety of your period of use of the land? *** YES / NO**
If not, please supply previous address below and mark on the plan.

Please provide date of move: (year)

4. By what name is the land known locally (if any)?

YOUR USE OF THE LAND

5. For how many years have you known the land?years
6. When did you first start using the land?(year)
7. Are you still using the land? *** YES / NO**
If not, please state when you stopped using the land and why.

8. Have you ever had any extended breaks from using the land (*e.g. military services, family commitments, extended incapacitation*) * **YES / NO**
If yes, please indicate dates
9. When using the land, how and where did you gain access?
10. To your knowledge, are there any public paths (*e.g. footpaths or bridleways*) crossing the land? * **YES / NO**
11. How frequently have you used the land? (*e.g. daily, weekly, monthly, occasionally*)
12. Has this pattern of use remained the same throughout your use of the land? If not, please provide details. * **YES / NO**
13. What activities did you take part in when on the land? Please list all of the activities which you have undertaken on the land.

CHALLENGES TO USE

14. Have you, or anyone known to you, ever been verbally stopped, prevented from using or turned back when using the land? * **YES / NO**
If yes, please provide details (including dates).
15. Have you ever been told by the landowner/occupier, or by anyone in their employment, that the land was private? * **YES / NO**
If yes, please provide details (including dates).

16. Have you ever been prevented, or deterred, from using the land because of obstructions? ***YES / NO**
If yes, please provide details (including dates).
17. Have you ever seen any notices on, or associated with the land? ***YES / NO**
If yes, please provide details (including dates).

USE OF THE LAND BY OTHER PEOPLE

18. Have you ever seen other people using the land? ***YES / NO**
If yes, please list all the activities which you have seen taking place on the land.
19. How frequently have you seen other people using the land? (*e.g. daily, weekly, monthly, occasionally*)
20. Do you know of any organisations that use the land for formal sports? ***YES / NO**
If yes, please provide details.

THE LOCAL AREA

21. Do you consider yourself to be a resident of an identifiable locality or of a neighbourhood within a locality? ***YES / NO**
If yes, please provide details.
22. What recognisable facilities are available to the local residents within your locality?

LANDOWNER

23. Do you know who the owner or occupier of the land is? ***YES / NO**
If yes, please provide details.
24. Have you ever been related to or employed by the landowner or occupier?
If yes, please provide details. ***YES / NO**
25. Have you ever sought permission from any owner or occupier to use the land?
If yes, please provide details (including dates). ***YES / NO**

ADDITIONAL INFORMATION

If there is any further information that you wish to add please use the space below.

CERTIFICATION

I hereby certify that to the best of my knowledge and belief the facts I have stated are true and this questionnaire contains an accurate record of those facts.

I also understand that a copy of this form may come into the public domain during the processing of this application.

Signed:..... Date:.....

Name (please print):.....

Thank you for taking the time to complete this questionnaire. Please return your completed form to the person who sent it to you along with a copy of the plan. The information provided will be used by Kent County Council in deciding whether or not to register the land as a Village Green.

Public Rights of Way Privacy Notice

Last Updated: 24th April 2018

This notice explains what personal data (information) we hold about you, how we collect, how we use and may share information about you. We are required to give you this information under data protection law.

Who are we?

Kent County Council collects, uses and is responsible for certain personal information about you. When we do so we are regulated under the General Data Protection Regulation which applies across the European Union (including in the United Kingdom) and we are responsible as 'controller' of that personal information for the purposes of those laws.

The personal information we collect and use

Information collected by us

In the course of processing an application to register land as a Village Green, you are providing us with the following personal information as part of your supporting statement:

- your name
- you contact details

How we use your personal information

We use your personal information to process the application as per the Commons Registration (England) Regulations 2014

How long your personal data will be kept

We will hold your personal information indefinitely as per the above legislation.

Reasons we can collect and use your personal information

The lawful basis on which we collect and use your personal data is that 'processing is necessary for compliance with a legal obligation'.

The provision of personal contact data is required from you to enable us to process an application that has been made to register land as a Village Green, and as we have a statutory basis for collecting your personal data, if you do not provide it we are unable to consider your evidence in support of the application.

Who we share your personal information with

As per the legislation, as you have provided evidence in support of the application, we may be required to share your personal information with the Secretary of State and to make the complete application publicly available.

We will share personal information with law enforcement or other authorities if required by applicable law.

Your Rights

Under the GDPR you have a number of rights which you can access free of charge which allow you to:

- Know what we are doing with your information and why we are doing it
- Ask to see what information we hold about you
- Ask us to correct any mistakes in the information we hold about you
- Object to direct marketing
- Make a complaint to the Information Commissioners Office

Depending on our reason for using your information you may also be entitled to:

- Ask us to delete information we hold about you
- Have your information transferred electronically to yourself or to another organisation
- Object to decisions being made that significantly affect you
- Object to how we are using your information
- Stop us using your information in certain ways

We will always seek to comply with your request however we may be required to hold or use your information to comply with legal duties. Please note: your request may delay or prevent us delivering a service to you.

For further information about your rights, including the circumstances in which they apply, see the guidance from the UK Information Commissioners Office (ICO) on individuals' rights under the General Data Protection Regulation.

Keeping your personal information secure

We have appropriate security measures in place to prevent personal information from being accidentally lost or used or accessed in an unauthorised way. We limit access to your personal information to those who have a genuine business need to know it. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

Who to Contact

Please contact the Information Resilience and Transparency Team at data.protection@kent.gov.uk to exercise any of your rights, or if you have a complaint about why your information has been collected, how it has been used or how long we have kept it for.

You can contact our Data Protection Officer, Benjamin Watts, directly at dpo@kent.gov.uk or you can write to the Data Protection Officer, Sessions House, Maidstone, Kent ME14 1XQ .

The General Data Protection Regulation also gives you right to lodge a complaint with a supervisory authority. The supervisory authority in the UK is the Information Commissioner who may be contacted at <https://ico.org.uk/concerns> or telephone 0303 123 1113.

For further information visit <https://www.kent.gov.uk/about-the-council/about-the-website/privacy-statement>