

## COMMONS REGISTRATION ACT 1965 – SECTION 13

Application for the Registration of Land which became  
a Town or Village Green after 2nd January 1970

## NOTES

Before completing this form, read carefully the following notes. An incorrectly completed application form may have to be rejected.

## 1. Registration authorities

The applicant should take care to submit his application to the correct registration authority. This depends on the situation of the land which is claimed to have become a town or village green. The registration authority for land in an administrative county is the county council; for land in a county borough, it is the county borough council, and for land in Greater London, it is the Greater London Council. However if the land in question is partly in the area of one registration authority and partly in that of another, the authorities may by agreement have provided for one of them to be the registration authority for the whole of the land. An applicant concerned with land lying close to the boundary of an administrative area, or partly in one area and partly in another, should therefore enquire whether such an agreement has been made and, if so, which authority is responsible for the land.

## 2. Who may apply for registration

An application for the registration of any land which has become a town or village green after 2nd January 1970 may be made by any person.

## 3. No double registration

If the land is already registered under the Act, whether in the Register of Town or Village Greens or in the separate Register of Common Land, and whether the registration is provisional, final, or under section 13 of the Act (which relates to land becoming common land or a town or village green after 2nd January 1970), an application for registration cannot be entertained, but this does not prevent the submission of an application later on, should the existing registration cease for any reason to be effective (as, for example, by the land being removed from the register under section 13 or by a provisional registration being cancelled or failing to achieve finality). If an earlier registration is believed to exist a search of the register may be obtained by means of C.R. Form 21 (a separate form must be used for each register).

## 4. Meaning of "town or village green"

"Town or village green" is defined in the Common Registration Act 1965 as land:—

- (a) which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality, or
- (b) on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes, or
- (c) on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years.

While a town or village green can be subject to rights of common, it does not include land which is registered as common land in the separate Register of Common Land maintained under the Act. (There is a separate form available for applying for the registration under the Act of land which became common land after 2nd January 1970.) "Land" includes land covered with water so that a town or village green can, for instance, include a pond.

## 5. How land can become a town or village green

Land can become a town or village green after 2nd January 1970 in one of the following ways:—

- (1) By or under an Act of Parliament otherwise than as substituted land (as to substituted land, see category (4) below).
- (2) By customary right established by judicial decision.

- (3) By the actual use of the land by the local inhabitants for lawful sports and pastimes as of right for not less than 20 years.
- (4) By substitution or exchange for other land which has ceased to be a town or village green under —
  - (a) sections 147 and 148 of the Inclosure Act 1845; or
  - (b) paragraph 11 of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946; or
  - (c) any other enactment providing, on the exchange of land, for the transfer of rights, trusts or incidents attaching to the land given in exchange from that land to the land taken in exchange and vice versa.

Land in category (4) is referred to in this form as "substituted land", and the land for which it is substituted, and which has ceased to be a town or village green, is referred to as "the taken land". If this application is accepted for registration, and the taken land is registered in the Register of Town or Village Greens maintained by the same registration authority, the taken land will be removed from the register automatically provided the registration authority is satisfied as to the exact areas of both the substituted and the taken land. No separate application in regard to the latter is necessary in such a case.

#### 6. Land descriptions

In addition to the particulars asked for at part 3 of the form, a plan of the land claimed to have become a town or village green must accompany the application. The particulars in part 3 are necessary to enable the registration authority to identify the land concerned, but the main description of the land will be by means of the plan. This must be drawn to scale, in ink or other permanent medium, and be on a scale of not less, or not substantially less, than six inches to one mile. It must show the land by means of distinctive colouring (a coloured edging inside the boundary will usually suffice) and it must be marked as an exhibit to the statutory declaration (see Note 9 below). If the land to be registered is substituted land (see note 5 above), then a description of the taken land must be given in part 7, and a plan of this area, too, may have to be provided. If the taken land has already been registered under the Act (as it will have been in most cases) and comprises the whole of the land in one or more register units, a plan is unnecessary provided the register unit number(s) are quoted. If the taken land comprises only part of the land in a register unit a plan may be dispensed with if the land can be described by reference to some physical feature such as a road, river or railway; the description might, for example, read "The land in register unit No. .... lying to the south of the road from A to B". Where this method is not practicable, or the taken land is not registered under the Act, it must be described by a plan which must conform to the requirements mentioned above. Where two plans accompany the application, a different colour should be used in each.

#### 7. Grounds of application: evidence

In part 5 should be set out, as concisely as possible, a statement of the facts relied on to show that the land became a town or village green on the date stated in part 4; this date must be after 2nd January 1970, otherwise the application cannot be entertained. The statement should include particulars of every Act of Parliament, statutory order, order of court, deed or other instrument, and of every act or event, which is material for the purpose. The registration authority has power to call for such further evidence in support of the application as it may reasonably require. If the land is substituted land (see Note 5 above) there should be included in part 5 particulars of the enactment and of the compulsory purchase order, order of exchange or other instrument authorising the exchange or substitution, and of the instrument (if any) under which the exchange or substitution actually took place.

#### 8. Supporting documents

The application must be accompanied by the original or (preferably) by a copy or sufficient abstract of every document relating to the matter which the applicant has in his possession or under his control, or of which he has a right to the production. The following are examples of documents which, under this rule, may normally be expected to be among the documents accompanying applications in the particular cases mentioned:—

- (1) Where the land is stated to have become a town or village green by virtue of a private or local Act or of a statutory instrument, the award or other instrument of allotment (if any) made thereunder.
- (2) Where the land is stated to have become a town or village green by customary right, an office copy of an order of a court of competent jurisdiction embodying a declaration to that effect.
- (3) Where the land is stated to have become a town or village green by the actual use of the land by the local inhabitants for lawful sports and pastimes as of right for not less than 20 years, and there is a declaration by a court of competent jurisdiction to that effect, an office copy of the order embodying that declaration.
- (4) Where the land is stated to be substituted land (see Note 5 above), the original or a duly authenticated copy
  - (a) of the compulsory purchase order, order of exchange or other instrument authorising the exchange or substitution, and
  - (b) of the instrument (if any) under which the exchange or substitution actually took place.

STATUTORY DECLARATION IN SUPPORT

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor or by the person who signed the application.

<sup>1</sup> Insert full name (and address if not given in the application form).

<sup>2</sup> Delete and adapt as necessary.

<sup>3</sup> Insert name if applicable.

I, <sup>1</sup> MARY ELIZABETH JARVIS  
solemnly and sincerely declare as follows:-

1.2 I am ((the person (~~one of the persons~~) who (has)(~~have~~) signed the foregoing application)) ((~~the solicitor to~~ (the applicant) (<sup>3</sup> AS THE CLERK AND ~~one of the applicants~~)). FINANCIAL OFFICER TO MELKSHAM WITHOUT PARISH COUNCIL (PROPER OFFICER OF COUNCIL)

2. I have read the Notes to the application form.

3. 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 8 and 9 of the application.

<sup>4</sup> Insert "marking" as on plan.

4. The plan now produced and shown to me marked is the plan referred to in part 3 of the application.

4 " " ENCLOSURE 1-A

<sup>5</sup> Delete this paragraph if there is no plan referred to in part 7.

5. <sup>5</sup> The plan now produced and shown to me marked is the plan referred to in part 7 of the application.

4 " "

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 MARY ELIZABETH JARVIS )  
 )  
 )  
 at 5 Bath Road Melksham )  
 )  
 in the Cont of Wiltshire )  
 )  
 this 12<sup>th</sup> day of September 2006 )

Mary Jarvis  
Signature of Declarant

Before me  
Signature Yes JOHN R.L. ESCOTT  
SOLICITOR

Address AS ABOVE

Qualification

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any plan as an exhibit.

The foregoing list is not exhaustive and in special cases the applicant may need to consult the registration authority. Applicants are strongly recommended NOT to forward the original of any deed or other private document. Instead, a copy should be supplied, preferably indorsed with a certificate signed by a solicitor that it has been examined against the original. The applicant should indicate, either on the copy itself or in part 8 of the application, as convenient, who has the original and where it may be inspected. If any document relating to the matter is believed to exist, but neither the original nor a copy can be produced, the fact should be mentioned in part 9 of the application, where particulars of the missing document should be given and its non-production accounted for.

The registration authority has power to call for such further evidence as it may reasonably require.

9. Statutory Declaration

The statutory declaration must be made before a justice of the peace, commissioner for oaths or notary public. The plan (or each plan) accompanying the application and referred to in the statutory declaration must be marked as an exhibit and signed by the officer taking the declaration (initialling is insufficient). A plan is marked by writing on the face in ink an identifying symbol such as the letter 'A'. If there is more than one plan a different identifying letter must be used for each. On the back of the plan should appear these words:

This is the exhibit marked 'A' referred to in the statutory declaration of (name of declarant) made this (date)  
19        before me

.....  
(Signature and qualification)

10. Action by registration authority

The registration authority will on receipt of the application send an acknowledgment. If this is not received within 10 days the applicant should communicate with the authority. Unless the application has to be rejected after preliminary consideration, the registration authority will give publicity to it and will consider it further in the light of any objections which may be received. The applicant will be supplied with copies of all objections which fall to be considered and will have an opportunity of answering them. Later, the applicant will be informed whether the application has been accepted or rejected. If it is accepted, the land will be registered as a town or village green, and the applicant will be supplied with particulars of the registration. If it is rejected, the applicant will be notified of the reasons for the rejection.

11. False statements

The making of a false statement for the purposes of this application may render the maker liable to prosecution.

*This section for official  
use only*

## COMMONS REGISTRATION ACT 1965, SECTION 13

APPLICATION FOR THE REGISTRATION OF LAND WHICH BECAME  
A TOWN OR VILLAGE GREEN AFTER 2nd JANUARY 1970

<sup>1</sup>Insert name of  
registration  
authority.

To the <sup>1</sup> **WILTSHIRE COUNTY COUNCIL**

Application is hereby made for the registration as a town or village green  
of the land described below, which became so registrable after 2nd January  
1970.

## Part 1

Name and address of the applicant or (if more than one) of every applicant.

*(Give Christian names  
or forenames and  
surname or, in the case  
of a body corporate or  
unincorporate, the full  
title of the body. If  
part 2 is not completed  
all correspondence and  
notices will be sent to  
the first named  
applicant.)*

**MRS MARY ELIZABETH JARVIS  
CLERK AND FINANCIAL OFFICER TO THE COUNCIL  
MELKSHAM WITHOUT PARISH COUNCIL  
FIRST FLOOR, CROWN CHAMBERS  
7 MARKET PLACE,  
MELKSHAM WILTSHIRE  
SN12 6ES**

## Part 2

Name and address of solicitor, if any.

*(This part should be  
completed only if a  
solicitor has been  
instructed for the  
purposes of the  
application. If it is  
completed, all  
correspondence and  
notices will be sent  
to the solicitor.)*

Part 3

Particulars of the land to be registered, i.e. the land claimed to have become a town or village green.

Name by which usually known THE GREEN AT BLENHEIM PARK

Locality BOWERHILL

Colour on plan herewith ENCLOSURE 1 - THE GREEN IS OUTLINED IN RED (MAP FROM WEST WILTSHIRE LOCAL DEVELOPMENT FRAMEWORK JUNE 00)

Part 4

On what date did the land become a town or village green?

1<sup>ST</sup> AUGUST 1990, THE QUALIFYING USE OF THIS LAND CONTINUES UP TO THE DATE OF THIS APPLICATION - A TOTAL OF 36 YEARS SINCE 31<sup>ST</sup> JULY 1970

Part 5

How did the land become a town or village green?

SEE ATTACHED STATEMENT - ENCLOSURE 4

Part 6

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 have become a town or village green. (If none are known, write "none".)

WEST WILTSHIRE DISTRICT COUNCIL

Part 7

For applications to register substituted land (see Note 5); to be disregarded in other cases.

Particulars of the "taken land", i.e. the land which ceased to be a town or village green (or part thereof) when the land described in part 3 became a town or village green (or part).

Name by which usually known

Locality

Colour on plan herewith (if any)

If registered under the 1965 Act, register unit No(s).

Part 8

List of supporting documents sent herewith, if any. (If none are sent, write "none".)

- \* ENCLOSURE 1 - MAP TO IDENTIFY GREEN SITE AND LOCALITY (REF PART 3) - MARKED A
- ENCLOSURE 2 - MAPS SHOWING GREEN IN 1969 AS ACQUIRED BY BRADFORD - MELKSHAM RURAL DISTRICT COUNCIL 1970 - MARKED B.
- ENCLOSURE 3 - MAP SHOWING GREEN IN 1986 - DRAWING NO 1412/90 - MARKED C
- ENCLOSURE 4 - STATEMENT
- ENCLOSURE 5 - 50 EVIDENCE QUESTIONNAIRES

\* FROM WEST WILTSHIRE LOCAL DEVELOPMENT FRAMEWORK - DISTRICT PLAN 1ST ALTERATION JUNE 2004

Part 9

If there are any other facts relating to the application which ought to be brought to the attention of the registration authority (in particular if any person interested in the land is believed to dispute the claim that it has become a town or village green) full particulars should be given here. (Continue on back if necessary.)

NONE

<sup>2</sup> The application must be signed by or on behalf of each individual applicant, and by the secretary or some other duly authorised officer of any applicant which is a body corporate or

Date ..... 12th September 2006 ..... 19

Signatures<sup>2</sup> ..... *Mary Jane* .....  
..... CLERK AND FINANCIAL OFFICER TO .....  
..... MELKSHAM WITHOUT PARISH COUNCIL .....



PERSIMMON

PERSIMMON HOMES WESSEX

Cedar House

Riverside Business Village

Swindon Road

Malmesbury

Wiltshire

SN16 9RS

Tel: 01666 824721

Fax: 01666 826152

www.persimmonhomes.com

Our Ref:- NJ/Bowerhill/POS

20<sup>th</sup> November '06

The Solicitor to the County Council  
Wiltshire County Council  
County Hall  
Trowbridge  
Wiltshire  
BA14 8JN.

Dear Sirs,

**Re: Application to Register Land as Town/Village Green @ Bowerhill, Melksham**

I refer to the above and your communication of 09<sup>th</sup> November '06 regarding the same (reference SH/07223), and must raise an objection based upon the following:

- As part of the recent Bowerhill Melksham development led by a consortium of J S Bloor (Newbury) Limited and Westbury Homes (Holdings) Ltd, a Section 106 agreement was entered into (which agreement is dated 29/09/00 as amended by a supplemental agreement dated 20/02/03) with West Wiltshire District Council and Wiltshire County Council. I enclose a plan from the 106 agreement (entitled Planning Application plan and numbered W.106:31/1) which identifies the land to which the agreement relates, and as you will note, the proposed "Town/Village Green" encroaches onto the aforementioned. As you may be aware, Persimmon Homes are successors in title to Westbury Homes (Holdings) Ltd.
- Under the terms of the terms of the 106 agreement, the Falcon Way entrance to the development forms part of the strategic landscaping with "Avenue Planting" along the area which is the subject of the application. I enclose 2 No. extracts from the 106 Landscaping and Open Space plan (Dwg. 454/201C), the first of which has the Legend, and the second indicates the Avenue planting on the Falcon Way entrance to the site. This strategic landscaping is, in accordance with the 106 agreement, to be adopted by the District Council as Public Open Space. The area is within Persimmon ownership
- On the basis that if this area is registered as Town/Village Green, Persimmon must object to its registration as a Town/Village Green as some of the land is within curtilage encompassed within the 106 obligations. If the land becomes Town/Village Green, Persimmon/Bloor will not then be able to fulfil the obligations contained within agreement and transfer this area as Open Space, and potentially leave ourselves in breach of the planning permission and or associated agreement.

Should you require any further information and/or clarification regarding this objection, please do not hesitate to contact me, otherwise I look forward to receiving your acknowledgement that this communication has been received and acted upon accordingly.

Yours sincerely

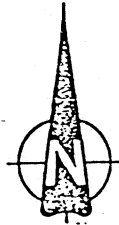
Nigel Jotcham  
For and on behalf of Persimmon Homes Wessex

Enc.

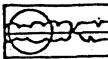
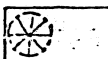
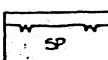
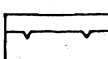

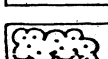
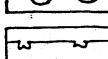
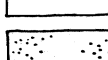
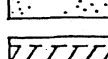


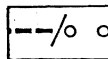
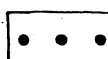
LITTLE BOWERHILL FARM

BOWERHILL LANE

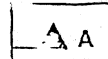


LEGEND

-  EXISTING TREES AND HEDGEROWS / HEDGES TO BE RETAINED
-  EXISTING TREES TO BE REMOVED
-  STRATEGIC PLANTING
-  MAJOR ACCESS ROAD LANDSCAPING
-  AVENUE PLANTING
-  SCATTERED TREE GROUPS
-  TREE AND SHRUB PLANTING
-  GRASS AREAS SEEDING WITH AMENITY GRASS MIX
-  GRASS AREAS SEEDING WITH A CONSERVATION WILDFLOWER AND GRASS MIX

-  EXISTING PUBLIC FOOTPATH
-  COMBINED FOOTPATH / CYCLEWAY

-  FOOTPATH LINKS

-  INDICATIVE CROSS SECTIONS (REFER TO LANDSCAPE DESIGN BRIEF)

C	ROAD ALIGNMENT & ADJACENT LANDSCAPING AMENDED, OTHER PLAY AREAS REMOVED	CL	HC	HC	13/11/16
B	TOD ACCESS AMENDED. SOUTHERN ACCESS ADDED.	FB	FB	HC	20/12/16
A	MINOR AMENDMENTS FOLLOWING DISCUSSIONS WITH CLIENT	IG	FB	HC	11/2/19
No	Revision	Drawn	Checked	Approved	Date

COOPER PARTNERSHIP

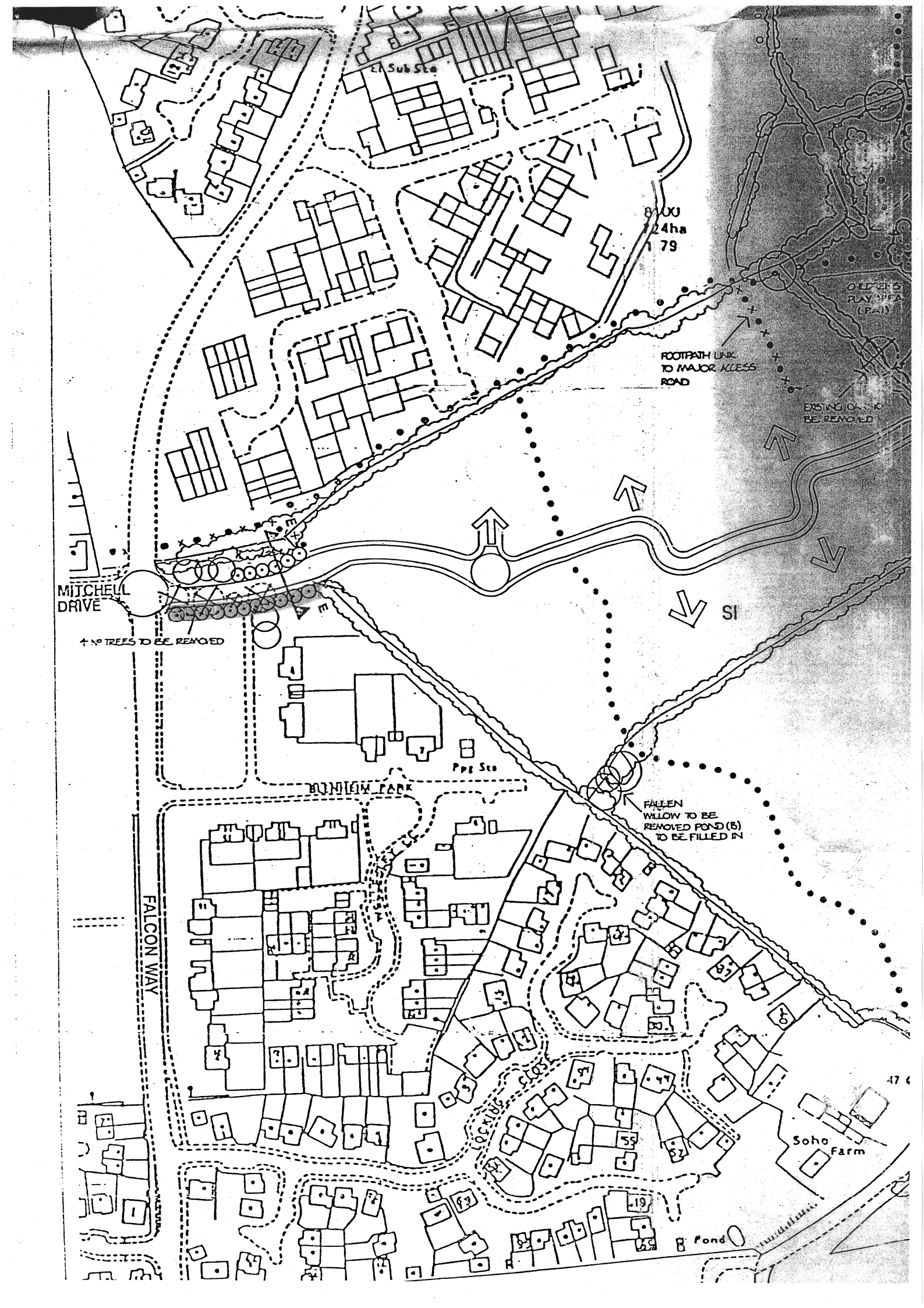
LANDSCAPE & ENVIRONMENTAL CONSULTANTS BRISTOL  
 TEL 0272 467488  
 FAX 0272 467478

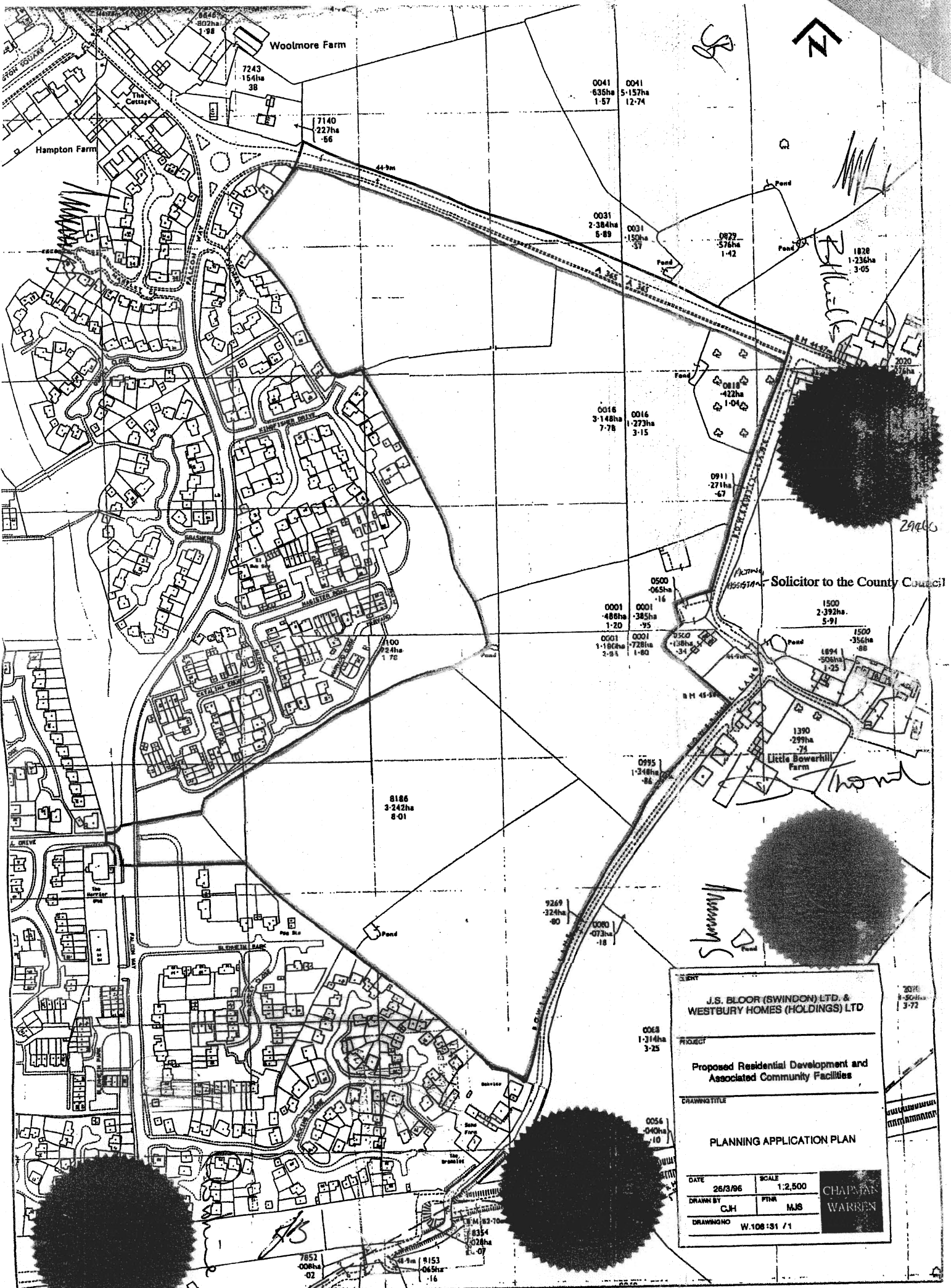
Job  
 Land at Bowerhill Melksham for Westbury Homes (Holdings) Ltd and JS (Bloor) Swindon Ltd

Title  
 Landscaping and Open Space Plan

Scale	Drawn	Date	Checked	Approved
1:1250	IG	J 96		HC

Drawing no  
 054 / 201C





<b>J.S. BLOOR (SWINDON) LTD. &amp; WESTBURY HOMES (HOLDINGS) LTD</b>	
<b>PROJECT</b> Proposed Residential Development and Associated Community Facilities	
<b>DRAWING TITLE</b> PLANNING APPLICATION PLAN	
<b>DATE</b> 26/3/86	<b>SCALE</b> 1:2,500
<b>DRAWN BY</b> C.J.H.	<b>PNR</b> M.J.S.
<b>DRAWING NO.</b> W.108/31/1	





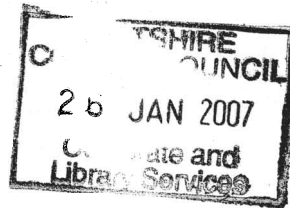
# MELKSHAM WITHOUT PARISH COUNCIL

Clerk: Mrs Mary Jarvis BA Hons. (Local Policy)

First Floor, Crown Chambers  
7 Market Place, Melksham  
Wiltshire. SN12 6ES  
Tel/Fax: 01225 705700

Email: [mary.jarvis@melkshamwithout.co.uk](mailto:mary.jarvis@melkshamwithout.co.uk)

Web: [www.melkshamwithout.co.uk](http://www.melkshamwithout.co.uk)



24<sup>th</sup> January 2007

Ms Sarah Handsley,  
Senior Legal Executive,  
Wiltshire County Council,  
County Hall,  
TROWBRIDGE,  
Wilts. BA14 8JN

Dear Ms Handsley,

## **APPLICATION TO REGISTER LAND AT THE GREEN, BLENHEIM PARK, BOWERHILL**

Thank you for your letter of 4<sup>th</sup> January 2007 inviting comment on an objection received from Persimmon Homes to the above application to register land as a Village Green, at Bowerhill. The Parish Council considered this at the last full Council Meeting held on 15<sup>th</sup> January.

My Council does not believe the objection made by Persimmon Homes conflicts in any way with the purpose of our Green application for the following reasons;

- 1, Legislation in respect of registering land for Village Greens does not preclude land which is in the ownership of a third party. Rather it focuses on whether the land has been used "as of right, without let or hindrance" for a period of at least twenty years. This is clearly the case with this site at Bowerhill, which has been used as public open space since RAF Melksham days.
2. The period of the application runs from 31<sup>st</sup> July 1970 to the current day. This means that the land is shown to have been used "as of right" for at least thirty years before the Section 106 Agreements, to which Persimmon Homes refers, were signed. The site therefore already met the legal requirements to be a Village Green before the S 106 Agreements were signed. The dates of these Agreements are given as 29<sup>th</sup> September 2000 and 20<sup>th</sup> February 2003.
3. The purpose of the Section 106 Agreements, signed between Persimmon Homes and West Wiltshire District Council is to safeguard this land as Public Open Space. This will still apply when the land is registered as a Village Green. Registering the land as a Green ensure the land remains as public open space in perpetuity.
4. The Parish Council's objective in applying for this land to be registered as a Green is to prevent it ever being used for any other purpose than public open space. Unfortunately the Section 106 Agreement does not appear to hold much weight with the District Council since it is currently in the process of applying for affordable houses to be built on some of the land



shown on the Persimmon map to be covered by the Section 106 Agreement. See attached plan – marked orange.

5. The Parish Council fully welcomes any additional avenue planting, as stipulated in the Section 106 Agreement. The Parish Council is particularly concerned to preserve the mature trees on the site, as some are more than 60 years old. Some months ago, the Parish Council applied for the larger mature trees on this site to be protected with Tree Preservation Orders.

In summary there is no conflict between the Section 106 Agreement and the Application for Registration of this land as a Village Green. They both share the same objective; to protect the land as public open space for the future. The Registration however, does give added protection because it enables the land to remain as public open space in perpetuity.

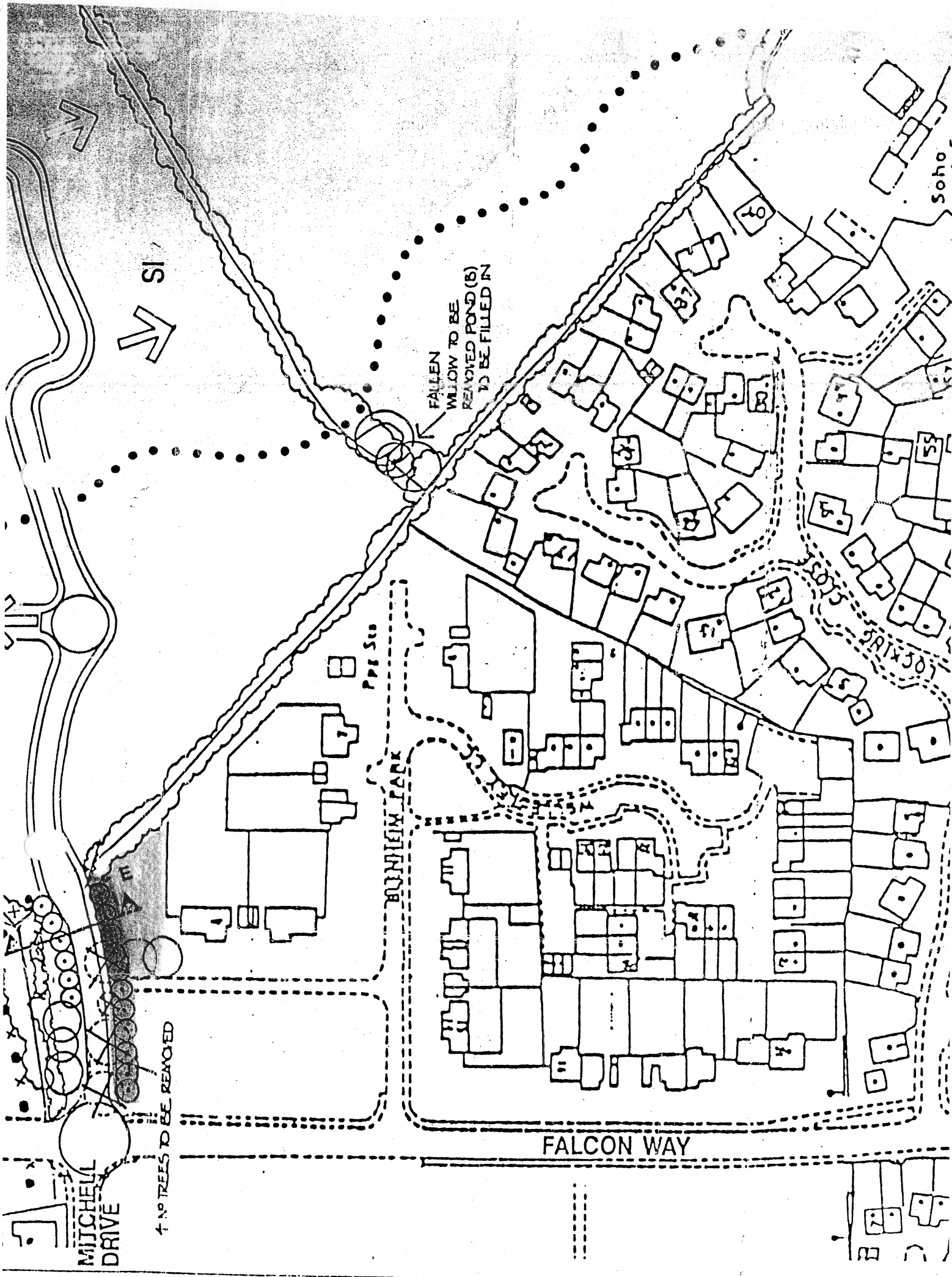
Thank you for consulting with the Parish Council on this matter. We look forward to hearing the outcome of our application in the near future.

Very best wishes  
Yours sincerely,



Clerk

Copy to Persimmon Homes



SI

FALLEN WILLOW TO BE REMOVED POND (B) TO BE FILLED IN

4 TREES TO BE REMOVED

MITCHELL DRIVE

BUKNER PARK

PPE SUB

FALCON WAY

Soho