

**DR/15/13**

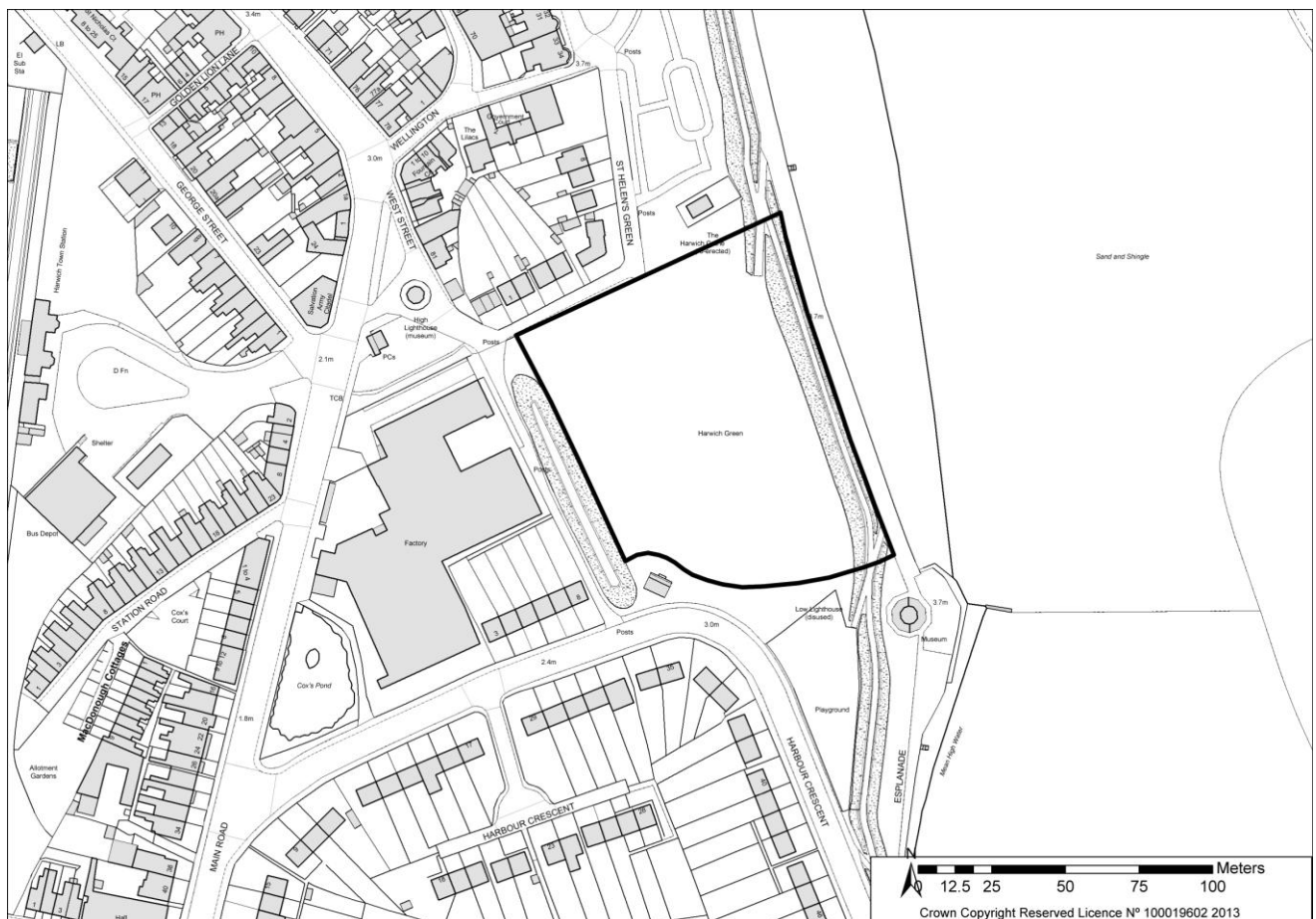
Committee: DEVELOPMENT AND REGULATION

Date: 19 April 2013

## APPLICATION TO REGISTER LAND AT HARWICH GREEN, HARWICH AS A VILLAGE GREEN

Report by County Solicitor

Enquires to: Jacqueline Millward, telephone 01245 506710



## **1. PURPOSE OF REPORT**

To consider an application received on 14 October 2005 from The Harwich Society under Section 13 of the Commons Registration Act 1965 (“the 1965 Act”) as amended to register land at Harwich Green, Harwich as a Village Green. The area to be registered was subsequently revised.

## **2. BACKGROUND**

The County Council has a duty under Section 3(1) of the 1965 Act to maintain the Registers of Commons and Town and Village Greens. Under Section 13 of the 1965 Act applications can be made to the Registration Authority to amend the Register. The legislation has now been superseded by the Commons Act 2006 but the tests for registration where use is continuing remain essentially the same.

The County Council as Registration Authority has received an application made by Mr Andy Rutter, Secretary of The Harwich Society of 4 Hall Lane, Harwich, CO12 3TE to register the application site as a Town or Village Green under the provisions of Section 13 of the 1965 Act. The application form claimed the land has become town or village green on 3 January 1970 by ‘actual use of the land by local inhabitants for lawful sports and pastimes as of a right for not less than 20 years’. The application form stated that ‘the Green is used daily by families of Old Harwich for pastimes since they have no gardens’. The Harwich Society is stated to currently have over 2000 members.

No evidence of use was submitted with the application form. 24 evidence questionnaires were later received in support of the application in 2010 using a form provided by the Open Spaces Society for Commons Act 2006 applications. These attached a plan of the area claimed by these users as the area on which they carried out the activities covered by their questionnaire which was considerably reduced from the application area. The principal differences were that it did not include the playground to the south or the laid out foot route area to the north. It also excluded that part of the field on which the re-erected Harwich Crane was located. A number of letters referring to use or records of use, such as postcards and photographs, were also provided. The owner was listed on the application form as Tendring District Council.

The application did not specify the locality or neighbourhood within a locality to which the rights claimed were attached.

The application was advertised in the local press and on site on 8 February 2007 with any objection to be lodged by 22 March 2007. Notice was also served on the landowner.

The County Council received a letter from Tendring District Council (TDC) dated 20 March 2007. It objected to the application for the following reasons (a) that some of the land was restricted to public access such as the Harwich crane enclosed by secure fencing, the refreshment kiosk and the row of beach huts subject to annual licences (b) the use of the land is permitted subject to byelaws

dating back to 1924 and (c) the application (as originally made) did not provide evidence of use but asserted use.

In response the applicant agreed that the Harwich Crane, the refreshment kiosk and the beach huts should be treated as excluded from the application. They intended to consider the byelaw point but thought it unlikely they would conflict with the principle of a village green and proposed to provide user evidence in support of their application.

Further comments were made by the applicant in December 2007 that they had seen the TDC byelaws and that 'there is nothing therein which would conflict with the registration of the town green since the byelaws relate to the usual round of control of dogs, ball games, vehicles etc.'

As further evidence was not received in August 2009 a reminder was sent to the applicant. In reply the applicant stated that information collected from their witnesses may result in a reduction to the application area. A revised plan was submitted in October 2009 which excluded the areas beyond the main playing field area and the historic boundary of the playground. This was the plan that was subsequently attached to the user questionnaires.

In February 2010 15 witness questionnaires were submitted and in March 2010 a further nine. The applicant indicated that 'these cover use for a large number of years, many in excess of twenty, and some for a lifetime. They prove that the citizens of Harwich have used Harwich Green for walking, dog walking, football, cricket, fetes and exhibitions etc as of a right, without force or secrecy and without permission. And they continue to do so.' They also stated that these 24 'are representative of a much larger section of the community'.

TDC wrote to the applicant in May 2011 confirming that there was no current plan for the district council to sell or develop any part of the area. They confirmed the land was already subject to democratic control as Council owned land. There were also technical protections in the form of the Local Government Act, the Adopted Local Plan and Planning Policy Guidance 17 which would require public consultation before any change of use could be approved. TDC indicated that they already considered the provision of open space in the area was already protected and registration as a village green would add costs and restrictions on future options for the land even where they may enhance the Green.

In February 2012 as matters had not been resolved both parties were contacted in relation to a proposed non-statutory public inquiry in May 2012. The parties indicated that they were seeking a compromise and arrangements for an inquiry were put on hold.

A meeting took place in May 2012 between the Harwich Society and TDC. Correspondence from TDC to the applicant in June 2012 records that the applicant proposed a compromise application area and the applicant also wrote to the commons registration authority to confirm that 'a compromise has been reached which satisfied both sides' and asking for the revised plan be substituted for the original plan in their application. In September 2012 TDC confirmed to the

commons registration authority that it had agreed this compromise area with the applicant and TDC provided a matching copy of the revised plan. This agreed area is the area shown on the front of the report, to which the application would apply. TDC confirmed that 'on the basis of the revised plan I can confirm the withdrawal of the Council's objection to the proposed registration'.

None of the land on the compromise plan now incorporated in the application for registration is affected by highways or rights of way. The land at West Street abutting the posts at the boundary of the application land is publicly maintainable highway as is the road and adjacent footway at Harbour Crescent. The land between these two routes beyond the embankment and now outside the application area is recorded as definitive footpath 39 Harwich on the county council's Definitive Map of Public Rights of Way.

In the case of Village Green applications the County Council has a discretion whether to hold an oral hearing before confirming or rejecting the application. Where there is a dispute which "is serious in nature" to use the phrase of Arden LJ in *The Queen (Whitney) v The Commons Commissioners* [2004] EWCA Civ. 951 (para 29), a registration authority "should proceed only after receiving the report of an independent expert (by which I mean a legal expert) who has at the registration authority's request held a non-statutory public inquiry". Following the application, discussions between the land owner and the applicant in relation to a compromise area for the application indicated that there is no dispute in the instant case and I am satisfied that this is a case that does not warrant the holding of a non-statutory local inquiry.

The landowner has confirmed that, although their compromise was reached before the court of appeal's decision in *Barkas v North Yorkshire County Council* [2012] EWCA 1373, which may have made them look at the position differently, they are prepared to stand by the compromise agreement reached with the applicant.

Although the Commons Act 2006 has changed some of the rules in relation to how applications are determined this case falls to be determined under the 1965 Act interpreted in accordance with the case law and amendments made pertinent to the application.

### **3. THE APPLICATION SITE**

The application form referred to a plan on which the application site was marked. It lay between the adjacent road or footpath features known as the Esplanade along the sea front, Harbour Crescent, West Street, St Helens Green and the car park off Wellington Road. The area comprised a number of existing public access features. In the southern part of the application route is a playground. In the northern part is a formal area laid out with foot routes. The bulk of the land is a grassed area available for activities and included the re-erected Harwich Crane and the refreshment building. Existing embankments along West Street, the Esplanade and the car park off Wellington Road were within the application area. There is a tennis court type fence along St Helens Green to prevent footballs

breaking the house windows and a fence in front of the factory building between Harlow Crescent and West Street.

The area now applied for and shown on the map at the front of this report is a grassed area open on its boundaries and surrounded in part by embankment. It is bounded by footpaths 38 running along St Helens Green and 39 running along the western boundary between West Street and Harbour Crescent. This area now excludes the other features apparent on the original application map.

The applicant's witnesses confirm that the application area is accessed on foot from the unfenced boundaries. This is directly available from footpath 38 and available via other parts of the recreation facility owned by TDC.

The applicant confirmed that they did not consider that the revised application area excluded any of the activities said to be carried on on the land by the users.

Tendring District Council confirmed that the Borough of Harwich acquired the land (with other land) from the War Department on 2<sup>nd</sup> October 1930 and it subsequently became part of the district council's property on local government reorganisation in 1974. They provided a copy of the conveyance. Clause (3) of the conveyance is a covenant from the owner that 'no building or other erection for residential or commercial purposes shall be erected or allowed to remain on the portion of the property hereby conveyed known as The Green and hatched with red lines on the said plan and the said proportion of the property shall remain and be kept for ever hereafter as a Public Recreation Ground and open space'. The application area falls within the area identified on the plan to be covered by the covenant.

#### **4. DEFINITION OF A TOWN OR VILLAGE GREEN**

Section 13 of the Commons Registration Act 1965 obliges the Registration Authority to amend the Register where "any land becomes.....a Town or Village Green".

For these purposes a "Town or Village Green" used to be defined as:

"land...on which the inhabitants of any locality having indulged in lawful sports and pastimes as of right for not less than twenty years" (section 22 of the 1965 Act).

Section 98 of the Countryside and Rights of Way Act 2000 ("the 2000 Act") amended section 22 of the 1965 Act, so that land can become a village green "if it is land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and...continue to do so".

The definition divides such greens into three classes. Firstly, land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality. Secondly, land on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes. Thirdly, a class c green

which is land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right and either (i) continue to do so, or (ii) have ceased to do so for not more than such period as may be prescribed, or determined in accordance with prescribed provisions. No period was prescribed for the purposes of class c.ii greens under the 1965 Act. This is an application which falls to be considered under section 13(c)(i).

## **5. THE APPLICATION**

In October 2005 an application was made to the County Council to register land referred to by the users as Harwich Green or St Helens Green, Harwich as land which had become a Village Green on 3 January 1970.

The application is supported by 24 user questionnaires and 10 letters (5 letters being from persons who completes questionnaires). A summary of the evidence is in Appendix 1. The type of use which has occurred on the site is indicated as children playing, painting/drawing, team games, cricket, picnics, kite flying, walking and dog walking, community events and fetes, bicycle riding. The application land has also been used for organised events associated with the yacht club, the Air Ambulance and the motorcycle club. The detail shown on a map provided by the applicant to show the addresses where the users live is on the map at Appendix 2.

The application stated the owner to be Tendring District Council. Tendring District Council have managed the land and adjacent land and its use is covered by byelaws. The area to which the application relates, as shown on the map at the front of this report, was reached by agreement between the applicant and the landowner. When the area was reduced a further public notice on site and in the local paper was given giving an opportunity for any additional comments to be made within 14 days (by 19 October 2012). No comments were received.

The application form stated the locality to be Harwich. Following the advertisement for the revised application area the applicant was asked to provide further information as to the definition of the locality as there are legal requirements in relation to the nature of a locality and confirmed that this would be the Harwich East Ward of Tendring District which shown on Appendix 3. They did not claim any smaller neighbourhood within the identified locality. As can be seen from the spread of user addresses on Appendix 2, this boundary includes the majority of users with a significant density around the immediate environs of the application land.

The applicant subsequently confirmed that they intended to substitute the date on their form as the date when the land became town green with 13 October 1984. The landowner had no objection to either date being the date claimed by the applicant.

## **6. OUTLINE OF THE RELEVANT ISSUES**

The relevant issues for consideration are:

- a. Has the use been for lawful sports and pastimes?
- b. Has there been 20 years of such use?
- c. Is there a specific locality the inhabitants of which have indulged in lawful sports and pastimes or is there a neighbourhood within a locality of which a significant number of the inhabitants have so indulged?
- d. Has the user by inhabitants been as of right?

## **7. HAS THE USE BEEN FOR LAWFUL SPORTS AND PASTIMES?**

The relevant test is: “how the matter would have appeared to the owner of the land”. Applying this test, it can be concluded that the use was sufficient to bring to the notice of a reasonable landowner the fact that VG rights were being asserted.

The evidence of use is summarised in Appendix 1. It summarises what each document indicates in terms of their use of the land in support the application and what has been observed. The onus is on the applicant to establish his case with sufficient certainty as to the nature, extent, time and locations of the alleged activities.

One of the stated activities is shortcutting across the area of reach the beach huts on the Esplanade or other facilities in the immediate area. Tendring District Council have confirmed that there is no provision for access to the beach huts in the beach hut licences they have granted but access is from the public promenade immediately adjacent.

The majority of the activities which take place on the application site (as listed on Appendix 1) constitute lawful sports and pastimes.

In relation to the organised and community events the applicant said that as far as they were aware there are no on going arrangements for Harwich Town Sailing Club’s special event days. As they are few each is considered on its own merits and usually only involve temporary parking of visitor’s boats on areas adjacent to the road. They confirmed that there was no charge for consent.

TDC were asked for their views. They confirmed they had no knowledge of any charge or access arrangements but provided a list of events which had been held over the last two years as follows:

17 May 2011 Digital UK Roadshow,  
1 July 2011 Harwich Children’s Carnival,  
24 July 2011 Harwich Sea Festival,  
25 July to 1 August 2011 Stocks Funfair,  
18 May 2012 Sparks will Fly,  
20 July 2012 Harwich Sea Festival,  
27 to 29 July 2012 Stocks Funfair,  
5 October 2012 Night of Action.

Events were held on the land in accordance with a procedure which requires an application form and a list of requirements are imposed relating to risk management on the site.

**8. HAS THERE BEEN 20 YEARS USE?**

Use of the claimed land is continuing at the present date. The user evidence covers a period from 1920 to 2010. Taken together there is good evidence of use in excess of 20 years up to the date of the application.

Part 4 of the application form stated that the land became town green on 3 January 1970. From the way the application was framed it was anticipated that the applicant would be relying on 20 years use from that date backwards which would encompass 10 of the 24 users for the whole of that period. When confirmation was requested as to the date the applicant intended to rely on, a new date was proposed to be substituted for the date the land became a town green of 13 October 1984. This would appear to make the 20 year user period October 1964 to October 1984 and would encompass 18 of the 24 users.

Many of the evidence forms provided are submitted in a format identifying the Commons Act 2006 although the application is stated to be under the 1965 Act. When the applicant was asked to comment the reply was that 'it was thought that the later forms would then be relevant', the implication being that the application was intended to be made under the 1965 Act but the user forms were stated to be under 2006 Act so they could be taken into account. This is a rather disconnected approach but the evidence in the forms, as the heading is not a significant part of the purport of the form, can still be taken as supporting the application under the 1965 Act.

**9. IS THERE A SPECIFIC LOCALITY THE INHABITANTS OF WHICH HAVE INDULGED IN LAWFUL SPORTS AND PASTIMES OR IS THERE A NEIGHBOURHOOD WITHIN A LOCALITY OF WHICH A SIGNIFICANT NUMBER OF THE INHABITANTS HAVE SO INDULGED?**

The applicant only indicated that the locality was 'Harwich' and was later asked to clarify this and invited to consider whether they wished to promote a neighbourhood within a locality. The response was that the locality was the administrative ward area of Tendring District known as Harwich East Ward which is shown on Appendix 3.

East Ward has its own school, residents association, community centre, church and local shops. It is a fairly small ward area and the populated area is formed by the densely packed streets between the two sea fronts with the application land on the north eastern part of the Ward.

As an administrative area Harwich East Ward satisfies the legal requirements for a locality. The information from the applicant also supports the fact that this is a cohesive area within which the majority of the users reside.

**10. HAS THE USER BY INHABITANTS BEEN AS OF RIGHT?**



As the land was transferred from the War Department in 1930 it has been in public ownership for a long time. In 1930 the reduced application land area shown on the front of this report was shown as being part of the property described as The Green. The War Department obligated the purchaser to keep the land 'for ever hereafter as a Public Recreation Ground and open space'. This would usually engage the powers of the district council, commonly under the Public Open Spaces Act 1906 and/or the Public Health Act 1936

No challenge to use is indicated by the user evidence that has been submitted. The landowner has specifically confirmed that they have no objection to the application land so far as it relates to the reduced area shown on the front of this report so it would appear that there is no claim from the landowner that use of the land by the local residents has not been "as of right".

The district council has previously been subject to applications for village green status on its land and is broadly aware of the criteria to be established. However, it is apparent that it had not occurred them to argue that the way the land was made available was 'by right' rather than by permission, as they argued unsuccessfully in the situation concerning a recent application at Brighton Road in Clacton on Sea, until after the recent decision of the court of appeal in the *Barkas v North Yorkshire County Council and Scarborough Borough Council* case decided in October 2012 ([2012] EWCA Civ 1373). The court in that case affirmed the position that local inhabitants can be said to have a statutory right to use land which is made available to the public for the purpose of lawful sports and pastimes by a local authority under a public law duty to use the land for the purpose until such time as it formally appropriates it to some other statutory purpose. This is a significant difference in the position of a private landowner who may, subject to planning controls, change the use of their land at will. To bring the 'by right' use to an end the local authority would have to appropriate it to another purpose inconsistent with those rights.

Although the Barkas case concerned an application under section 15 of the Commons Act 2006 the interpretation on the 'by right' point remains equally valid in relation to being satisfied that use under the 1965 Act occurred 'as of right' for village green status to be established.

## **11. CONCLUSION**

Tendring District Council have accepted that use of the land has occurred as claimed by the applicant. It seems likely that they became owners of land which was already acknowledged as being for public recreation ground and open space but have not claimed the use that occurs necessarily occurred 'by right'.

Although some control has been exerted by them over events held on the land it is directed at appropriate use of the land and risk control and has been low impact with eight events being held in the last two years.

The user evidence is consistent with lawful sports and pastimes on land over which village green rights have been acquired.

The locality now claimed appears relevant and cogent.

There is no impediment to the application being treated as compliant with the legislation under which it is made.

## **12. LOCAL MEMBER NOTIFICATION**

Councillor Callender has been notified of the proposed report to committee on this matter and any comments received will be reported.

## **13. RECOMMENDATION**

It is recommended

(1) That the applicant's substitute plan for the application land and the area of Harwich East Ward for the locality be accepted.

(2) That the application for village green status in relation to the area shown on the front of this report is accepted and the village green record be amended to include the application site with village green status recording the owner as Tendring District Council.

## **BACKGROUND PAPERS**

Application by Harwich Town Council as amended, dated 13 October 2005.

Local member Harwich: Councillor Callender.

Ref: Jacqueline Millward CAVG/27

## APPENDIX 1

### Evidence in support

1	<b>Betty Holbrook</b> <b>Government House</b> <b>St Helens Green</b> <b>CO12 3NH</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Used between 1935 and 2010</li> <li>• Used to walk, access across unfenced boundaries, approximately twice a week</li> <li>• Immediate family also use</li> <li>• Sea Festival held annually on land on one day</li> <li>• Activities seen taking place on land – children playing, drawing/painting, dog walking, community celebrations, football, cricket, picnicking, kite flying, people walking</li> </ul> <b>Letter</b> (2012) <ul style="list-style-type: none"> <li>• Chairman of Harwich Conservation Panel and want to see Harwich Green registered to save it for future generations</li> <li>• All ages have played football, cricket, pitched tents, picnics</li> <li>• Get together back to 1944-45 when met on green, went for a swim then lay on the green in the sun eating sandwiches at weekends</li> </ul>
2	<b>Christopher Hart</b> <b>90 Lee Road</b> <b>Dovercourt</b> <b>CO12 3SB</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Used between 1948 and date of form, 2010</li> <li>• Included facilities which could be identified within locality including local church, shops, scout hut and doctor's surgery</li> <li>• Used 'for pleasure of open space' and walking, access across unfenced boundaries, 3/4 times per week</li> <li>• Immediate family also use for walking, relaxation, enjoying refreshments</li> <li>• Used by Harwich Town Sailing Club, annual motor cycle event and football games. Annual Fair held on land</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking</li> <li>• Has been given permission to use the land through Harwich Town Sailing Club (HTSC) for national sailing championships</li> </ul>
3	<b>Lady Primrose Lewis</b> <b>39 West Street</b> <b>Harwich</b> <b>CO12 3DD</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known the land from 1967 to date of form, 2010</li> <li>• Used the land from 1970 – 1981, 1982 – 1989 and 1994 – 2010</li> <li>• Included facilities which could be identified within locality including local church, shops and scout hut</li> <li>• Uses land to access beach hut he owns near the light house frequently in the spring, summer and autumn. Also uses land for walking and playing with grandchildren.</li> <li>• Grandchildren use land for cycling and playing football.</li> </ul>

		<ul style="list-style-type: none"> <li>• Sea Festival activities and The Fair also held on the land. Other community activities take place with RNLI and school groups.</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, picnicking, kite flying, people walking, bicycle riding</li> <li>• She also included a list of names of others who could provide additional evidence</li> </ul>
<b>4</b>	<b>Mrs Margaret Griffiths</b> <b>9 St Nicholas Court</b> <b>George Street</b> <b>Harwich</b> <b>CO12 3ND</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known the land from 1930 to 2010</li> <li>• Used the land from 1930 – 1935, 1963 – 2010</li> <li>• Included facilities which could be identified within locality including local church, shops and scout hut</li> <li>• Uses land to access beach hut she owns near the light house. Used to play on land as a child. Also uses to help at Maritime museum, to attend community functions and for walking most days during the summer. Winter use dependant on weather.</li> <li>• Community activities listed are sea festival, motor bike charity day and annual fair sailing activities which she has participated in. Also used by Motor Bike Association</li> <li>• Activities seen taking place on land – children playing, drawing/painting, dog walking, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking, bonfire parties</li> </ul>
<b>5</b>	<b>Frank Pells</b> <b>3 St Helen's Green</b> <b>Harwich</b> <b>CO12 3NH</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Used the land between 1954 and 2010</li> <li>• Included facilities which could be identified within locality including local church, shops, community centre and scout hut</li> <li>• Used to walk and play/sports with grandchildren, access across unfenced boundaries, daily</li> <li>• Community activities listed are school trips, motorcycle rally, fun fair (every summer), fetes, sea festivals</li> <li>• Also organisations use for rounders, cricket and football</li> <li>• Activities seen taking place on land – children playing, rounders, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking</li> <li>• Has marked his address on map</li> <li>• Has provided photographs of air ambulance landing on green, people walking in snow on application land and a summer festival/fete</li> </ul>
<b>6</b>	<b>Mr M P Gordon-Jones</b> <b>6 Fronks Road</b> <b>Harwich</b> <b>CO12 3RH</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Previously resided at 32 Kings Quay Street. Known land 1987 to date of form, 2010</li> <li>• Used land 1987 – 2008 and 2008 – 2010. Uses land to access adjoining premises and facilities and for games and community uses. Walking, games, local societies. Uses every day</li> <li>• Immediate family also uses land</li> <li>• Community activities include fetes and fairs</li> </ul>

		<ul style="list-style-type: none"> <li>• Included facilities which could be identified within locality including local church, shops and community centre</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking, bonfire parties and bicycle riding</li> <li>• Has marked his address on map</li> </ul>
<b>7</b>	<b>Mr David Price 4 St Helens Green Harwich CO12 3NH</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Has known land both as Harwich Green and St Helens Green and used from 1953 to date of form, 2010</li> <li>• Uses land to walk on the promenade and beach, frequently</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, picnicking, kite flying, people walking and bicycle riding. Also seen helicopter landings.</li> <li>• Community events listed are annual fun fair in July, Air Ambulance Motorcycle Rally. Also police and royalty have been on land.</li> <li>• Included facilities which could be identified within locality including local church, shops, doctor's surgery, community centre and scout hut</li> </ul>
<b>8</b>	<b>Betty Turner 33 Church Street Harwich CO12 3EA</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known land from 1948 to 2010. has used a few times each year (doesn't specify years of use)</li> <li>• Used land for walking and took part in charity events</li> <li>• Immediate family also uses the land</li> <li>• Activities seen taking place on land – children playing, drawing/painting, dog walking, community celebrations, fetes, football, picnicking, kite flying, people walking and bicycle riding. Sea Saturdays</li> <li>• Included facilities which could be identified within locality including local church and shops</li> <li>• Didn't sign map of land used attached to user questionnaire</li> </ul>
<b>9</b>	<b>P F Webb 4 Esplanade Court Wellington Road Harwich CO12 3DT</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known and used land between 1963 and 2010</li> <li>• Has used land for 'pleasure' several times a year for walking, attending organised events, dog walking and organising use for boat parking on sailing events. Immediate family also uses land for same purposes</li> <li>• Community events listed are one day festival events and four day fair events</li> <li>• Identifies Harwich Town Sailing Club, Harwich Rotary and Harwich Motor Cycle Club as organisations using the land</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking and boat parking for sailing events.</li> <li>• Indicates that permission was given by the owner for activities by Harwich Town Sailing Club</li> </ul>

		<ul style="list-style-type: none"> <li>Included facilities which could be identified within locality including local church, shops, doctor's surgery, community centre and scout hut</li> </ul>
<b>10</b>	<b>Mr and Mrs F S Humphreys 26 Barrack Lane Harwich CO12 3NP</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>Known and used land between 1945 and 2010</li> <li>Goes on to land every weekend and in the evenings in summer to walk on grass away from cars, to see people enjoying the green. Took part in football, rounders and cricket</li> <li>Son and grandson use land. Football, rounders, kite flying and walking dog</li> <li>Activities seen taking place on land – children playing, rounders, dog walking, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking and bicycle riding</li> <li>Didn't list any facilities which could be identified within locality</li> <li>Form signed by one of those named only</li> </ul>
<b>11</b>	<b>Donald Hambling 49 Harbour Crescent Harwich CO12 3NL</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>Previously resided at 16 Fernlea Road. Known land as Harwich Green and The Green from childhood (date of birth 20 May 1940) to present (form dated 2010) and used over same period</li> <li>Walking access over unfenced boundary, most direct access to Old Harwich. Uses frequently</li> <li>Refreshment hut within boundary of land built as football changing rooms</li> <li>Activities seen taking place on land – children playing, drawing/painting, dog walking, team games, community celebrations, fetes, football, picnicking, kite flying, people walking and bicycle riding</li> <li>Community activities listed are annual Fun Fair, annual Motor Cycle Rally, Royal Helicopters landing, Radio Essex Broadcasting, Air Ambulance landing and Yacht Championship parking.</li> <li>Included facilities which could be identified within locality including local church and shops</li> </ul>
<b>12</b>	<b>Mrs Dilys Elizabeth Sedgwick 13 St Austins Lane Harwich CO12 3EX</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>Known and used the land from 1987 to date of form, 2010</li> <li>Access by walking across unfenced boundary. Uses land for pleasure and to reach her beach hut on most days depending on the weather</li> <li>Used with grandchildren when younger for ball games</li> <li>Lists community events as Life Boat fun day, air ambulance fete, bikers day, fun fair in August which she attends</li> <li>Activities seen taking place on land – children playing, drawing/painting, dog walking, community celebrations, fetes, football, picnicking, kite flying and people walking</li> <li>Included facilities which could be identified within locality including community activities and a central feature</li> </ul>
<b>13</b>	<b>Andrew Neil Tannock</b>	<b>User Questionnaire</b>

	<b>42 Wick Lane Dovercourt CO12 3TA</b>	<ul style="list-style-type: none"> <li>• Known and used the land from 1971 to date of form, 2010</li> <li>• Uses land for walking 2-3 times a week</li> <li>• Immediate family uses land for recreation</li> <li>• Lists community activities as RBL veterans day parade and drumhead service. Also Sea Festival. He participates in these.</li> <li>• Activities seen taking place on land – children playing, dog walking, football, cricket, picnicking, kite flying and people walking</li> <li>• Included facilities which could be identified within locality including a community centre, church, shops, doctor's surgery and scout hut</li> </ul> <p><b>Letter (2012)</b></p> <ul style="list-style-type: none"> <li>• Moved to Dovercourt 8 years ago but moved to Harwich 40+ years ago</li> <li>• Enjoyed fairs and amenities with family</li> <li>• Aware of parking and café proposals and protest to loss of communal grassland</li> </ul>
<b>14</b>	<b>Mrs L Whitnall 40 Main Road Harwich CO12 3LU</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Known and used the land from 1920 to 2010</li> <li>• Uses daily for walking for recreation</li> <li>• Used by immediate family for recreation</li> <li>• Lists community activities as fair and motorcycle rally</li> <li>• Activities seen taking place on land – children playing, drawing/painting, dog walking, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking and bicycle riding</li> <li>• Included facilities which could be identified within locality including a church and shops</li> </ul> <p><b>Letter (2012)</b></p> <ul style="list-style-type: none"> <li>• Born in Harwich 92 years ago</li> <li>• Played on land as a girl</li> <li>• Aware of parking and café proposals and protest to loss of communal grassland</li> </ul>
<b>15</b>	<b>Michael P Roberts 80 West Street Harwich CO12 3DA</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Previously at 13 St Austins Lane, Harwich</li> <li>• Known and used from 1970 to 2010</li> <li>• Uses land to cross to beach for daily walks, dog walking. Immediate family also use for same purpose</li> <li>• Activities seen taking place on land – children playing, drawing/painting, dog walking, team games, community celebrations, football, picnicking and people walking</li> <li>• Lists community activities as raft racing, emergency helicopter landing area, fair and annual motorcycle rally</li> <li>• Has marked position of property on map accompanying user questionnaire</li> <li>• Included facilities which could be identified within locality including a community centre, church, scout hut and shops</li> </ul>
<b>16</b>	<b>Daphne Rogers 1 St Helens Green</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Known land from 1925 to 2010. Used land from</li> </ul>

	<b>Harwich CO12 3NH</b>	<p>1929 to 2010 to walk the dog daily.</p> <ul style="list-style-type: none"> <li>• Lists community activities as fun fair and Sea Festival, Motorbike Rally, school fundays/sports days which she has participated in.</li> <li>• Activities seen taking place on land – children playing, rounders, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking and bicycle riding</li> <li>• Has marked position of property on map accompanying user questionnaire</li> <li>• Included facilities which could be identified within locality including a community centre, church, scout hut and shops</li> </ul>
<b>17</b>	<b>Mr and Mrs C E Oakley 44 Kings Quay Street Harwich CO12 3ER</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Known and used land as Harwich Green and St Helens Green between 1978 to 2010. Uses for dog walking at least twice daily. Also uses for football practice and cricket</li> <li>• Immediate family use land for dog walking</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying, people walking and bicycle riding</li> <li>• Lists community activities as raft race, travelling fair and motor cycle rally. Organisations use for football, cricket and kite flying</li> <li>• Has marked position of property on map accompanying user questionnaire</li> <li>• Included facilities which could be identified within locality including a community centre, church and shops</li> </ul>
<b>18</b>	<b>Mrs C Kelly 8 Harbour Crescent Harwich CO12 3NJ</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Has known land from 1951 to 2010 and used from 1960 to date of form, 2010</li> <li>• Walks on land every day. Immediate family also use for same purpose</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, football, cricket, picnicking, kite flying and people walking</li> <li>• Lists community activities as Sea Festival, fair, motor cycle rally and yacht regatta some of which she participates in. Organisations use the land</li> <li>• Has marked position of property on map accompanying user questionnaire but not signed map</li> <li>• Included facilities which could be identified within locality including a community centre, church, doctor's surgery, scout hut and shops</li> </ul>
<b>19</b>	<b>John Bennett 2 St Helens Green Harwich CO12 3NH</b>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Known and used land between 1964 and 2010</li> <li>• Uses land to play with children and grandchildren daily for football and immediate family use for</li> </ul>

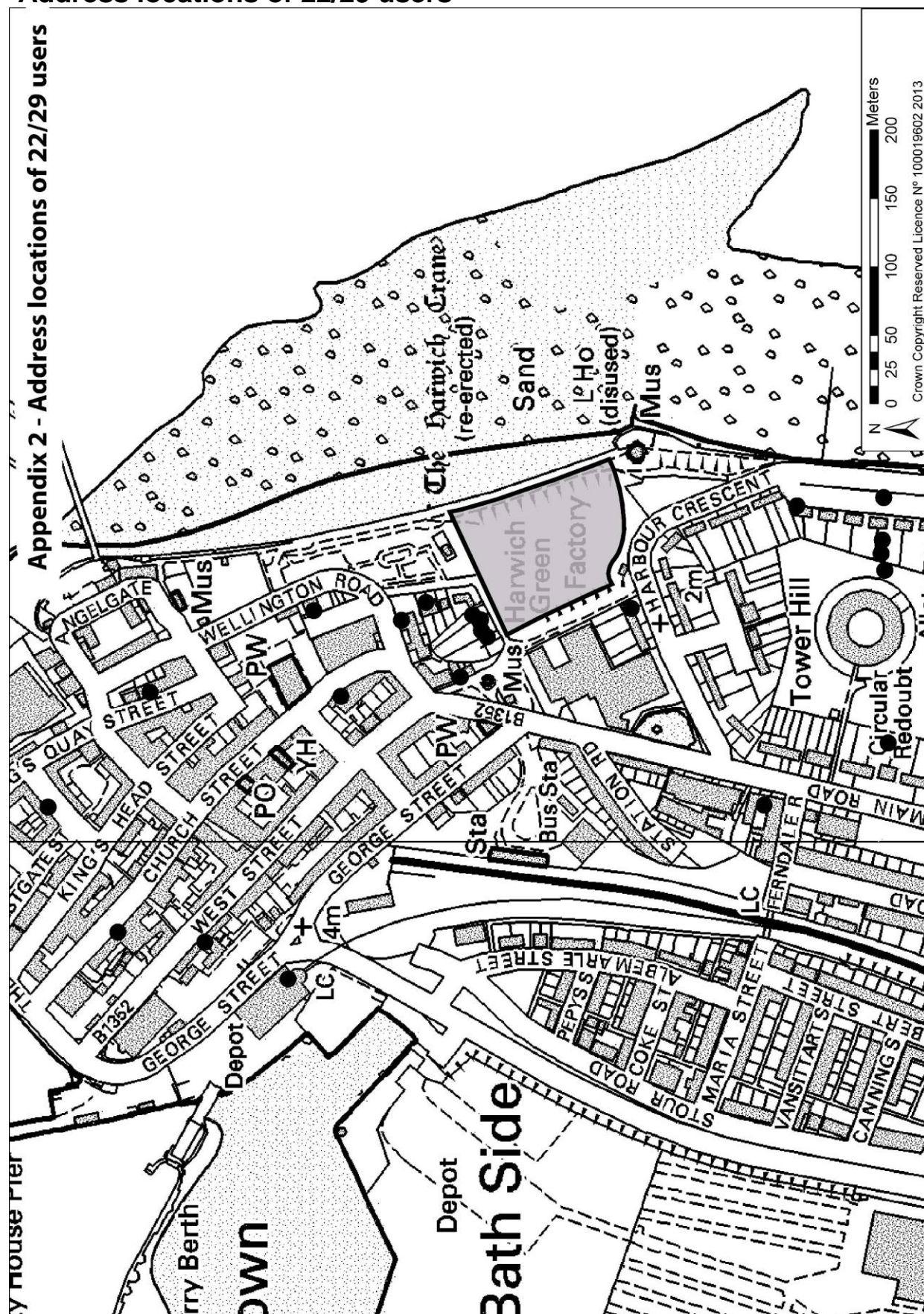


		<p>playing games/sports</p> <ul style="list-style-type: none"> <li>• Lists community activities as fun fair, school fun sports activities, Essex Ambulance charity day, Sea Festival and education purposes/history tours which he participates in. some are organised by schools</li> <li>• Activities seen taking place on land – children playing, rounders, dog walking, team games, community celebrations, fetes, football, cricket, picnicking, kite flying and people walking</li> <li>• Has marked position of property on map accompanying user questionnaire but not signed map</li> <li>• Included facilities which could be identified within locality including a community centre, church, scout hut and shops</li> </ul>
<b>20</b>	<p><b>Cheryl Thomson</b>  <b>Brereton</b>  <b>Lower Marine Parade</b>  <b>Harwich</b>  <b>CO12 3SR</b></p>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Previous addresses were 32 Church Street 1956-76, 11 Kings Quay Street 1976-89, 57 Quay Street 1989-1997</li> <li>• Known and used land from 1954 to date of form, 2010</li> <li>• Walks onto land from footway or from promenade. Dog walks, kite flying, picknicking, playing rounders, judging school carnival entries and team games, daily from 1959 to 1989, every other day 1989-1997 and once a week after 1997 in better weather</li> <li>• Immediate family also uses for walking, picnicking and playing football</li> <li>• Tendring District Council maintain grass</li> <li>• Lists community activities as rounders matchers, school carnival, sailing boats on land for championships at weekends. Also motorcycle run and Sea Festival. Local primary schools organise events on land</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, community celebrations, fetes, football, picnicking, kite flying and people walking</li> <li>• Has photographs, not attached</li> <li>• Included facilities which could be identified within locality including a community centre, church, scout hut and shops. Indicates doctor's surgery is 3 miles away. 2 sailing clubs also stated</li> </ul> <p><b>Letter (2012)</b></p> <ul style="list-style-type: none"> <li>• For 55 years + have used for flying kites playing rounders with primary school team and walking dog.</li> <li>• Agree should be registered as town green</li> </ul>
<b>21</b>	<p><b>Leonard Smith</b>  <b>25 Mayflower Avenue</b>  <b>Harwich</b>  <b>CO12 3NW</b></p>	<p><b>User Questionnaire</b></p> <ul style="list-style-type: none"> <li>• Known and used land from 1958 to 2010</li> <li>• Walks on land daily</li> <li>• Activities seen taking place on land – children playing, dog walking, football, cricket, picnicking, kite flying and people walking</li> <li>• Has photographs, not attached</li> <li>• Included facilities which could be identified within locality including a community centre, church,</li> </ul>

		doctor's surgery, scout hut and shops
<b>22</b>	<b>Mr M Basham 7 Beacon Hill Avenue Harwich CO12 3NR</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known and used land from 1935 to 2010 for walking, weekly</li> <li>• Immediate family use for dog walking and pleasure</li> <li>• Activities seen taking place on land – children playing, dog walking, fetes, football, cricket, picnicking, kite flying and people walking</li> <li>• Lists community activities as fairs, football and games and has participated in them. Also used by organisations – HTSC and Motorcycle Clubs in aid of Air Ambulance</li> <li>• Has marked position of property on map accompanying user questionnaire</li> <li>• Included facilities which could be identified within locality including a community centre, church, doctor's surgery, scout hut and shops</li> </ul>
<b>23</b>	<b>Mrs F Vincent 8 St Helens Green Harwich CO12 3NH</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known and used land as Harwich Green and St Helens Green from 1947 to 2010 for recreation, games, picnics and sunbathing at least once a week</li> <li>• Immediate family use land for walking</li> <li>• Included facilities which could be identified within locality including a church, doctor's surgery, scout hut and shops</li> <li>• Lists community activities as a Pageant in the early 1950s for the Esplanade School and annual Motorbike rally</li> <li>• Activities seen taking place on land – children playing, rounders, drawing/painting, dog walking, team games, football, cricket, picnicking, kite flying and people walking</li> <li>• Has assumed land was open space</li> <li>• Has marked position of property on map accompanying user questionnaire</li> </ul>
<b>24</b>	<b>Gertrude Hazel Barrett 47 Barrack Lane Harwich CO12 3NP</b>	<b>User Questionnaire</b> <ul style="list-style-type: none"> <li>• Known and used land between 1928 and 2010 for walking 'very often'. Immediate family use land for leisure</li> <li>• Included facilities which could be identified within locality including a church, doctor's surgery, scout hut and shops</li> <li>• Activities seen taking place on land – children playing, dog walking, football, cricket, picnicking, kite flying and people walking</li> <li>• Indicates use by organisations but does not provide any detail of these or any community activities</li> </ul> <b>Letter</b> (2012) <ul style="list-style-type: none"> <li>• Aged 84</li> <li>• Older residents call it The Link meaning a meeting place for Harwich Town</li> <li>• Used diving board towed round the green for summer use</li> </ul>
<b>25</b>	<b>Susan Anderson 20 Barrack Lane</b>	<b>Letter</b> (2012) <ul style="list-style-type: none"> <li>• Aged 61</li> <li>• Says land has been used for recreational activities</li> </ul>

	<b>Harwich CO12 3NP</b>	<p>and children play football cricket, picnics and walk through as long as can remember.</p> <ul style="list-style-type: none"> <li>• Doesn't indicate her own use</li> <li>• Indicates concerned that TDC opposing application</li> </ul>
<b>26</b>	<b>Ivan Henderson MP 104 Fronks Road Harwich CO12 3RY</b>	<p><b>Letter</b> (2012)</p> <ul style="list-style-type: none"> <li>• Supports proposal for Harwich Green in Harwich East Ward to be designated at village green</li> <li>• Born in Harwich East Ward in 1958</li> <li>• Aware application land is vital to local community and supports protection for future generations.</li> </ul>
<b>27</b>	<b>Andy Rutter, Secretary of Harwich Society 5 Church Street Harwich CO12 3DR</b>	<p><b>Letter</b> (2012)</p> <ul style="list-style-type: none"> <li>• Reinforcing application to have Harwich Green registered as village Green as 'meets all the criteria laid down in the Commons Act.'</li> <li>• Listing names of those who had submitted evidence of 20 years use (does not wholly align with forms received and analysed above) and three others including himself who would provide evidence as well</li> <li>• 'the bulk of the local community use the Green, since there are no gardens it he Old Town, and they are prepared to a man to defend it'</li> </ul>
<b>28</b>	<b>John Thurlow 484 Main Road Dovercourt Bay Harwich CO12 4ES</b>	<p><b>Letter</b> (2012)</p> <ul style="list-style-type: none"> <li>• 75 years old, local resident. Lived in Harwich in early years.</li> <li>• Would spend whole day on the green picknicking, football fames, fairs.</li> <li>• Fence erected at one end to protect row of houses from footballs and kites.</li> <li>• Still enjoyed by families today</li> </ul>
<b>29</b>	<b>David Male, Society Archivist and Librarian Harwich Society 15 The Mariners Marine Parade Dovercourt CO12 3RL</b>	<p><b>Letter</b> (2012)</p> <ul style="list-style-type: none"> <li>• Information from collection of books/postcards/photographs</li> <li>• Illustration in book of cricketers playing on Harwich Green in 1794</li> <li>• Postcard postmarked September 1905 showing Green used recreationally</li> <li>• Collection of Local Photographs caption stating Green leased as a public pleaser ground from the War Department in 1912 and subsequently purchased. Transactions will be recorded at Harwich Borough Council minutes</li> </ul>

### Address locations of 22/29 users





## Harwich East Ward

