

PLANNING & REGULATION COMMITTEE – 12 JANUARY 2015

COMMONS ACT 2006: IN THE MATTER OF AN APPLICATION TO REGISTER LAND AT THE GREEN, QUEENSWAY, DIDCOT AS A TOWN OR VILLAGE GREEN

Report by the County Solicitor & Head of Law & Culture

Introduction

1. On 25 November 2013, Mr Trevor Davies of 72 Queensway, Didcot applied to the County Council as Registration Authority under Section 15 of the Commons Act 2006 to register land known as The Green, Queensway, Didcot in Oxfordshire (“the Application Land”) as a Town or Village Green. This application, a copy of which is attached at Annex 1, was submitted formally in pursuance of the Act and has now to be determined by the County Council.
2. The Planning & Regulation Committee have delegated powers to determine such applications, provided they are ‘duly made’.
3. The application was considered initially by Legal Services who provided advice as to whether the application was ‘duly made’. In light of such advice the application was accepted as ‘duly made’ and was subsequently publicised in accordance with the statutory requirements.
4. No objections and several expressions of support were received during the statutory 6-week objection period.
5. The Committee is therefore requested to determine this application. The main points to note are summarised below.

The Application Site: The Green, Queensway, Didcot

6. The application form describes the Application Land as The Green, opposite 54-72 Queensway, Didcot, Oxon, OX11 8LU. The Application Land is shown edged in green on the plan included as part of Annex 1.
7. The Application Land is roughly semicircular in shape and is bounded by Queensway on one side and several houses around the other.
8. There is a short brick wall along the boundary between the Application Land and Queensway and all other boundaries of the land have until recently been open. The land has therefore been generally accessible during the time period in question.

9. On 9 November 2013, the land was fenced by representatives of the landowner and various trees and bushes were cut down. This application was made within the 2-year period referred to in section 15(3) Commons Act 2006 and therefore the prevention of use by fencing is to be disregarded.
10. The whole of the Application Land is registered at HM Land Registry under title number ON283460. The registered proprietor is John Robert Winson and Steven John Gardiner.
11. The locality or neighbourhood relevant to the application is described as Queensway in Didcot.

The Town Green Application

12. The application form was duly signed by Mr Davies and supported by the prescribed Statutory Declaration. The Applicant submitted several additional pieces of information in support of his application, including a supporting statement and some 20 statement letters by other local residents who used the land.

The Determination of the Application

13. Having been received by the County Council and accepted as 'duly made', the application was duly published in accordance with Regulation 5 of the Commons Registration (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 by publication in a local newspaper, posting notices on site, and placing copies on public deposit. A copy of the statutory notice, application and plan was also served on the landowners.
14. The statutory objection period expired on 22 August 2014. No objections were received, and several statements in support were received.
15. The County Solicitor has reviewed the application and supporting evidence and considers that there is sufficient evidence to say that each part of the legal test set out in S15(3) Commons Act 2006 is met. As there was no objection to the application, no public inquiry was considered necessary in this case. The County Solicitor therefore recommends that this application is accepted and registered as a new town or village green.
16. For completeness, s15(3) Commons Act 2006 is as follows:

"15 Registration of greens

(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

(2) ...

- (3) This subsection applies where—
- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;
 - (b) they ceased to do so before the time of the application but after the commencement of this section; and
 - (c) the application is made within the relevant period.

(3A) In subsection (3), “*the relevant period*” means—

- (a) in the case of an application relating to land in England, the period of one year beginning with the cessation mentioned in subsection (3)(b);
- (b) ...”

17. It is important to note at this stage that the Council as Commons Registration Authority is essentially neutral in this matter. It is simply concerned to assess the application and register the Application Land if it qualifies properly for registration. In carrying out this assessment it must look back over the use of the land and apply the statutory test under s15 Commons Act 2006. The potential future use of the land, or its desirability in planning terms, is not relevant to the assessment that the Council as Commons Registration Authority needs to make.

RECOMMENDATION

26. **Having received the advice of the County Solicitor the Committee is RECOMMENDED to APPROVE the application for registration as a new Town or Village Green that plot of land known as The Green, Queensway, Didcot in Oxfordshire that site being indicated clearly on the map appended to the application submitted by Mr Trevor Davies and dated 25 November 2013.**

PETER CLARK
County Solicitor & Head of Legal Services

Background papers: Appendices to Form 44
Additional Evidence Questionnaires
Responses to public consultation
In Members' Resource room from 5 January 2015 until
the conclusion of the meeting.

Contact Officer: Richard Goodlad, Principal Solicitor (Tel: 01865 323917)

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt.

Application number:

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

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

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

Note 1
Insert name of registration authority.

1. Registration Authority

To the

Note 2

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

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

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

Full postal address:

Postcode OX11 8LU

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if any

Name:

Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)

Fax number:
(incl. national dialling code)

E-mail address:

Note 4

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

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

4. Basis of application for registration and qualifying criteria

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

Application made under **section 15(8)**:

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

Section 15(2) applies:

Section 15(3) applies:

Section 15(4) applies:

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

09-11-2013

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

Note 5

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

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

Note 6

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

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

Name by which usually known:

THE GREEN

Location:

opposite 54 - ~~74~~ 72 Queensway
DIDCOT
OXON
OX11 8LU

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

Common land register unit number (if relevant) *

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

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

QUEENSWAY
DIDCOT
OXON
OX11 8LU

Tick here if map attached:

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

Note 7

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

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

The local residents have enjoyed unrestricted access to the green for 60 years until 09-11-13 when building site fencing was erected and trees & hedges destroyed contrary to Policy C4 of the adopted South Oxfordshire Local plan

Note 8

Please use a separate sheet if necessary.

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

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

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

Note 9

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

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

Note 10

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

Please use a separate sheet if necessary.

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

John Robert Winson.
 Steven John Gardner
 c/o church farm House
 Church lane
 Shurdington
 Cheltenham
 Gloucestershire
 GL51 4TQ

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

10. Supporting documentation

3 maps of Area.
 copy of extract from Land Registry
 Copy of letter denying access to green
 Copy of refusal of planning in 2010
 google earth photo showing cars parking on green
 Statement from marlon Gordon & Hanna fikremariam
 13 Photo. Edge
 Statement from Trevor & Pam Davies
 Statement from Sarah Pearson
 3 Emails of support
 Statement from Rebecca Davies
 2 Newspaper reports
 statement from Pam Quions
 statement from Suman Davies
 statement from Debra Gearle
 statement from Anne Giles
 Statement from Fiona Hyford

Continued

Supporting
Documentation continued

Statement from Stephanie Crook

Statement from Graham Crook

Statement from Ashley Crook

Statement from James & Becky Snowball

Statement from Carole Miller

Statement from Tracy, David, Courtney & Katie West

Statement from Amelia Crook

Statement from Mrs W Jones.

⁴ *Continued*

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

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

Mulani

at

Stade legal

this

25th

day of *November 2013*

T.J. Davis

Signature of Declarant

Before me *

Signature:

Mulani

Address:

Stade legal, 137 Broadway, Didcot OXON OX11 8RQ

Qualification:

Lawyer, Commissioner of Oaths.

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

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.

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

TREVOR JOHN DAVIES

I.....¹ solemnly and sincerely declare as follows:—

² Delete and adapt as necessary.

1.² I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (³ one of the applicants)).

³ Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in the case of voluntary registration (strike through if this is not relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

Note 11

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

11. Any other information relating to the application

I expect the owner to challenge the application because he wants to build on it and make money

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

24-11-2013

Signatures:

T. S. Davies

REMINDER TO APPLICANT

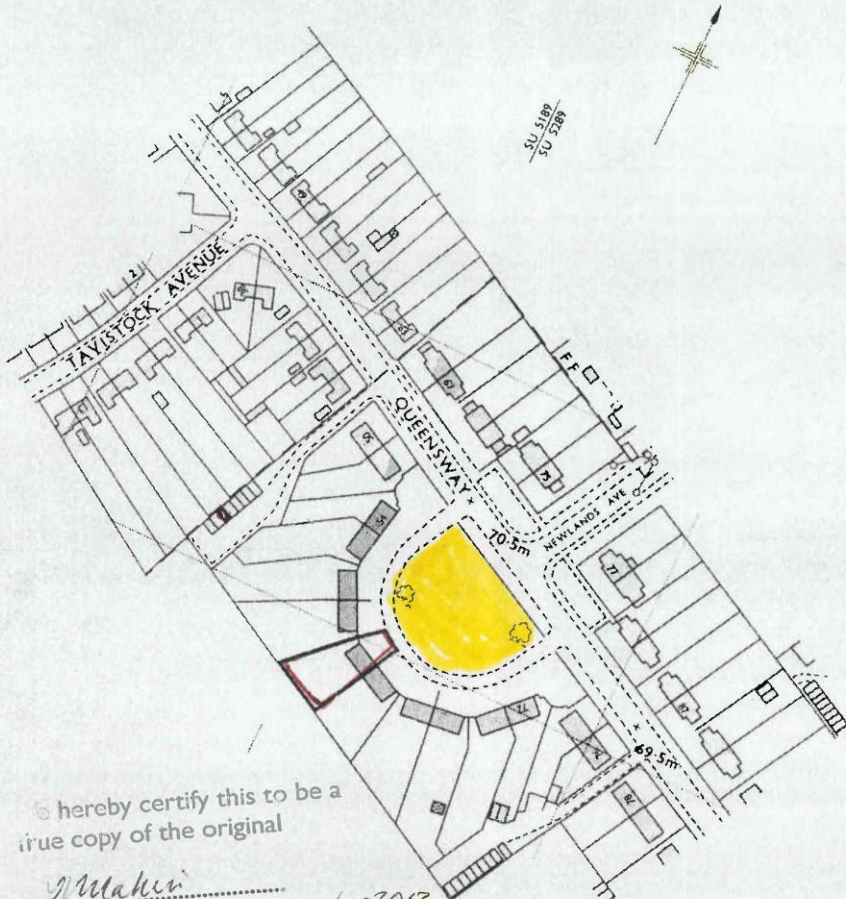
You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application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

Data Protection Act 1998

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

55373/02

H.M. LAND REGISTRY		TITLE NUMBER	
		ON 84408	
ORDNANCE SURVEY PLAN REFERENCE	SU 5289	SECTION R	Scale 1/1250 Enlarged from 1/2500
COUNTY OXFORDSHIRE	DISTRICT SOUTH OXFORDSHIRE	© Crown copyright 1983	



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

L. Maiden
 Slade Legal 25th November 2013
 137 Broadway
 Didcot Oxon OX11 8RQ

Laura Maiden
 Legal Executive
 Slade Legal
 137 Broadway
 Didcot
 Oxon OX11 8RQ



This official copy issued on 6 June 2007 shows the state of this title plan on 6 June 2007 at 14:19:20.
 It is admissible in evidence to the same extent as the original (s.87 Land Registration Act 2002).
 This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 7 - Title Plans.
 This title is dealt with by Land Registry, Gloucester Office.
 © Crown Copyright. Produced by Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



To see all the details that are visible on the screen, use the "Print" link next to the map.



Didcot.

CA.

Fencing/walls - 1m next to highway
2m elsewhere.

Laura Makin
Legal Executive
Solicitor
137 Broadway
Didcot
Oxon OX11 8RQ

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

Laura Makin
Solicitor 25th Nov 2013
137 Broadway
Didcot Oxon OX11 8RQ

H. M. LAND REGISTRY

BERKSHIRE SHEET XV II SECTION O

Scale 1/1250 Enlarged from 1/2500

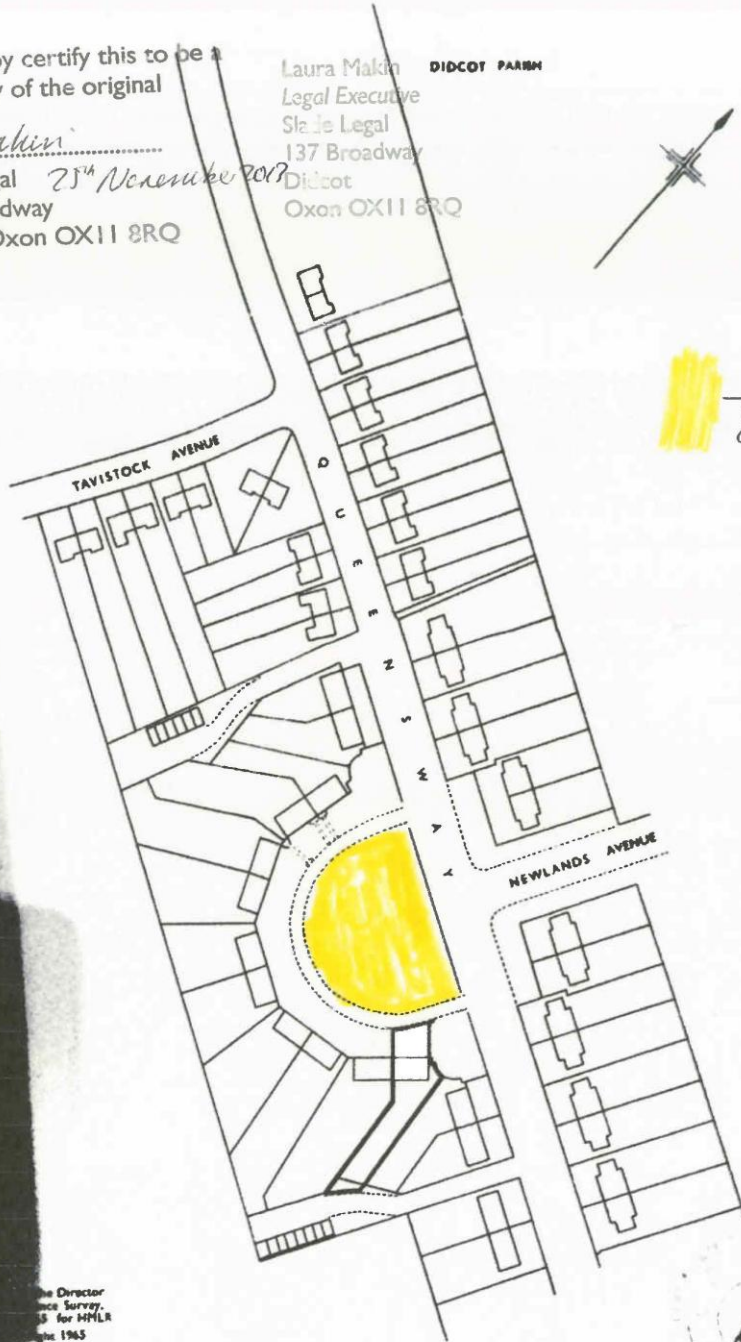
We hereby certify this to be a True copy of the original

L. Makin
Slade Legal *25th November 2017*
137 Broadway
Didcot Oxon OX11 8RQ

Laura Makin **DIDCOT PARRN**
Legal Executive
Slade Legal
137 Broadway
Didcot
Oxon OX11 8RQ



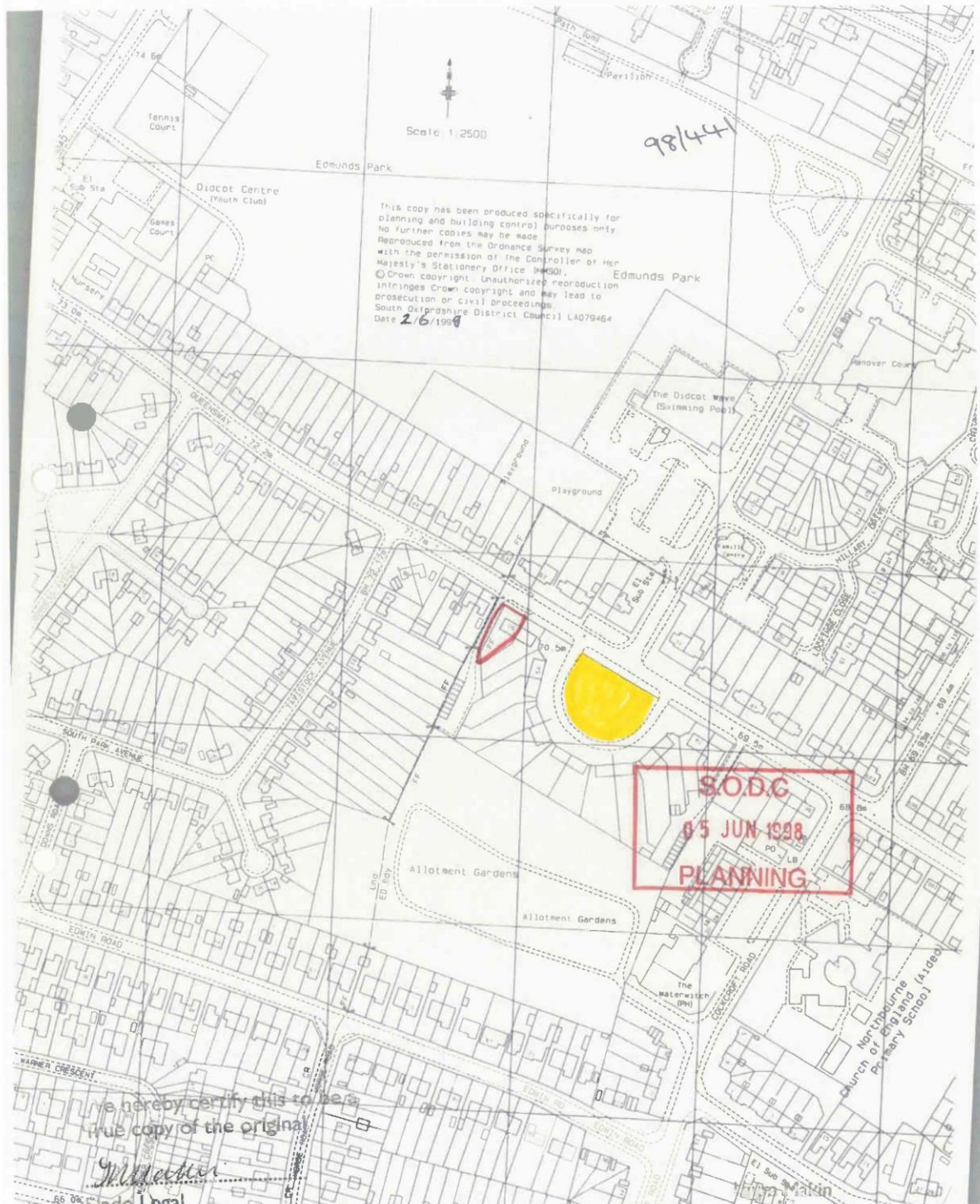
The Green



The Director
of Land Registry
for HM Land Registry
1965

L. Makin
25/11/17

TITLE No. BK 117052



Scale 1:2500

98/441

This copy has been produced specifically for planning and building control purposes only. No further copies may be made. Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office HMSO. © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Oxfordshire District Council LA079464 Date 2/6/1998

S.O.D.C.
05 JUN 1998
PLANNING

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

M. Martin
 S.O.D.C. Legal
 137 Broadway
 Didcot Oxon OX11 8RQ

25 November The Green

M. Martin
 Legal Executive
 S.O.D.C. Legal
 137 Broadway
 Didcot
 Oxon OX11 8RQ