

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

CITY OF YORK COUNCIL
WEST OFFICES
STATION RISE
YORK YO1 6SA

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:

* COMMITTEE MEMBER OF FRIENDS OF HULGATE COMMUNITY GARDEN

Full postal address:

Postcode

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.

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

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

Name by which usually known:

MOLGATE COMMUNITY GARDEN & PLAY PARK
(ALSO KNOWN AS UPPER ST PAULS TERRACE PLAY AREA)

Location:

PLEASE SEE SECTION 5 OF SUPPORTING DOCUMENT.

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:

PLEASE SEE SECTION 6 OF SUPPORTING DOCUMENT

Tick here if map attached:

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.

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).

PLEASE SEE SECTION 7 OF SUPPORTING DOCUMENT

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

THE SITE IS OWNED BY CITY OF YORK COUNCIL.
THE LAND HAS BEEN RECOGNISED AS AN ASSET IN THE COUNCIL'S ASSET REGISTER (LAST UPDATED MAY 2016) & HAS THE FOLLOWING ASSET IDENTIFICATION NUMBERS:
UNIQUE ASSET ID: E00062/B01
UNIQUE PROPERTY REFERENCE NUMBER: 200004776489

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

NONE

10. Supporting documentation

PLEASE SEE THE ATTACHED SUPPORTING DOCUMENT

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

PLEASE SEE SECTION 11 OF THE SUPPORTING DOCUMENT

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:

13TH SEPTEMBER 2016

Signatures:


DAVID BARRETT

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.

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).

I DAVID BARRETT,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) (~~³one 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/

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 DAVID BARRETT

at [REDACTED]

this 13TH day of SEPTEMBER 2016

[REDACTED]

Signature of Declarant

Before me * LUKE JOHNSON

Signature:

[REDACTED]

Address:

[REDACTED]

Qualification:

Solicitor of the Higher Courts of England and Wales.

* 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

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

Location:

The black line map below shows the boundary of Hoigate Community Garden and Play Park and it is this area that this application relates to.



The boundary marks the land in public ownership, which includes, a hard surface basketball court (marked as Play Area on the map), a community garden (comprised of large, raised, circular beds and borders) and children's play equipment (a seesaw, a climb on train with slide, and a climbing frame).

The land is recognised as an asset in the Council's asset register (last updated May 2016) and has the following asset identification numbers:

Unique asset ID: E00062/B01

Unique Property Reference Number: 200004776489

The Council have also recognised the Community Garden and Play Park as an Asset of Community Value (decision made 12.09.2016).

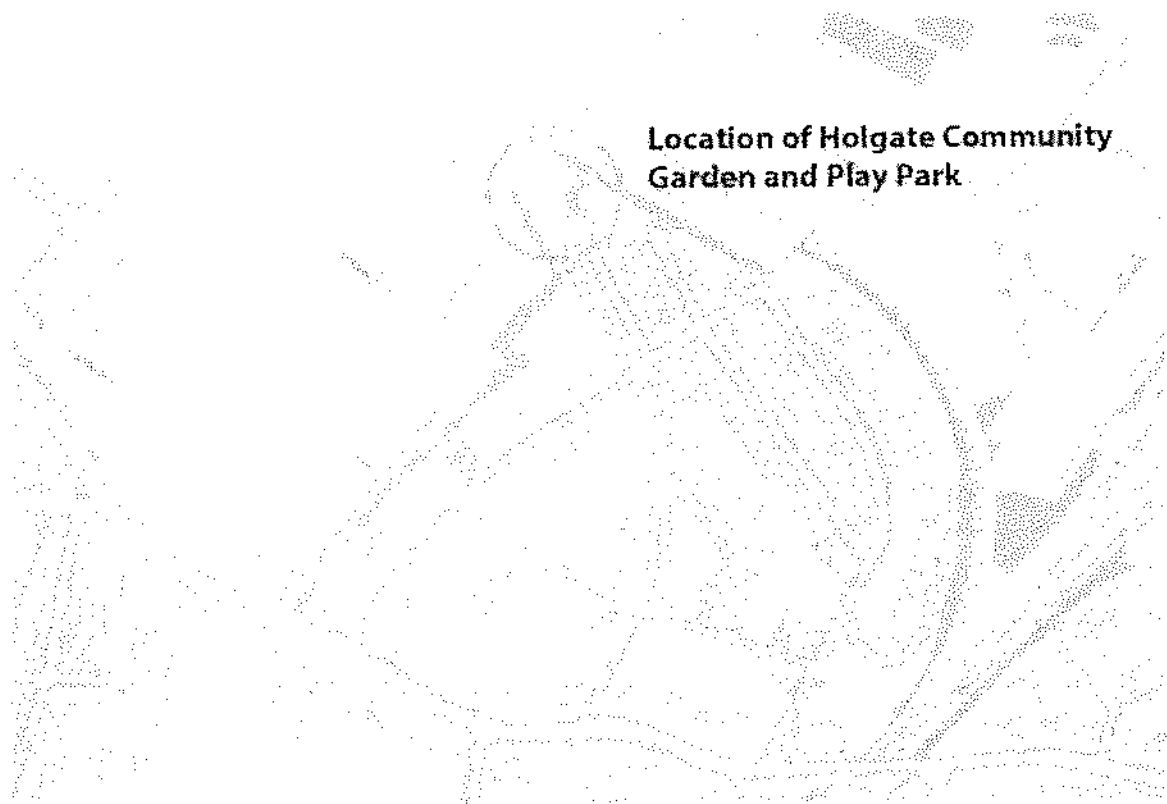
Holgate Community Garden and Play Park

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

The locality in which the application is made is Holgate. Please refer to the map below which shows the location of Holgate Community Garden and Play Park in relation to Holgate Ward.



Holgate Community Garden and Play Park

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Section 7 - Justification for the application

Holgate Community Garden and Play Park is a green haven for inner city dwellers in York, in particular Holgate residents. For many local residents, this is their only garden; a central point for exercising, gardening and socialising. Residents in this part of Holgate have tiny yards that are not suitable for exercising children or pets. The garden and basketball court are therefore well loved and actively used on a daily basis by families, dog walkers, picnickers, urban explorers, gardening enthusiasts and other groups.

In the mid-1970s a row of terrace houses, known as Cleveland Place, were demolished. This site became what is now Holgate Community Garden and Play Park shortly after. Photographic evidence of the play park in use in 1995 is included below, however local residents who have lived in Holgate all their lives have shared their experiences of using the play park when it was first created circa late 1970s.

In 2011, local resident, Julie Fern, galvanised the local community to further improve this space into a beautiful, tranquil site filled with flowers, vegetables and well cared for play equipment.

The local residents have generously invested large sums of their own time and money in this project and carried out the work as a collective team. The result has been a transformation. It is a beautiful place that residents are proud of and use daily with great enthusiasm.

The trees that surround and form part of Holgate Community Garden and Play Park are protected by 16 Tree Preservation Orders (TPOs) and species of tree include: Sycamore, Rowan, Himalayan Birch and Whitebeam, which is not commonly found outside formal gardens & parks. The green space is also home to wildlife and acts as corridor for wildlife that utilise green and unmanaged wild areas. Evidence of this can be seen at night when the areas nocturnal animals emerge. Bats are resident in the area of the Community Garden and Play Park and have been observed by many local people. In addition, residents have seen: squirrels, hedgehogs, woodpeckers, slow-worms to name just a few examples. The flourishing Community Garden attracts many insects including bees and dragonflies.

The Community Garden is part of the Edible York movement, and this extract from the Edible York website entry for Holgate Community Garden gives a feel for the type of fruit, vegetables and flowers that are grown there:

"We have six raised beds, one dedicated to herbs and black and red currants, another filled principally with edible flowering plants: giant globe artichokes, dwarf sunflowers, and bergamot (but also with supremely pollinator friendly flowers, such as Allium sphaerocephalon, Erysimum 'Bowles Mauve', and Knautia 'Melton Pastels'). In the four remaining beds in this, our first season, we have grown a mix of edible flowers and fruit and vegetables: peas, strawberries, broad beans, spinach, lettuces, chives, Nasturtiums, calendulas, violas, dwarf purple French beans, runner beans (grown up a teepee with heavily scented heirloom sweet peas), beetroot, purple sprouting

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broccoli, radishes, rainbow chard, the fabulous custard white Zucchini, pumpkins, tomatoes, cut and come again lettuces, rocket, cauliflower, beetroot, curly kale, raspberries, celeriac, parsley, cilantro, borage..."

The community garden and play area provides the neighbourhood's children with a safe, enclosed green space which many can access without crossing a road. For decades the park has been a fundamental space for play, where generations have grown up, learning independence and confidence due to it being encircled by a fence and wall. The basketball court is used regularly by St Paul's Primary School and Out-of-School Club for physical education and forest school sessions throughout the year. This surface is perfect for children learning to walk, run, ride a bicycle and roller skate. On occasions it has also been used as a giant canvas for outdoor chalks, promoting creativity, imagination and role-play.

The growth in community that Holgate Community Garden and Play Park has engendered has been the resounding surprising success of the project. The park is played in daily by neighbourhood children who delight in helping with watering and planting and especially in picking their own fresh peas and strawberries; a place where adults come to relax with a book in the sun.

On 12th September 2016, Friends of Holgate Community Garden were delighted that City of York Council formerly listed Holgate Community Garden and Play Park as an Asset of Community Value (under the Localism Act 2011).

Statements of support:

The following statements of support were made at the City of York Council Decision Session - Executive Member for Finance & Performance, 12 Sept 2016. A webcast of the meeting can be viewed here: <http://www.york.gov.uk/council/decision-session/12-sept-2016>

Richard Knowles, Headmaster of St Pauls C of E Primary School:

"The garden area of the community park provides a valuable learning resource for our younger children who use it as a forest school location. Apart from it's use to our school the community park also provides a valuable resource to local community groups, in particular St Pauls Out of School Club, a number of our parents have held events there, one example being a recent Basketball Tournament and picnic on 10th July..."

Mary Cannon, Holgate Ward Councillor:

"Holgate Community Garden is a godsend to the local community... it means that people can get together for activities. Next Sunday there is a Scarecrow Festival, there has been a Basketball Tournament, there have been picnics and all sort of things going on there, where people can get together, so the social well being of the local community is a communal thing. There is a play area, and I know there are children who have learnt to ride their bike there, football is played there,

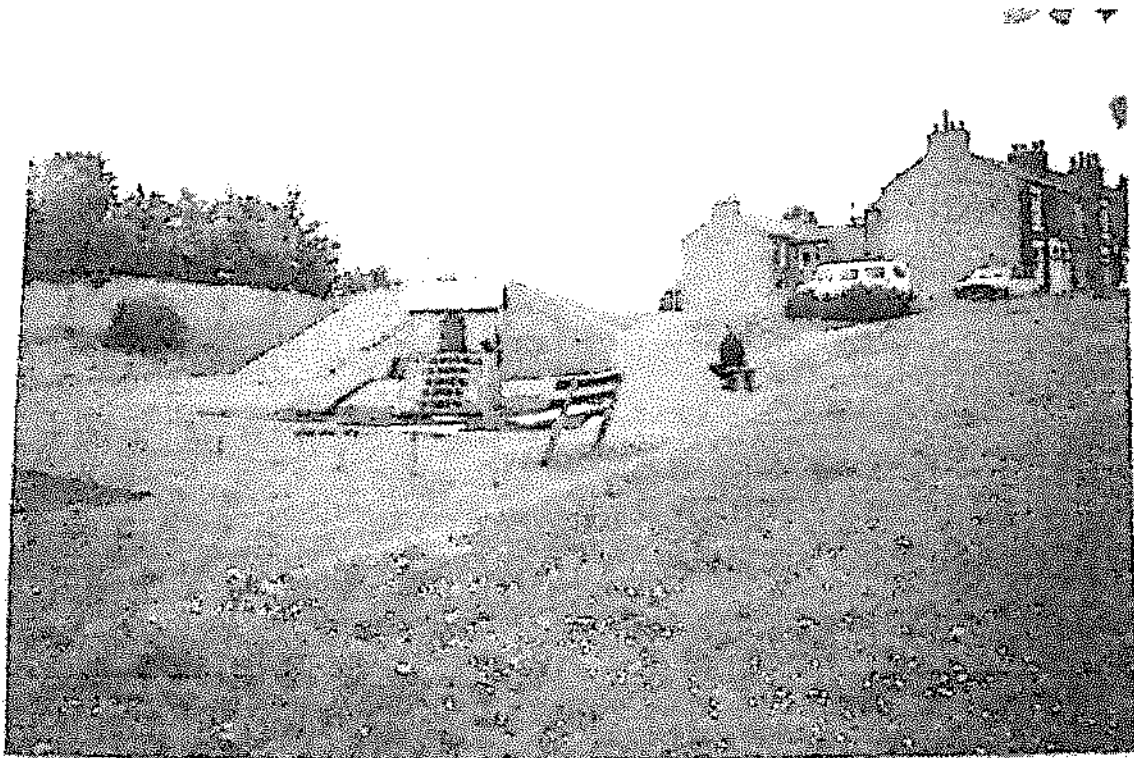
Holgate Community Garden and Play Park

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basketball...there is a tarmaced area and it's much used. Reference has been made to the play area with equipment, children on see saws and climbing frames, and we all know that for young children that kind of thing is essential. And then there's the edible garden, we were pleased last year to give a grant to the edible garden from the Holgate Ward Committee funds so more things could be planted and more people could get involved."

Photos of Holgate Community Garden and Play Park:



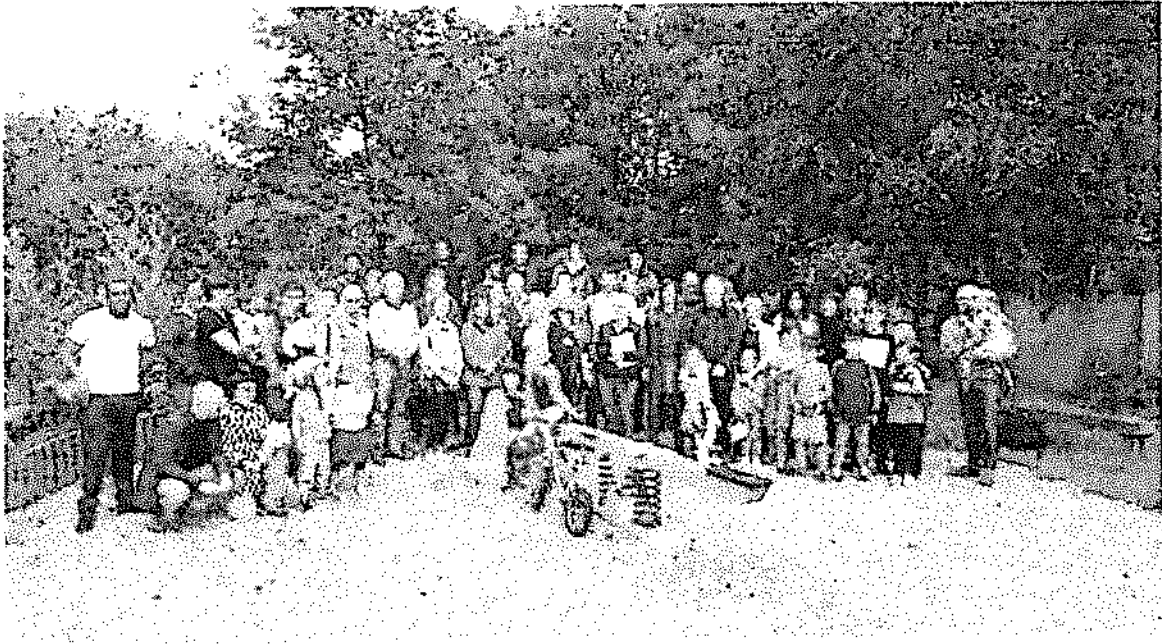
Upper St Paul's play area, Holgate, 1995/96 Photo: Lisa @YorkStories

Photograph courtesy of York Stories, circa 1995/1996 showing the climb on train with slide which has since been relocated to the top of the mound and renovated.

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Recent (summer 2016) photograph of local residents and supporters of Holgate Community Garden, many of which follow the Group's progress on social media or at local events or are active members of the Group.

Holgate is fortunate to be recognised as an area of special character in a Council sponsored project called the Characterisation Project. This joint initiative of City of York Council and English Heritage seeks to protect this area.

The Community Garden and Play Park fall within the boundary of the Holgate Character Area and is recognised as a classic Victorian terrace streetscape with associated amenities. The Community Garden and Play Park site has existing, in various forms for decades. It is this historic value that I think it also worth recognising as part of this application.

The Characterisation Project Report extensively describes the profile of Holgate Character area, however the following recommendations from the report is particularly apt:

"Great care should be paid to the retention of socially valued buildings and spaces, with appropriate weight given to local opinions."

This recommendation calls for local opinion to be taken into account and the Friends of Holgate Community Garden can report that there is overwhelming support from the local community to recognise this area as a Village Green.

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The arrow (in blue) shows the location of Holgate Community Garden and Play Park, which is outside the site boundary for York Central.

Referral to the Planning Inspectorate

Guidance issued to Commons Registration Authorities by the Department for Environment, Food & Rural Affairs on 17 November 2015 (updated 18 November 2015) states:

"You must refer the following types of application and proposal to the Planning Inspectorate if you have an interest in the outcome to the extent that if you made the decision it would be seen as being biased (eg if your authority owns the land and wants to develop it)."

(The following types of application and proposal are referred to the Planning Inspectorate)

We therefore ask the City of York Council to refer our application for Village Green to the Planning Inspectorate, as City of York Council own the land, and may want to develop it.

Holgate Community Garden and Play Park

