

**BRISTOL CITY COUNCIL**

**PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE**

**18 OCTOBER 2010**

**APPLICATION FOR REGISTRATION OF LAND KNOWN AS COTSWOLD ROAD GREEN AS A TOWN OR VILLAGE GREEN UNDER THE COMMONS ACT 2006 SECTION 15**

**(Report of the Head of Legal Services)**

**WARDS: SOUTHVILLE, WINDMILL HILL, BEDMINSTER**

**APPLICANT: DR NANCY CARLTON**

Objector: Bristol City Council, in its capacity of freeholder of the application site.

**Purpose of Report**

1. TO ADVISE REJECTION OF THE APPLICATION

**Background**

2. The Applicant applied on 6 May 2009 for registration as a town or village green of land known as Cotswold Road Green, Bristol.

The application is accompanied by a plan showing the subject land, to be found at Appendix 1 to this report.

The Registration Authority advertised the application during July 2009, and received the objection on 30 September 2009.

3. Mr Leslie Blohm QC was appointed as an independent Inspector to advise the City Council as Registration Authority as to how to dispose of the application.
4. He then provided the report dated 23 June 2010, to be found at Appendix 2 to this report, in which he advises that the application should be dismissed by reason of the Council's appropriation of the land by decision of the Land

and Administration Committee on 21 June 1984, the land was thereafter held on the statutory purposes of Section 9 and 10 of the Open Spaces Act 1906, and the usage made of the land by the local inhabitants thereafter was not 'as of right'.

5. This Committee on behalf of the Council (**as registration authority**) has a statutory duty to determine objectively whether or not the land in question qualifies as a town or village green, within the meaning of the Commons Act 2006. The Registration Authority has a statutory duty under the Commons Act 2006 to maintain an accurate register of town and village greens. Cotswold Park Green could only be so registered if it had been established that it met the criteria to be found in Section 15 of the Act. Where an Inspector has advised against registration, the committee could only decline to follow the advice if the law had changed since the production of the report, or if the report were manifestly flawed or inadequate, neither of which is the case here.
6. Accordingly, the Committee should reject the application for the reasons given by the Inspector in his further advice dated 23 June 2010.

## **Consultation**

None.

## **Appendices**

Appendix 1	The Applicant's Plan
Appendix 2	The Inspector's Report dated 23 June 2010
Appendix 3	Report to the Land and Administration Committee of the Council of 21 June 1984, with Minutes
Appendix 4	Dr Carlton's letter dated 16 July 2010

## **Legal Implications**

The City Council in its capacity of Commons Registration Authority has responsibility in pursuance of the Commons Act 2006 to determine whether the land should be registered as a green.

For an application to register a green under the 2006 Act to be successful, the Applicant must establish that the land in question comes entirely within the following definition of a "town or village green" to be found in Section 15(2) of the Commons Act 2006 which provide as follows:-

- (2) This sub-section applies where: -
  - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in

lawful sports and pastimes on the land for a period of at least 20 years; and

- (b) they continue to do so at the time of the application.

In its capacity of registration authority, the City Council has to consider objectively and impartially all applications for registration of greens on their merits, taking account of any objections and of any other relevant considerations.

Registration as a Town or Village Green is dependent purely upon past use, and not upon future plans.

Where people have been using land by right under a statutory trust, such use cannot be said to be “as of right” within the meaning of the Commons Act.

### **Resources Implications**

Financial: None.

Land: The City Council is freeholder of the application land.

Personnel: None.

**Recommended: that the Committee reject the application for the reasons set out in the Inspector’s Report dated 23 June 2010.**

### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

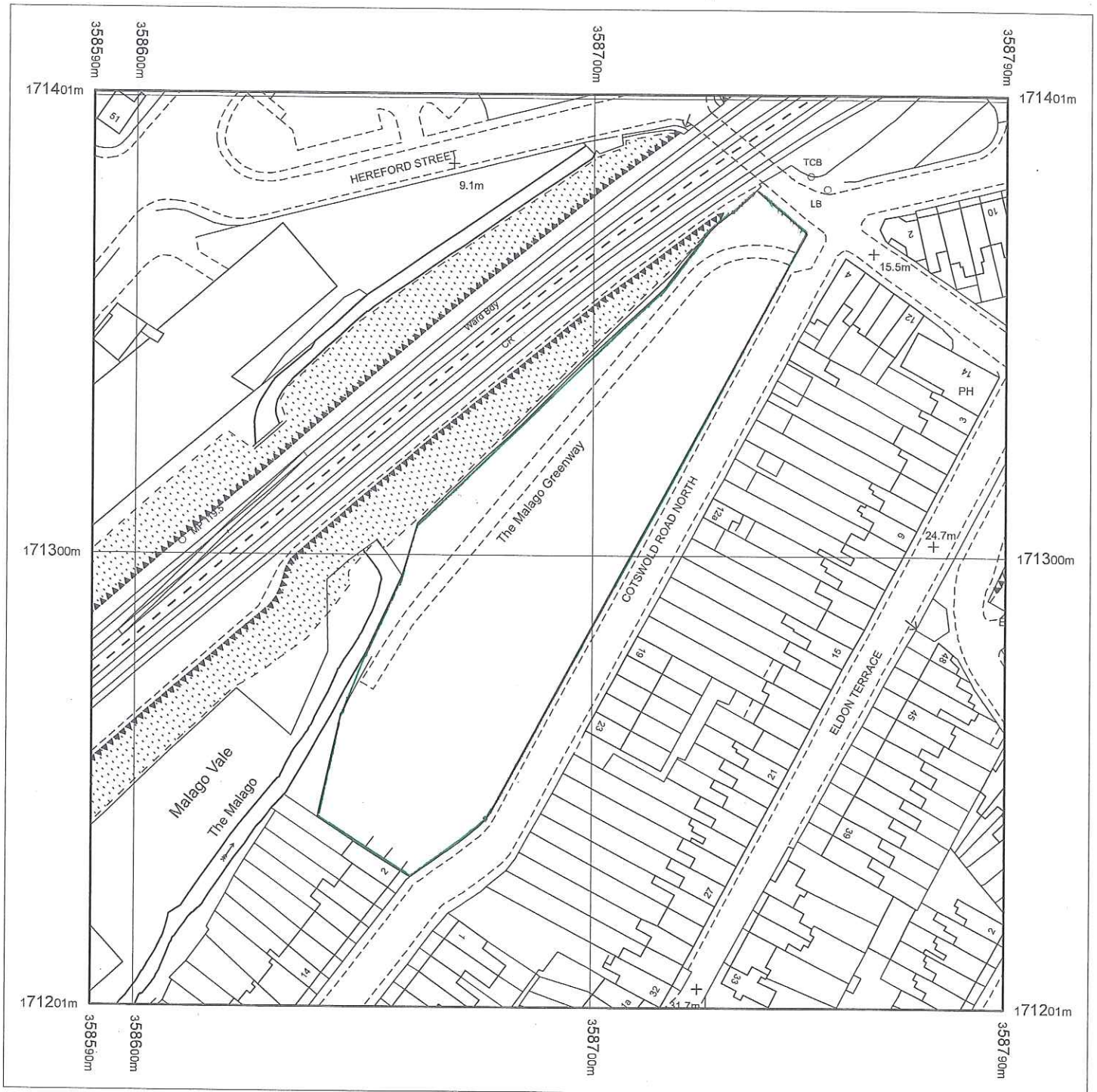
**Background Papers – None.**

Author: Frances Horner, Senior Solicitor, Legal Division on behalf of the Commons Registration Authority – Tel: 922 2330



EXHIBIT NC1

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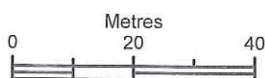
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IN RE: AN APPLICATION TO REGISTER LAND KNOWN AS COTSWOLD ROAD GREEN,  
BRISTOL, AS A NEW TOWN OR VILLAGE GREEN

FURTHER ADVICE

1. I advised on this matter in writing on 18th. December 2009, in which I advised the Authority that:
  - (1) (in summary) Bristol City Council could establish that user by local inhabitants of the land was not 'as of right' if during the relevant period of twenty years it could be shown that the land had been appropriated by the Council for the purposes of public open space;
  - (2) The evidence supplied did not sufficiently establish such an appropriation, and the matter would have to be dealt with by way of a factual determination, possibly by way of a preliminary issue concerning the topic of appropriation.
  
2. I have subsequently been supplied by those instructing me with further short submissions dated 20<sup>th</sup>. March 2010 settled by Mr. Vivian Chapman QC on behalf of Bristol City Council as landowner, together with further

documentation in support of their opposition to the application. The documentation supplied is the full copy of the Report to the Land and Administration Committee of the Council on 21<sup>st</sup>. June 1984. The gist of the further submission is that the new material proves positively that the land the subject of the application was appropriated to public open space use by the Council in 1984, and the application for registration is thereby necessarily defeated. It further suggests that there is, therefore, no need to hold the preliminary inquiry suggested in my earlier advice.

3. I subsequently gave advice to the Authority as to the further determination of the Application. Further to those directions Dr. Carlton made further submissions in writing (settled by Mr. Bennett of counsel) dated 29<sup>th</sup>. April 2010. Those submissions do not comment on the content of the further material supplied by the Council, but instead raise issues relating to the analysis contained in my initial advice to the Authority, and in particular as to the consequences (in the context of a Town or Village Green application) of an appropriation of land by a local authority.
4. I have been asked to advise the Authority as to whether in the light of the further evidence the application should be dismissed; or whether it should continue, and if so, how.
5. In my view the effect of the documentation provided by the Council is that the Council by the Land and Administration Committee on 21<sup>st</sup>.June 1984

appropriated the land for public open space purposes. I would add that the Council's records and documentation all appear consistent with such a decision having been taken.

6. Although the documentation does not specify the precise statutory purpose under which the land is held, in my view that is not a necessary requirement of a valid appropriation. Although there is (as far as I am aware) no direct authority on the point, it has been commented that there is no statutory definition of what constitutes an appropriation - see Dowty Boulton Paul Ltd. v. Wolverhampton Corporation (No.2) [1976] 1 Ch. 13 at 29 per Buckley LJ - there is some support for this view in the analogous situation that arises where trustees purport to exercise a fiduciary power – see Thomas – Powers at 5-182, where the applicable principle is set out that it is a matter of evidence as to whether the trustee had the intention to exercise their power; it is unnecessary to refer to the particular power. As Thomas points out, where no power is specified that may raise issues of proof and evidence - and see the comments of Buckley LJ *supra*.
7. In my view, from the use and condition of the land at the time of appropriation, and the lack of provision made at the time for substantial public park works at the land, and subsequently, it was plainly the case that the land was appropriated to a use permitting the public to use the land for recreation; and it is most likely to be the case that, although not stated, the relevant statutory purpose is that arising under section 9 Open Spaces Act

1906. The land has not been maintained by the local authority as a formal pleasure-garden or promenade. Although the Council has referred to the land as 'Cotswold Park' it has referred to it in the meaning of a green open space available for general public recreation, rather than as the sort of formal municipal park that might have been created under section 164 Public Health Act 1875. In my view the Open Spaces Act 1906 is the most appropriate and I think obvious statutory purpose that was intended by the Council at the time of appropriation.

8. I am of the view that the appropriation of the land to this statutory purpose is not a matter that is in any respect likely to be affected by further receipt of evidence. It follows that my advice to the Authority, on the basis of my advice of 18<sup>th</sup>. December 2009 is that the Application should be dismissed.
9. I have also considered the further points made by Dr. Carlton in her further submissions. Some of those submissions in effect repeat themselves, so I paraphrase the objections here, and then give my response to them.

(1) The purpose of the Commons Act 2006 is to make the registration of land as TVGs more commonplace. Therefore the Authority should not accede to the Council's defence, which is simply the creation of a 'loophole' to frustrate statutory policy.

It is correct that the purpose of the provisions relating to the registration of Town and Village Greens (TVG) contained within the Commons



Registration Act 1965 was (amongst others) to enable the registration of land as TVG. Subsequent amendments were intended to overcome certain technical arguments as to the requirement that the inhabitants who use the land come from a 'locality', or predominantly from a locality – see the comments of HHJ Waksman in Ox & Bucks Mental Health Trust v. Oxford City Council [2010] EWHC 530 at [69]-[72], and of HHJ Behrens in Leeds Group plc v. Leeds City Council [2010] EWHC 810(Ch) at [89]. Insofar as the meaning of the statute is a matter of construction, then where there are alternative available meanings the Court (and the Authority) is entitled to have regard to the purpose of the 2006 Act, and the mischief that it was intended to correct, in coming to the correct meaning. But it is not the case that the meaning of the Act derives solely from its beneficial purpose. The authorities cited in the Further Submissions (Langley v. Liverpool City Council [2006] 1 WLR 375; Padfield v. MAFF [1968] AC 997) are not authority for the proposition that a Registration Authority must construe section 15 of the Commons Act 2006 as Dr. Carlton submits. The wording of section 15 is clear: the user must be of the quality of being 'as of right'; that is a legal phrase with a well-established legal meaning; and user 'by some other right' is not user 'as of right'.

- (2) There is no evidence that the land was appropriated to public open space use.

For the reasons that I have set out above, I have no doubt that the Council did appropriate the land for public open space use.

- (3) There were no bye-laws promulgated, and the local inhabitants would not have been aware that the land was held by the Council as public open space.

As I indicated in my earlier advice, my advice is that the user of the public is not 'as of right' because they in law have a right to use the land by reason of the appropriation of it by the Council. The appropriation expressly creates a trusteeship on the part of the Council (see section 10 Open Spaces Act 1906; section 122(2B) Local Government Act 1972) and in my view that operates to confer rights on the public in the same manner as an express declaration of trust, although by virtue of the public nature of the present trust, those rights are not of the same nature as rights arising under private trusts. But the point is that once the entitlement arises, usage of the land by the public is not trespassatory. No doubt it is in many cases obvious to the public that they are visiting a Council owned Park. However, in my opinion there is no further requirement that the local inhabitants as beneficiaries of that trust be aware that the Council holds the land for that purpose, or even that the Council owns the land, in order that those rights be effectively conferred.

(4) The land has been maintained by the public.

Whilst this may be correct it appears to me to be immaterial to the issue as to whether there was an appropriation of land, or (if there was appropriation) as to the consequences of it.

(5) The obiter dicta of Lord Walker in Beresford (as to the consequences of the appropriation of land by a local authority) are contrary to the decisions of the majority of their Lordships.

I do not think that this is a correct analysis of the speeches of the House of Lords. The approach of Lord Walker was in my view also that of Lord Bingham at [9] and (on a slightly different analysis) by Lord Scott at [30]. The passage from Lord Bingham cited by Dr. Carlton does not deal with this issue, but with the different issue as to the implication of licenses.

(6) Hall v. Beckenham is authority for the proposition that the effect of appropriation to public open space is only to prevent user being as of right if there is communication of the right to the user

In my view this is not the correct analysis of Hall v. Beckenham Corpn. Although Finnemore J. referred to by-laws, he referred to them to demonstrate the restrictions on the freedom of the inhabitants to behave as they liked in the park. The crux of the judgment is at p.728:

“I think that the corporation are the trustees and the guardians of the park, and that they are bound to admit to it any citizen who wishes to enter it within the times when it is open.”

That guardianship, and its concomitant obligation and correlative entitlement arises at the same moment – on the effective appropriation of the land under the statute. It does not appear that his entitlement to enter is dependent upon the existence of, or the knowledge of, by-laws. It is dependent on the status of the land as public park or open space, which derives from the appropriation of the land by the Council.

(7) If land may be appropriated for the purpose of public open space in this way, then it negates the effect of the Commons Act 2006 contrary to the intention of Parliament.

It should be born in mind that the basis on which the land has been appropriated (as I find) in this case for public open space use is by express decision of the Council. In these circumstances there seems to me to be nothing strange or unusual in the use of such land by local inhabitants being treated as referable to and arising by reason of the Council's

decision (being a decision that it has power to change, and temporary in that sense) rather than by reason of its being a TVG. The plea to the intention of Parliament is not in my view material here. I think that the comment (at paragraph 9 of the Further Submissions) misunderstands the point I made in my earlier Advice, and I apologise if the point was phrased poorly. It is not the fact that the local authority holds the land under a statutory power which may be changed that prevents user being as of right; it is that it, at some time during the relevant twenty year period holds the land under a power which entitles the local inhabitants to use the land that prevents the user being 'as of right'; and that power itself may be changed, by subsequent appropriation of the land to a different purpose. I certainly do not suggest that any publicly owned land that is susceptible to appropriation to another purpose may by that reason alone be excluded from the effect of section 15 of the Commons Act 2006.

10. I conclude therefore that there is no reason why the application should not be dismissed, and I advise that the application should be dismissed.

11. The reason that should be stated for the dismissal is that by reason of the Council's appropriation of the land by decision of the Land and Administration Committee on 21<sup>st</sup>. June 1984 the land was thereafter held on the statutory purposes of sections 9 and 10 of the Open Spaces Act

1906, and the usage made of the land by the local inhabitants thereafter was not 'as of right'.

12. If there is any further assistance I can give to those instructing me, can they not hesitate to contact me in chambers.

Leslie Blohm QC

St. John's Chambers,

101 Victoria St.

Bristol,

BS1 6PU

23<sup>rd</sup>. June 2010

APPENDIX (5) 3B

AT A MEETING OF THE LAND AND ADMINISTRATION COMMITTEE  
HELD ON THE 21ST JUNE 1984

Present:- Councillor Bassett (in the Chair)

Councillor Abraham	Councillor Lloyd-Kirk
Councillor Apperley	Councillor Robertson
Councillor Hillman	Councillor Tatlow
Councillor Mrs. Lippitt	Councillor Walton

Apologies for absence were received from Councillor Browne and Councillor Miss Myers.

16.6/84 MINUTES

RESOLVED - that the Minutes of the Land and Administration Committee held on the 4th June, 1984, be confirmed as a correct record and signed by the Chairman subject to the following amendment:

that the resolution contained in Minute No. 3.6/84 be amended to read as follows:

"that Mr. Walton be elected Vice-Chairman for the ensuing Municipal Year".

17.6/84 URBAN AID - BRISTOL VICTIMS SUPPORT SCHEME

Read the report of the City Clerk, item 1 of Appendix 'A' attached.

RESOLVED - that the report be noted and that the City Clerk be requested to refer the matter to the Department of the Environment for appropriate approval.

18.6/84 LAND ADJOINING 95 BEDMINSTER DOWN ROAD

Read the report of the City Clerk, item 2 of Appendix 'A' attached.

RESOLVED - (1) that the report be noted; and  
(2) that the Acting City Valuer be authorised to negotiate terms for the disposal of the land adjoining 95 Bedminster Down Road and to submit a further report in due course.

19.6/84 823-825 BATH ROAD, BRISLINGTON

Read the report of the City Clerk, item 3 of Appendix 'A' attached.

RESOLVED - that the City Clerk be authorised to affix the City Seal to a Deed of Grant formalising the County Council's existing rights as outlined in the report.

20.6/84 CODE OF PRACTICE ON COMMITTEE PUBLICITY

Read the report of the City Clerk, item 4 of Appendix 'A' attached.

- RESOLVED - (1) that the report be noted; and  
(2) that this Committee adopts the revised Code of Practice as set out therein.

21.6/84 SHEENE ROAD, BEDMINSTER - PROPOSED DEVELOPMENT

Read the report of the City Clerk, item 5 of Appendix 'A' attached.

The City Planning Officer reported that this matter had also been considered at the Planning and Traffic Committee on the previous day held on the 20th June, 1984. The Planning and Traffic Committee had asked for a further report and the City Planning Officer stated he hoped to report back to the Planning and Traffic Committee on the 19th July, 1984.

- RESOLVED - that the report be noted at this stage pending consideration of a further report by the Planning and Traffic Committee on the 19th July, 1984.

22.6/84 GYPSIES

Read the report of the City Clerk, item 6 of Appendix 'A' attached.

The City Clerk briefly enlarged on the submitted report and clarified that it was the County Council's responsibility to provide gypsy caravan sites but it was a District Council's responsibility to provide the facilities and to manage and maintain such a facility albeit at the cost of the County. In addition he referred to the petition which had been submitted to the last meeting of the City Council by Councillor Mrs. Topham regarding gypsies on the site of the proposed Horfield Sports Centre at Dorian Road.

Considerable discussion ensued on the report and it was -

- RESOLVED - (1) that the report be noted; and  
(2) that the matter be referred to the Resources and Co-ordination Committee and that they be strongly recommended to instigate urgent action.

23.6/84 APPOINTMENT OF REPRESENTATIVES - HARTCLIFFE/WITHYWOOD SUB-COMMITTEE

Read the report of the City Clerk, item 7 of Appendix 'A' attached.

- RESOLVED - that Councillor Mrs. Lippitt and Councillor Walton be appointed as this Committee's representatives on the Hartcliffe/Withywood Joint Sub-Committee for the 1984/85 Municipal Year.

24.6/84 GENERAL RATE ACT 1967 SECTION 40

Read the report of the City Treasurer, item 1 of Appendix 'B' attached.

1. Mandatory Relief

RESOLVED - that the report be noted.

2. Discretionary Relief

RESOLVED - that the Association of Model Railway Clubs, Alcove Road be granted 50% Discretionary Rate Relief.

25.6/84 MONTHLY RATE COLLECTION REPORT

Read the report of the City Treasurer, item 2 of Appendix 'B' attached.

RESOLVED - that the report be noted.

26.6/84 EASTON COMMUNITY ASSOCIATION

The City Treasurer reported that at the time of preparation of the Agenda, a report concerning Easton Community Association was to be prepared. However, the matter had since been resolved by the Officers and there was no longer any need for a report to be submitted on this matter; therefore the report had been withdrawn.

RESOLVED - that the information be noted.

27.6/84 REPORT OF THE DOCKS COMMITTEE - NISSAN (U.K.) LIMITED - LAND AT ROYAL PORTBURY DOCK

Read the report of the Docks Committee, Appendix 'C' attached.

RESOLVED - that the Council be advised that this Committee has no observations to offer on this report.

28.6/84 ASSOCIATION OF DISTRICT COUNCILS - OFFICER ADVISOR

Read the report of the Chief Executive, Appendix 'D' attached.

Several Members expressed concern that the Press Officer should be permitted to serve on the Public Relations Sub-Committee of the Association of District Council having regard to the fact that there was no firm indication as to what the commitment or involvement might be.

Considerable discussion ensued on this matter and it was moved by Mr. Robertson seconded by Ms. Tatlow:-



"that the request that the Press Officer serve on the Association of District Councils' Public Relations Sub-Committee as an Officer Advisor be refused."

On being put to the vote the motion was declared carried with five Members voting in favour and four against.

RESOLVED - that the request that the Press Officer serve on the Association of District Councils' Public Relations Sub-Committee as an Officer Advisor be refused.

29.6/84 REPORT OF THE OPEN SPACES AND AMENITIES COMMITTEE -  
STOKE CLIFF HOUSE, STAPLETON - DEDICATION OF OPEN SPACE

Read the report of the Open Spaces and Amenities Committee, Appendix 'E' attached.

RESOLVED - that this Committee note that the Open Spaces and Amenities Committee wish to raise no objection to the minor alteration of the boundary line of the area to be adopted for future maintenance as set out on the attached plan.

30.6/84 RECEPTION AND TELEPHONE FACILITIES IN THE PLANNING DEPARTMENT

Read the report of the City Planning Officer, item 1 of Appendix 'F' attached.

- RESOLVED - (1) that the alterations to the accommodation and telephone systems in the Planning Department be approved; and
- (2) that the report be submitted to the Resources and Co-ordination Committee requesting a supplementary estimate; and
- (3) that the report be submitted to the Planning and Traffic Committee for their information.

31.6/84 POLICY REPORT ON SUPERSTORES AND RETAIL WAREHOUSES

Read the report of the City Planning Officer, item 2 of Appendix 'F' attached.

The City Planning Officer enlarged on the submitted report for the information of Members present.

In reply to a question raised by Mr. Walton concerning the list of sites identified for Superstores and Retail Warehouses the City Planning Officer confirmed that this list was not exhaustive and if a situation arose where land became available and there was an opportunity that a superstore could be located then it could be included on the list if necessary. The City Planning Officer also pointed out that if the sites listed were developed in addition to the existing sites which were used for Superstores and Retail

Warehouses every house in the City would be within five minutes drive of such a facility. He pointed out this would be an extremely high provision if ever achieved.

In reply to a further question put by Mr. Robertson about provision of stores outside the City, the City Planning Officer confirmed that account had been taken of the facilities provided in the districts adjoining the City.

Ms. Tatlow expressed concern that the "Policy Report on Superstores and Retail Warehouses" had been prepared without consideration being given to the impact on local shopping. She referred to the importance of local shopping facilities and felt that every effort should be made to prevent the decline of local provision. Specifically referring to List D, Ms. Tatlow stated she was confused over the contents and referred to the fact that if the East Street Site was developed it would not be necessary for the site of the glue works and the UEM Site to be developed also.

In reply the City Planning Officer referred to the figures contained on pages 12 to 16 which highlighted the decline in local provision of corner/convenient shops. He regretted the fact that there had been a fifty per cent decline in recent years and unfortunately this trend still continued. However, the trend was the same in all parts of the City and not only in areas where superstores were located. He did point out however that with the creation of superstores and the loss of the small corner shop there had been no overall loss in employment but there had been certainly a change in the shopping pattern. With regard to Ms. Tatlow's specific concern about the opportunities in the Bedminster Area the City Planning Officer confirmed that if the East Street site was to be redeveloped then there would be no necessity to redevelop the glue works or the UEM site for similar purposes.

Mr. Abraham expressed his concern at the trend of the reduction of small shops and suggested that this Committee should perhaps examine this problem at a future date. He referred to the fact that many sections of the public could not and would not be able easily to get to large superstores because of transport difficulties and costs and very often these were the people who could least afford higher costs. He suggested that perhaps there was a need for further consideration to be given to aiding transport projects for non-transport owners.

After further discussion it was -

RESOLVED - that the Planning and Traffic Committee be advised of the comments made by this Committee.

32.6/84 PLANNING BRIEF FOR THE IMPERIAL SITE, EAST STREET/CORONATION ROAD  
BEDMINSTER

Read the report of the City Planning Officer, item 3 of Appendix 'F' attached.

The City Planning Officer enlarged in detail on the submitted report.

As a general observation Mr. Walton stated that he hoped the site would be used to its full potential and that it would be a mixed development. With regard to the retail provision he welcomed this suggestion and hoped that it would revitalise the shopping area of Bedminster. Concerning housing he hoped that this would be in keeping with the remainder of the area and would be of a modest nature at prices which could be easily afforded by the majority of people. He also endorsed the proposals in respect of car parking provision which he considered necessary. With regard to the amenity input into the site Mr. Walton referred to the extremely small opportunity in the Bedminster Area for amenity facilities and there was potential for this in this area to incorporate such provision.

Mr. Walton also referred to the fact that the City Council also owned some property in the land identified in the Planning Brief and expressed the hope that it would be brought up to the necessary standard.

In response to the point about the revitalisation of the area the Acting City Valuer commented that if a redevelopment package could be secured this would have the overall effect of revitalising and giving renewed confidence to the whole area.

After further discussion on this report it was -

RESOLVED - that the comments of this Committee be referred to the Planning and Traffic Committee.

33.6/84 CENTRAL AREA CAR PARKING

Read the report of the City Planning Officer, item 4 of Appendix 'F' attached.

The Chairman referred to the estimated loss of revenue of £10-£12,000 and enquired whether this was accurate bearing in mind that should parking rates be reduced there was a possibility that more people might use the facilities. In addition the Chairman enquired whether lower charges for car parks would have any effect on private car parks in the area and also referred to arrangements for local traders contributions.

In reply the City Planning Officer confirmed that the loss of revenue estimate was accurate as far as could be established having regard to the information available to the Officers at the moment. It did not however, include any potential contribution from traders.

With regard to local arrangements for shopping areas the City Planning Officer referred to the arrangements which appeared to be fairly successful at the Berkeley Place car park in conjunction with the Queen's Road traders. The City Planning Officer also suggested that if greater publicity was given to parking and parking prices in the City it might encourage more persons to use the multi-storey car parks.

Mr. Walton suggested that it might be appropriate if this arrangement was reviewed after a year so that the matter could be re-assessed.

Mr. Lloyd-Kirk referred to the parking difficulties in residential areas of the City particularly in Clifton and suggested that further consideration should be given to introducing residents parking schemes.

In reply to a question raised by Mr. Abraham the City Planning Officer explained that it was only proposed to restrict parking on the forecourts of the premises in Queen Square and that the meter parking around the square itself would remain as at present. He did however refer to the additional parking which had been created in the Queen Square area in recent years at The Grove which should have assisted greatly in the parking provision for the Queen Square offices.

After further discussion on this matter it was -

RESOLVED - that the comments of this Committee be referred to the Planning and Traffic Committee.

34.6/84 4-14 QUARRY STEPS, CLIFTON

Read the report of the City Planning Officer, item 5 of Appendix 'F' attached.

RESOLVED - that the Planning and Traffic Committee be advised that this Committee welcomes this report.

35.6/84 BUCHANANS WAREHOUSES AND ASSOCIATED LAND

Read the report of the City Planning Officer, item 6 of Appendix 'F' attached.

The City Planning Officer enlarged on the submitted report and in doing so confirmed that the Planning and Traffic Committee at its meeting held on 20th June, 1984, had approved the recommendations contained therein.

The City Planning Officer referred to the poor state of the building and of the necessity to carry out repair works to the roof to prevent further deterioration in the fabric of the building.

Several Members expressed concern over this proposal especially if it was possible to secure redevelopment of the building prior to the worst of the winter weather commencing.

The Acting City Valuer reported that it was possible that weather protection work would cost approximately £50,000 but this was only a rough estimate.

After further discussion it was -

RESOLVED - (1) that this Committee note the recommendation of the Planning and Traffic Committee but there be no change in the land use policy for the Buchanan's Warehouse site at the present time; and

- (2) that the Acting City Valuer be instructed to re-explore the market for the redevelopment of the Buchanans Warehouse as soon as possible to avoid for consideration of the question of repairs being undertaken if possible by the City Council.

36.6/84 MEADOW STREET/STRATTON STREET - BROADMEAD SHOPPERS CAR PARK

Read the report of the Acting City Valuer, and City Engineer, Appendix 'G' attached.

- RESOLVED - (1) that this Committee approves the report and requests the Resources and Co-ordination Committee and the City Council to release the monies from the 1984/85 Capital Programme; and
- (2) that this Committee authorises the City Engineer to invite tenders for Broadmead Shoppers Car Park from firms listed on the City Council's standing list of tenderers for roadworks of between £50,000 to £100,000.

37.6/84 REPORT OF THE ACTING CITY VALUER

Read the report of the Acting City Valuer, Appendix 'H' attached.

1. Land at Sturdon Road, Bedminster

- RESOLVED - (1) that the report be noted; and
- (2) that the Acting City Valuer submit a further report to the next meeting.

2. Land at the Junction of Henleaze Road and Eastville Terrace - Proposed Sale

3. 116 York Road, Bedminster - Proposed Sale

The City Clerk explained that it was now proposed that if an immediate Conveyance of the freehold was granted, the purchaser should grant the owner a pre-emption right for a limited period in the event of default in refurbishment.

4. Land at Cotswold Road, Bedminster - Appropriation

5. Avonmouth Trading Estate Land at Fifth Way - Anglo Molt Construction Limited/Good Year Tyres

6. Land at Winterstoke Road, Bedminster and the site of 46 Wellington Road, St. Pauls - Land Exchange with Avon County Council

- RESOLVED - that the reports be accepted and the recommendations as set out therein be approved and adopted subject to the approval of the City Council where necessary.

7. Hangrove Park Industrial Estate - Lease to T.A.V.R.A. for Western Wessex

The City Planning Officer reported that the Planning and Traffic Committee at their meeting held on the 20th June, 1984, had refused their approval of the proposal in respect of this land.

It was moved by Mr. Robertson, seconded by Ms. Tatlow -

"that having regard to the decision taken by the Planning and Traffic Committee, this Committee does not approve the proposed lease to T.A.V.R.A. for 125 years of the land in question."

On being put to the vote the motion was declared carried with five members voting in favour and four against.

- RESOLVED - that having regard to the decision taken by the Planning and Traffic Committee this Committee does not approve the proposed lease to T.A.V.R.A. for 125 years of the land in question.

8. Land at Goulter Street and Netham Road - Proposed Exchange with Eagle Coaches

- RESOLVED - (1) that subject to contract and the approval of the City Council this Committee approves an exchange of freehold interest between the City and Eagle Coaches; and
- (2) that the Planning and Traffic Committee be requested to give favourable consideration to the planning application by Wardvale Limited on behalf of Kenneth Needs for the development of Beaconsfield Street.

9. 132/138 Grosvenor Road, St. Pauls - Shop Development - Acceptance of Tender

- RESOLVED - (1) that this Committee accepts the tender from the City of Bristol DLO in the sum of £110,448.12 in connection with the redevelopment of 132/138 Grosvenor Road, St. Pauls; and

- (2) that the Resources and Co-ordination Committee be requested to approve the additional expenditure of £36,450 plus fees of £11,050 in connection with this scheme.

10. Grange Farm, High Street, Portishead

RESOLVED - that the Acting City Valuer on behalf of the City Council be authorised to make a planning application jointly with Messrs. Fletcher Builders for planning permission for residential purposes in connection with the proposed development for residential purposes of land at Grange Farm, High Street, Portishead.

11. 4 Cabstand, Portishead - Lease Renewal

RESOLVED - that Mr. and Mrs. F. Bennett be granted a further fifteen years lease with effect from the 1st January, 1984 on the conditions as set out in the report subject to contract and to the City Council's approval.

12. 24 High Street, Portishead - Lease Renewal

RESOLVED - that Kiosks (West of England) Limited be granted a renewed lease for a further fifteen years from the 21st December 1984 on the terms and conditions as set out therein and subject to Coult & Co. the City Council's approval.

13. Howes Road, St. Pauls, Bristol - Proposed Development by Avon and Bristol Federation of Boys' Clubs

RESOLVED - that this Committee has no objection to the disposal of the freehold interest of land at Howes Road, St. Pauls, Bristol to the Avon and Bristol Federation of Boys' Clubs subject to contract, to the conditions set out in the report and City Council approval.

14. Shell House, Wine Street - Chiselhurst Investments Limited - Lease restructure

15. 51/53 Broadmead and 33 Merchant Street - John Collier Menswear Limited - Lease restructure

15. 55/57 Broadmead - John Collier Menswear Limited - Lease restructure

17. 10-16 The Horsefair - U.B.M. Pension Trust Limited - Lease restructure

RESOLVED - that the reports be accepted and the recommendations as set out therein be approved and adopted subject to the approval of the City Council where necessary.

18. Staple Hill Bus Depot - Sale of freehold

RESOLVED - that the sale of the freehold to W.D.M. Ltd. on the terms set out in the report be approved, subject to contract and to City Council approval.

19. Brunswick House, Upper York Street - Sale

Mr. Robertson moved, seconded by Mr. Walton - "that the request from SAC Technology Group to purchase the freehold of Brunswick House, Upper York Street for £145,000 be refused."

Mr. Abraham moved, as an amendment seconded by Mr. Apperley - "that the City Council be informed of the new information submitted by SAC Technology Group Limited as set out in Appendix 'D' to the report."

On being put to the vote the amendment was declared lost with four Members voting in favour and five against.

Mr. Robertson's motion was then put to the vote and it was -

RESOLVED - (five Members voting in favour and four against) that the request from SAC Technology Group Limited to purchase the freehold of Brunswick House, Upper York Street for £145,000 be refused.

20. Assets Review/Capital Receipts - Monthly Report

The Acting City Valuer pointed out that the Appendix attached to the report had several typing errors contained therein.

RESOLVED - that the Officers be instructed to submit a corrected report to the next meeting of the City Council.

Mr. Abraham gave notice of his intention to move, at the next meeting, the rescission of the decisions taken in respect of Item No. 7 - Hengrove Park Industrial Estate - Lease to T.A.V.R.A. for Western Wessex and Item No. 19 - Brunswick House, Upper York Street - Sale.

38.5/84 EXCLUSION OF PRESS AND PUBLIC

RESOLVED - that the press and public be excluded from the remainder of the meeting on the grounds that publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted.



In view of the City Clerk's assurance regarding the protection of the Council's interest, it is considered appropriate to allow the matter to proceed on this basis.

#### RESOURCE IMPLICATIONS

There will be a capital receipt of £8,100.

IT IS RECOMMENDED THAT, subject to the comments of the City Clerk, made at the meeting, the Committee approves the conveyance of the land interest to Mr Simmons before the works of refurbishment are completed.

#### 4. Land at Cotswold Road, Bedminster - Appropriation

The 1.25 acres of steeply sloping land shown coloured pink on the plan displayed have been declared surplus to requirements by the Housing Committee.

Your Committee has agreed to appropriate the land from Housing purposes to Open Space purposes and it is considered that a fair appropriation figure is £3,000.

#### RESOURCE IMPLICATIONS

Land : Transfer of 1.25 acres of land from Housing to Open Space purposes.

Finance : An annual maintenance allocation of £500 p.a. should be transferred from Housing Maintenance Budget to Open Space Amenities Committee Revenue Budget.

IT IS RECOMMENDED THAT the Committee approves, and the accounts of the City be adjusted accordingly.

#### 5. Avonmouth Trading Estate, Land at Fifth Way - Anglo Holt Construction Ltd/Goodyear Tyres

On the 23rd February, 1984, the Committee approved terms provisionally agreed with the Goodyear Tyre & Rubber Co. (G.B.) Ltd., to grant the Company or its Nominees a 12 month building agreement and 125 year lease of the site shown by pink colour on the plan displayed. This site would be used for the development of a new distribution depot for Goodyear Tyres at an initial ground rent of £16,750 p.a. excl., reviewed at 5 year intervals.

Goodyear Tyres have since tendered a development package to accommodate their requirements and have reached agreement with the Building Company Anglo Holt Construction Ltd., who will erect the accommodation for the depot and, as Nominees, would enter into the Building Agreement with the City.

A full planning application has been submitted which is currently under consideration. This will provide for a new warehouse depot situated at the back of the M5 Motorway, which in its first stage will have an area of approximately 33,640 sq.ft. of accommodation. The site which has an area of approximately 2.58 acres is large enough to allow for the expansion of the building in due course, which is part of the Goodyear proposals.

Anglo Holt Construction Ltd., have been in discussion on the transaction and have, for funding reasons, asked if the City will be prepared to restructure the financial arrangements in order that the rent review can be based upon the initial building erected upon the site. The following terms have been provisionally agreed subject to contract with the Company.

1. The site will be developed under a building agreement followed by a 125 year lease by Anglo Holt Construction Ltd., who will build a new warehouse depot on the site for the intended occupier Goodyear Tyre & Rubber Co. (G.B.) Ltd.

2. Upon completion of the development Anglo Holt will be granted a 125 year lease of the site at an initial ground rent of £14,000 p.a. excl. The lease will be preceded by an 18 month building agreement. During the first 12 months payments will be made to the City at a rate of £7,000 p.a. excl., rising to £14,000 p.a. excl., during the remaining period.

3. To reflect the reduction in ground rent Anglo Holt Construction Ltd., will pay the City a premium of £32,000 upon the grant of the lease. Interest will be charged on this premium from the date that the building agreement is signed until the time that the lease is granted.

4. The rent will be reviewed at 5 year intervals during the course of the lease.

5. Anglo Holt will pay the City's legal costs and surveyor's fees.

Anglo Holt Construction Ltd. have asked if the Committee would be prepared to consider granting the lease to Anglo Holt's Nominees when the development programme is completed, and in the circumstances this request is considered reasonable.

#### RESOURCE IMPLICATIONS

No net expenditure is involved in this transaction.

IT IS RECOMMENDED THAT the Committee rescinds its previous decision and approves the report as set out.

#### Land at Winterstoke Road, Bedminster and the Site of 46 Wellington Road, St. Pauls - Land Exchange with Avon County Council

The site of 46 Wellington Road, shown by blue colour on the displayed and extending to 110 sq.yds. approximately, is owned by the County Council, and is required by the City for redevelopment and consolidation of ownership in the site bounded by Houlton Street/Clement Street/Moreton Street/Wellington Road where the Committee has agreed in principle that negotiations be opened with Western Counties Ltd., who are seeking to obtain planning permission for development of the area with a motor car showroom and workshops. The site at Winterstoke Road shown by pink colour

on the plan displayed and extending to 700 sq.yds. approximately as shown by the City and is required by the County Council in connection with the road works related to the recently opened Smith's Do-It-All.

It has been provisionally agreed, subject to contract to exchange the areas of land on the following terms :-

- i) The County Council to convey the freehold interest in the site of the former 46 Wellington Road to the City Council with vacant possession.
- ii) In consideration the City Council will convey the freehold interest in the land at Winterstoke Road now forming part of the highway.
- iii) No monetary consideration to pass between the Authorities in respect of this transaction.
- iv) Each party to bear their own costs incurred in this transaction.

#### RESOURCE IMPLICATIONS

No net expenditure is involved.

IT IS RECOMMENDED THAT the Committee approves.

#### 7. Hengrove Park Industrial Estate - Lease to TAVRA for Western Wesser

On 19th April, 1984, the Committee authorised the Acting City Valuer to finalise negotiations for the lease of the site shown by pink colour on the plan displayed and extending to 2.18 acres approx. to the Territorial Auxiliary Voluntary Reserve Association for Western Wesser for the development of a new T.A. Centre.

It has been provisionally agreed, subject to contract and the approval of the City Council, to grant the T.A.V.R.A. a lease for 125 yrs from 1st Jan 1985 to be agreed which will be preceded by a Building Agreement for 18 months. The T.A.V.R.A. will pay a premium of £294,000 and a peppercorn with 50% of premium being paid on the signing of the Building Agreement and the balance on the signing of the lease.

The Association will pay the City's legal costs and surveyor's fee and the planning application under D. of E. Circular 7/77 has been submitted to the Planning & Traffic Committee. A copy of this report is attached as Appendix A and will be considered by the Planning & Traffic Committee on 20th June, and the Committee will be advised verbally of the decision.

#### RESOURCE IMPLICATIONS

Finance : There would be a capital receipt of £294,000.

Land : This land has an area of approximately 2.18 acres.

Personnel : Nil.

IT IS RECOMMENDED THAT the Committee approves.

#### Land at Goulter Street and Netham Road - Proposed Exchange with Eagle Coaches

The site shown by pink colour on the plan displayed and extending to 1.18 acres approximately is zoned for industrial use and has remained derelict for many years although various proposals for its redevelopment have been put forward and further site consolidation has taken place in the last 4 years.

In 1981 the Committee agreed to grant a 125 years lease to Kenneth Needs (Contractors) Ltd. at a ground rent of £6,750 p.a. excl. for the erection of 18,000 sq.ft. of industrial and warehousing accommodation. Subsequent discussions with the City Planning Officer identified the need for additional space around the buildings and the Committee then agreed in 1982 to purchase 42 Queen Anne Road at a cost of £21,000.

A revised planning application was submitted in respect of 8 units totalling 18,645 sq.ft. and considered in June, 1983. The Planning & Traffic Committee resolved that permission be refused for the following reasons :-

"the application for these industrial units is premature pending the provision of better alternative vehicular access to the residential area adjoining by means of an improvement to the junction of Queen Anne Road/Goulter Street and closure of the junction between Salisbury Street and Canterbury Street."

The Planning & Traffic Committee did however indicate :-

"that the applicant be advised that in the event of a suitable highway scheme being drawn up to alleviate potential highway problems in the area, this Committee may give further favourable consideration to a future application".

The land, shown by green colour on the plan, at the junction of Goulter Street is that owned by Eagle Coaches. The Company has, for many years, been aware that the residents in this area have been unhappy with their operation and indeed did consider relocating to Beaconsfield Street, but found the cost of that site too high for them to cope with as a private company.

Nevertheless, while the Company remains at Goulter Street there is the need for a junction improvement and also there is no prospect of closing the Salisbury Street/Canterbury Street junctions.

The Company has reaffirmed its willingness to relocate but has stressed that in view of its local operations, particularly school work, it has to remain in close proximity to the current location.

The site at Netham Road, shown by blue colour on the plan extending to 1.46 acres, is at the end of a cul-de-sac within an industrial estate and with the benefit of immediate access to the comparatively nearby improved Netham Road which will enable the Company to avoid residential areas and in particular will overcome the problem of noise when coaches return late in the evening. For a location in this area this is the only site

available in City ownership and the only other course of action open to the Council to achieve the two objectives of relieving the residential area and to effect the release of the industrial site, would be to acquire the Coulter Street premises which could have a serious effect on the remainder of the Company's operations at Lawrence Hill and Soundwell and perhaps result in a fairly substantial claim for compensation being received.

Eagle Coaches have, subject to contract, offered to exchange property with the City on the basis of full exchange and on the understanding that each party will pay its own costs.

In order to resolve this situation the Committee is recommended to approve, subject to contract and the approval of the City Council, an exchange of freehold interests between the City and Eagle Coaches and requests the Planning & Traffic Committee to give favourable consideration to the planning application by Wardvale Ltd. on behalf of Kenneth for the development of Beaconsfield Street.

IT IS RECOMMENDED THAT the Committee approves.

9. 132/138 Grosvenor Road, St. Pauls - Shop Redevelopment - Acceptance of Tender

On the 20th October, 1983, the Committee authorised the redevelopment of these premises and appointed The Kendall Kingscott Partnership as project Architects. Tenders were subsequently invited and were opened by the Chairman on the 13th June, 1984, as follows :-

<u>Contractor</u>	<u>Fixed Price</u>
Wilkins & Coventry Ltd.	No tender submitted
Henry Willcock & Co. Ltd.	£112,299.00
C.H. Pearce & Sons Ltd.	£134,997.00
Hayward & Wooster Ltd.	Unable to tender
City of Bristol D.L.O.	£110,448.12
Avonmouth Construction Co. Ltd.	£130,736.00
C.H. Beazer (Construction) Ltd.	£113,146.00

RESOURCE IMPLICATIONS

Finance: The Committee has approved expenditure of £74,000 from the Land Development Group Capital Programme in 1983/4.

IT IS RECOMMENDED THAT the Committee approves the expenditure and requests the Resources and Co-ordination Committee and Council to approve the additional expenditure of £36,450 plus fees of £11,050.

10. Grange Farm, High Street, Portishead

Grange Farm consists of the land coloured pink upon the plan submitted having an area of approximately 1.8 acres and is the subject of an existing tenancy to G.R. and P.J. Hawking - at a rent of £1,500 p.a.

The land is zoned for residential purposes and in 1978 a planning application was made on behalf of the City for its residential development.

objections at the time were raised to the proposals and the application did not proceed. Fletcher Builders own the land coloured blue upon the plan and access to any development would require to be through this piece of land, the City having negotiated rights of access over this land subject to agreement with Messrs. Fletchers.

As part of the programme of realisation of capital assets this matter has recently been taken up with Woodspring's Director of Planning and he has advised that "a further application for its residential development might well be considered favourably with the proviso that all vehicular access is obtained from St. Peter's Road across the land to the west of No. 166, High Street."

Although the tenants are working farmers, the farmhouse and buildings are isolated from the land which is worked. Clearly any redevelopment of the site would have a very adverse effect upon the farm as a whole and there is likely to be opposition from the tenants.

If the Committee feel that they would wish to proceed with the development of this land it is suggested that, as Messrs. Fletcher Builders are involved through their ownership of the blue land, that they make a planning application jointly with the City for planning permission for residential purposes, which will incur expenditure of approximately £50,000.

The Committee's instructions are requested.

11. Cabstand, Portishead - Lease Renewal

These premises are occupied by Mr & Mrs F. Bennett on a 14 years lease from the 1st January, 1971 at a rent of £925 p.a. exclusive. The property is used as a newsagent's shop.

Following negotiations it has been provisionally agreed to grant Mr & Mrs Bennett a further lease on the following terms :-

1. The lease to be for a period of 15 years from 1st January, 1984.
2. The initial rent to be £2,500 p.a.excl., with upward reviews at 5 yearly intervals.
3. The remaining terms will be similar to those in the existing lease.
4. The lessee to pay the City Clerk's legal costs and a surveyor's fee of £25.

RESOURCE IMPLICATIONS

The City will receive additional income of £1,575 p.a together with the benefit of the future reviews.

IT IS RECOMMENDED THAT the Committee approves.

12. High Street, Portishead - Lease Renewal

These premises are occupied by Kiosks (West of England) Ltd. on a 14 years lease from 21st December, 1970, at a rent of £1,500 p.a. excl. The property is used as a Newsagent's shop.

KB



Following negotiations it has been provisionally agreed to grant a lease (West of England) Ltd. a further lease on the following terms:-

1. The lease to be for a period of 15 years from the 21st December, 1988.
2. The initial rent to be £3,000 p.a. excl., with upward rent reviews at 5 yearly intervals.

The remaining terms will be similar to those contained in the existing lease and the lessees will pay the City Clerk's legal costs and a surveyor's fee of £25.

#### RESOURCE IMPLICATIONS

The City will receive additional income of £1,500 p.a. together with the benefit of the future reviews.

IT IS RECOMMENDED THAT the Committee approves.

#### 13. Howes Road, St. Pauls, Bristol - Proposed development by Avon & Bristol Federation of Boys' Club

The site shown by pink colour on the plan displayed, extending to approximately 0.63 of an acre, is situated at the junction of Cleavant and Wellington Road, St. Paul's adjacent to the M32 and the Frome Valley Riverside Park. The Avon & Bristol Federation of Boys' Clubs has been interested in developing this site for several years in order to replace outdated buildings in Broad Plain. The site was previously used as a Hand Car Spares Depot by a Scrap Dealer and is now vacant. The site is owned by the City Council and forms part of the M32 Frome Valley Corridor for which leisure and recreation uses are proposed by the City Planning Officer. The Federation has now obtained planning permission for the development of this site. The proposed development consists of a one and two storey building together with surface car parking.

The Federation has now raised a substantial portion of the £400,000 needed for the construction of the building and the fitting out, of which £200,000 is by way of a grant by the Sports Council. The Federation has asked the City Council consider the donation of this land in order that the development may proceed. A letter setting out the Federation's request to their Solicitors, Messrs. Andrew Sims and Teague is attached in Appendix 1.

The main points made are that the Federation is a charitable concern and Charity Commission approval is necessary for the sale of the Anvil Street premises and the use of the proceeds in the new project. As these premises are held on a freehold basis, they have asked that the City donate the freehold of the site as a leasehold interest would be considered a better asset by the Commission.

If the Committee is disposed to agree to the Federation's request, set out, the principal terms of the transaction would be as follows, subject to contract:-

1. The City to dispose of the freehold interest for the sum of £1,000,000.
2. The Federation will take the site in its existing condition and will be responsible for all demolition works and clearance of the existing buildings together with the fencing of the site. It is considered that the cost of demolition would be in the region of £9,000.

The Federation will develop the site in accordance with the approved plans.

The Federation will be responsible for the provision of services on the site.

The conveyance will contain a covenant restricting the development of this site to social and philanthropic purposes.

Each party will bear its own costs.

For the Committee's information, on the basis of the present zoning of the site, it is estimated that the Capital Value of the land is in the order of £5,000.

#### RESOURCE IMPLICATIONS:

Finance: The City will incur no net expenditure.

Land: The site extends to 0.63 of an acre.

Personnel: Nil.

The Committee's instructions are requested.

#### 14. Shell House, Wine Street - Chislehurst Investments Ltd - Lease Restructure

Shell House, comprising approximately 40,000 sq.ft. of office and showroom accommodation, is at present let to C.L.N. Properties Ltd. for a term of 99 years expiring in the year 2057 at a non-reviewable ground rent of £6,500 p.a. excl.

Following negotiations it has been provisionally agreed, subject to contract, to accept a surrender of the present lease and to grant a new lease to Chislehurst Investments Ltd., or their Nominees, on the following terms:-

1. The lease to be for a term of 125 years.
2. The initial ground rent to be £3,400 p.a. excl., subject to review to 2.5% of open market rental value on the 25th March, 1989, and thereafter at 5 year intervals. The City to reserve the right to review the review interval at any time after the 25th March, 2004, but not more frequently than every 20 years.
3. The new lessee to pay a premium of £270,000 together with the City's legal costs.
4. These terms to be subject to the confirming approval of the City Council.

#### RESOURCE IMPLICATIONS

Capital: There will be a capital receipt of £270,000.

Revenue:		
	<u>Existing</u>	<u>Revised</u>
Rental Income	£6,500 p.a.	£ 3,400 p.a.
Interest on	-	£29,700 p.a.
Capital Receipt	<u>£6,500 p.a.</u>	<u>£33,100 p.a.</u>

Additionally there will be the benefit of future reviews of the rent review interval.

IT IS RECOMMENDED THAT the Committee approves.

15. 51/53 Broadmead and 33 Merchant Street - John Collier Menswear Ltd - Lease Restructure

This prime retail shop is at present let to John Collier Menswear Ltd. for a term of 99 years expiring in the year 2055 at a non-reviewable ground rent of £1,000 p.a. excl.

Following negotiations it has been provisionally agreed, subject to contract, to accept a surrender of the present lease and to grant the Lessee a new lease on the following terms:-

1. The lease to be for a term of 125 years.
2. The initial ground rent to be £2,250 p.a. excl. subject to review to 2.5% of open market rental value on the 21st December, 1988, and thereafter at 5 year intervals. The City to reserve the right to review the review interval but not more frequently than every 20 years.
3. The Lessee to pay a premium of £325,000, together with the City's legal costs.
4. These terms to be subject to the confirming approval of the City Council.

RESOURCE IMPLICATIONS

Capital : There will be a capital receipt of £325,000.

Revenue :	<u>Existing</u>	<u>Revised</u>
Rental Income	£1,000 p.a.	£ 2,250 p.a.
Interest on Capital receipt	-	£35,750 p.a.
	<u>£1,000 p.a.</u>	<u>£38,000 p.a.</u>

Additionally there will be the benefit of future reviews of the rent review interval.

IT IS RECOMMENDED THAT the Committee approves.

16. 55/57 Broadmead - John Collier Menswear Ltd - Lease Restructure

These prime retail shops are at present let to John Collier Menswear Ltd. for a term commencing on the 25th November, 1958, and expiring on the 25th day of February 2055, at a non-reviewable ground rent of £2,800 p.a. excl.

Following negotiations it has been provisionally agreed, subject to contract, to accept a surrender of the present lease and to grant the Lessee a new lease on the following terms:-

1. The lease to be for a term of 125 years.
2. The initial ground rent to be £2,900 p.a. excl. subject to review to 2.5% of open market rental value on the 24th June, 1989, and thereafter at 5 year intervals. The City to reserve the right to review the review interval but not more frequently than every 20 years.
3. The Lessee to pay a premium of £460,000, together with the City's legal costs.
4. The City to be entitled to recover from the Lessee a service charge towards the cost of repairing, maintaining and renewing the surface of the rear service yard.
5. These terms to be subject to the confirming approval of the City Council.

RESOURCE IMPLICATIONS

Capital : There will be a capital receipt of £460,000.

Revenue :	<u>Existing</u>	<u>Revised</u>
Rental Income	£2,800 p.a.	£ 2,900 p.a.
Interest on Capital receipt	-	£50,600 p.a.
	<u>£2,800 p.a.</u>	<u>£53,500 p.a.</u>

Additionally there will be the benefit of future reviews of the rent review interval.

IT IS RECOMMENDED THAT the Committee approves.

17. 10-16 The Horsefair - U.B.M. Pension Trust Ltd. - Lease Restructure

Nos. 10-16 The Horsefair, comprising a retail shop and a coffee house, are at present let to U.B.M. Pension Trust Ltd. for a term of 99 years expiring in the year 2057 at a non-reviewable ground rent of £2,100 p.a. excl.

Following negotiations it has been provisionally agreed to accept a surrender of the present lease and to grant the Lessee a new lease on the following terms, subject to contract:-

1. The lease to be for a term of 125 years.
2. The initial ground rent to be £1,300 p.a. excl. subject to review to 2.5% of open market rental value on the 24th June, 1987, and thereafter at 5 year intervals. The City and the Lessee to reserve the right to review the review interval at any time after the 24th June, 2002, but not more frequently than every 20 years.
3. The Lessee to pay a premium of £170,000, together with the City's reasonable legal costs.

4. These terms to be subject to the confirming approval of the City Council.

RESOURCE IMPLICATIONS

Capital : There will be a capital receipt of £170,000.

Revenue :	Existing	Revised
Rental Income	£2,100 p.a.	£1,300 p.a.
Interest on Capital receipt	-	£18,700 p.a.
	<u>£2,100 p.a.</u>	<u>£20,000 p.a.</u>

Additionally there will be the benefit of future reviews of the rent interval.

IT IS RECOMMENDED THAT the Committee approves.

18. Staple Hill Bus Depot - Sale of Freehold

The Committee will recall that at the March Meeting the following report was withdrawn :-

"This property is currently the subject of a Building Agreement to be followed by a lease to W.D.M. Limited at a rent of £25,000 p.a.

The Council at its meeting on the 11th October 1983, resolved to instruct the Resources and Co-ordination Committee in considering such disposal regard the creation of employment, the provision of land for housing and disposal of assets outside the City as priority considerations.

W.D.M. have indicated that they would wish to purchase the freehold of the premises and terms have provisionally been agreed subject to contract as follows:-

1. The City to sell to W.D.M. Limited the freehold interest, subject to the Building Agreement.
2. The purchase price to be £250,000.
3. W.D.M. Limited to pay a Surveyor's fee of £3,750 and to pay the City legal costs.

RESOURCE IMPLICATIONS:

Capital:- There will be a capital receipt of £250,000.

Revenue:-	Existing	Revised
Rent Income	25,000	-
Interest on Capital Receipt	-	27,500
	<u>25,000</u>	<u>27,500</u>

IT IS RECOMMENDED THAT the Committee approves".

A letter has now been received from Lalonde Brothers & Parham giving reasons why the lessees would wish to have a freehold interest, and this is set out in Appendix C. It is pointed out that these premises are, of course, outside of the City boundary.

An informal approach has been made to the lessees to ascertain whether they would take a 125 year lease of the premises and the outcome of this will be reported verbally.

The Committee's instructions are requested.

19. Brunswick House, Upper York Street - Sale

On the 26th January, the Committee considered the following report:-

"This is a modern four-storey office block which is the subject of a 99 year lease from 19.5.69 at a rent of £1,325 p.a. excl., subject to 25 year reviews. The lessees, SAC Technology Group Limited, have made an offer to purchase the freehold for £145,000 which is considered to be the open market value of these premises. The lessees will, in addition, pay the City's legal costs and make a contribution to surveyor's fees."

The Committee agreed to the sale of the freehold on the terms set out above.

The matter was submitted to Council on 13th March and was not approved.

Since that time a letter and a profile of the Company have been received which is set out in Appendix D.

This gives the reasons why SAC Technology Group Limited wish to acquire the freehold interest in this property.

The Committee's instructions are requested.

20. Assets Review/Capital Receipts - Monthly Report

The Committee is advised of the following summary of property transactions reported to it during the period April 1983 to 4th June, 1984 and which are proceeding.

Category	Anticipated Capital Receipts	Actual Receipts To Date
Assets Review - Broadmead	9,492,450	1,358,825
Assets Review - Others	2,087,446	510,850
Other Transactions	2,080,835	713,810
TOTAL	<u>13,660,731</u>	<u>2,583,485</u>

The following is a summary of fees and costs related to the Broadmead transactions reported to the Committee date :-

Fees paid to Hillier Parker, May & Rowden	£ 267,654
Disbursements to Hillier Parker, May & Rowden	£ 7,088
Fees attributable to the City Valuer's Department	£ 5,979
Fees attributable to the City Clerk's Department	£ 42,327
Fees paid to City Clerk's Department	£ 7,166

Attached as Appendix E is a schedule itemising the above transactions.

IT IS RECOMMENDED THAT the Committee notes this Report.

KB

66 Cotswold Road  
Bristol BS3 4NT

16 July 2010

Ms FM Horner  
Bristol City Council  
Legal Services  
PO Box 2156  
The Council House  
College Green  
Bristol BS99 7

Dear Ms Horner,

I write following receipt of Mr Blohm QC's opinion dated 23<sup>rd</sup> June 2010 rejecting my claim for town green status for Cotswold Road Green. I note that Mr Blohm QC has utilised two new loopholes to reject my application:

1. That even when the council's documentation does not mention it and nothing on the land signifies it, it can be "implied" that a council holds land pursuant to the Open Spaces Act 1906.
2. That the public have a "statutory right" to use land held under the Open Spaces Act 1906.

Neither of these loopholes has ever been recognised by the Courts as valid reasons to resist town green status. Further, despite the Open Spaces Act 1906 being over 100 years old, no case mentions that it provides a "right" to local inhabitants to use the land. Further, it is perverse that when no local inhabitant could possibly find out about such a right and use it for their benefit (since it is only implied and not real), the only body capable of benefiting from this right is in fact the landowner (Bristol City Council) who can use it against the local inhabitants (whom the right is supposed to favour).

I also note that the City Council has used these two loopholes before. In Castle Park, Mr Chapman QC was the inspector who utilised the arguments, then put forward by Mr Blohm QC acting for the City Council as landowner. In this case, the City Council has switched positions, with Mr Chapman QC putting forward the argument for the City Council as landowner and Mr Blohm QC accepting it as inspector.

I draw support from the four House of Lords/Supreme Court decisions in the last decade, all of which have supported applicants for town green status and which have struck down 15 loopholes created by inspectors (mostly by Mr Chapman QC) to defeat town green status. In particular, I will rely upon the case of *R v Sunderland BC (ex p. Beresford)* which in 2004 held that if land was to be used

pursuant to an implied right, this could only be implied by such express and obvious acts as shutting the land entirely or charging for access. No such conduct has ever occurred at Cotswold Road and no conduct at all by the City Council could possibly have brought to any inhabitants' attention that the land was used by license/right. I have brought this case law to the Inspector's attention but he has chosen to ignore it, preferring instead to utilise his/Mr Chapman's new loopholes.

In the circumstances, if the PROWAGC approves the inspector's report, it is my intention to apply for Judicial Review of the decision.

Please bring this letter to the attention of the PROWAGC.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Carlton', with a long horizontal flourish extending to the right.

Dr. Nancy Carlton