

Public Rights of Way and Greens Committee Agenda



Date: Wednesday, 28 June 2023

Time: 2.00 pm

Venue: City Hall

Distribution:

Councillors: Tessa Fitzjohn (Chair), Jude English, John Goulandris, Jonathan Hucker, Philippa Hulme, Chris Jackson, Tim Rippington, Christine Townsend and Andrew Varney

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Date: Tuesday, 20 June 2023



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Agenda

4. Public Forum

Up to 30 minutes is allowed for this item

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Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to democratic.services@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:

Questions - In consultation with the Chair of the committee, public questions will not be permitted at this meeting.

Petitions and Statements - Petitions and statements must be received no later than two clear working days prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 Monday 26 June 2023.



Public Forum - Public Rights of Way and Greens Committee - 28th June 2023



Members of the Public Rights of Way and Greens Committee

Councillors: Tessa Fitzjohn (Chair), John Goulandris (Vice-Chair), Andrew Varney, Jude English, Christine Townsend (Subst. for Cllr Fitzgibbon), Jonathan Hucker, Philippa Hulme, Christopher Jackson, Tim Rippington

FOR TVG APPLICATION

Number	Name	Subject
1	Fiona Evans (Hollyman)	Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006, Section 15(2)
2	John Hollyman	"
3	Anna Caple	"
4	Emma Burgess	"
5	Helen Powell	"
6	Kathy Welham (5 minutes)	"
7	Ian Hughes	"
8	Carolyn Jenkins	"
9	Peter Ring	"
10	Chris Thomas	"
11	Judith Evans	"
12	Hilary Corfield	"
13	Cllrs Steve Smith, Scott, Gollop	"
14	Paul Spellward	"
15	Judith Young	"
16	Susan Mayer	"
17	Robin Bjoroy	"
18	David Mayer	"
19	Interested Group Joint Statement	"
20	Rolf Hudson	"
21	Susan Thompson	"
22	Sally Causton	"
23	Dr Phillipa Nason	"

24	Shirley Brown	“
25	Councillor Henry Michallat	“
26	Ewen MacLeod	“
27	John Moore	“
28	Jon Kennedy	“
29	Martha Taylor	“
30	Rachel Austin	“
31	Richard Lloyd	“
32	Andrew and Catherine Barnes	“
33	Julie Wright	“
34	Graham Wright	“
35	Guy Nason	“
36	Andrew Hiles	“
37	Ian Creer	“
38	Neil Redman	“
39	Geoff Causton	“
40	Jen Smith	“
41	Felicity Pine	“
42	Mike Whitworth	“
43	Ivete Hunt	“
44	Jon Oxley	“
45	Wendy Batley	“
46	Helen Ring	“
47	Jane Welham	“
48	Alan Preece	“
49	Peter Ghyslaine Hobbs	“
50	Stephanie French	“

51	Penelope Dove	“
52	Sarah Greaves	“
53	Jeremy Bewley	“
54	Colette Bewley	“
55	Sue Geary	“
56	Susan Hollyman	“
57	Philippa & Barry Miles	“
58	Jenny and Peter Weeks	“
59	Sheila Preece	“
60	Judith Brant	“
61	Sara Ugarte	“
62	Louise Hills	“
63	Namisha Birmingham	“
64	Sharon Lloyd	“
65	Joanna Walker	“
66	Ruth Reid	“
67	Robert Welham	“
68	Charles Elderton	“
69	Alison Foster	“
70	Laura Dove	“
71	Margaret Hiles	“
72	Scott Defries	“
73	Councillor Timothy Kent	“



AGAINST TVG APPLICATION

A1	Nathan Allen	Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006, Section 15(2)
A2	Kirsty Bennett	"
A3	Amanda Hall	"
A4	Rachel Crocker	"
A5	Catrin & Simon MacDonnell	"
A6	George Griffith	"
A7	Alison Crossland - Cotham School (5 minutes)	"
A8	Joanne Butler - Head Teacher Cotham School	"
A9	Sandra Fryer – Chair of Governors	"
A10	Penny Beeston - Cotham Parents (5 minutes)	"
A11	Joanne Mansfield	"
A12	Anna King	"

1

Dear Council,

I'd like to read out a statement at the public forum - this is one minutes worth.

Until a few months ago I didn't know what a landowner statement was. Now I know that it has just one purpose - to end **as of right use** and **to prevent a TVG application**. Did you know that Cotham School asked the Council to make one in 2018? Obviously Cotham thought our as of right use was still going on, otherwise they wouldn't have asked for one for Stoke Lodge.

And we now know that BCC took legal advice and decided **not** to make a landowner statement - so either it didn't object to ongoing use, or it realised 20 years' use was already established and didn't want to trigger another TVG application.

The Inspector has failed to consider this evidence - he doesn't even mention it. But this one thing tells you everything you need to know - **there has been 20 years' as of right use, and it was still continuing in 2018**. That's what the Council told the High Court too, so unless you think BCC was deliberately misleading the Court you need to register these applications.

Regards

Fiona Evans

Sent from my iPhone

Meeting on 28 June

Sent from [Outlook for iOS](#)

It's baffling that we're talking about a tiny car park, one tenth the size of a football pitch, behind a chip shop in Keighley.

Stoke Lodge is 200 times the size of that car park. With over 30 possible entry points, you can walk all over it and never go past a sign at all. I know, because I've done it for nearly five decades.

The inspector refused to consider whether two signs were enough - now he says it's up to you to decide.

I'm here today hoping that you will give the people of Bristol proper, open access to this space again in the way it was for decades, and as set out in Cotham's lease.

The Council told the High Court that TVG registration would reflect what has been the position on the land for 20 years, and Cotham took the lease knowing that.

It's a scandal that the school has been allowed to privatise this public land. Today is your opportunity to rescue it for the people of Bristol.

Both Ofsted and the DoE have made it clear that they do not require fences to be built around school playing fields. Cotham a)knew this and ignored it or b) didn't do their homework and carried on in their ignorance. The fence is an ugly barrier to the community's use of Stoke Lodge. The community has freely used the Lodge for at least five decades because the local authority always accepted our presence there and nothing written on a notice, if ever visible, changed the community's or the council's mutual understanding of that. The "Winterburn" car park is tiny; SL is huge in comparison. You have to spend a long time seeking the notices that were put up.

John Hollyman

Anna Caple

One minute statement

I am appalled that after 5 years of legal process costing tens of thousands of pounds, the Inspector has done such a shockingly bad job of considering these applications. Not only has he refused to hold a public inquiry, he hasn't even bothered to look at our witness statements - a key part of the evidence of any TVG application.

The applicants diligently presented six lever arch files of evidence, which were not challenged by either the school or the council. Remarkably, Cotham School and the Council failed to provide any evidence whatsoever. Not one page. They simply asked the Inspector to ignore our evidence and, unfortunately, he largely complied with their request.

Crucial matters such as the adequacy of signage were overlooked, and to make matters worse, the Inspector even acknowledged the possibility of his having misinterpreted the law, which suggests that the TVG might have been rightfully registered back in 2016. The resulting report is a disorganized mess, falling far short of the expected standard.

This issue revolves around public access to historically significant open space from which we have been unjustly fenced out.
Today, the power lies in your hands to restore our rightful access to this important open space.

More detailed version of the same statement

I am appalled that after 5 years of legal process costing tens of thousands of pounds, the Inspector has done such a shockingly bad job of considering these applications. Not only has he refused to hold a public inquiry, he hasn't even bothered to look at our witness statements - a key part of the evidence of any TVG application. An enormous amount of dedicated and careful work has been done by We Love Stoke Lodge which has enabled a great deal of new evidence to be included in the submissions, substantially strengthening an already strong case.

The applicants diligently presented six lever arch files of evidence, which were not challenged by either the school or the council. Remarkably, Cotham School and the Council failed to provide any evidence whatsoever. Not one page. They simply asked the Inspector to dismiss our submissions, and unfortunately, he largely complied with their request. It will have been impossible for him to have formed a fair and just opinion on the case without taking in all the available evidence and arguments.

Crucial matters were overlooked, such as the adequacy of signage (26 acres of space with numerous formal and informal entrances requires a large number of well placed and carefully worded signs) and the importance of changes in education law (understanding who - the landowner or the tenant - had legal authority to control use of the land during the 20 year application period?). I for one always accessed Stoke Lodge from Cheyne Road or Ebenezer Lane and I never saw a sign. I do remember the fallen branch blocking that entrance and it being pulled back by council workers specifically to allow pedestrian access.

There is now ample evidence that Avon County Council tacitly approved of, and even encouraged, informal public use and that Bristol City Council continued with the same attitude, acquiescing to as of right use of Stoke Lodge. The council know that use is as of right or it would not have even needed to consider depositing a landowner statement as we know

was being discussed in 2018 - the sole purpose of which is to stop or pause as of right use on a piece of land.

To make matters worse, the Inspector has even acknowledged the possibility of his having misinterpreted the law regarding the Winterburn v. Bennett case, unsurprising when you look at the details of that case. - a car park with seven spaces clearly signed at its one entrance as well as inside with unambiguously worded signs as opposed to Stoke Lodge, a space two hundred times bigger than the car park with many entrances and just two inadequately worded (as proved in case law) signs. This suggests that the TVG might have been rightfully registered back in 2016. The resulting report is a disorganized mess, falling far short of the expected standard.

This issue revolves around public access to historically significant open space from which we have been unjustly fenced out, this fence is particularly vexing when WLSL have documented evidence from Ofsted and the DfE stating that they do not require a site such as this to be fenced Today, the power lies in your hands to restore our rightful access to this important open space as intended in the lease.

4 Emma Burgess. TVG 2 Applicant – Public Forum Statement – Stoke Lodge TVG

In 2004 I moved to Sea Mills and fell in love with Stoke Lodge, a beautiful Important Open Space just a few hundred yards from my door. In May 2018 a neighbour mentioned a meeting about Stoke Lodge that evening, intrigued I went along. That was the first time I heard the phrase TVG and even learnt that Cotham School used the field. I was, like most of my community, oblivious to the issues. I stood up and suggested that using social media could help raise awareness and shortly after this, set up We Love Stoke Lodge.

Sadly, Cotham School didn't want to listen to our ideas for sharing Stoke Lodge, as Darren Jones MP wrote after a meeting, the schools Governor was "more focused on powerplay instead of conciliation". It just didn't make sense to me; the school only use a tiny patch of the field for a few hours a week, BCC's Health and Safety Officer said the schools risk assessment was overstated, thousands of school kids across the UK (including my own) use open access land for PE and Ofsted do not require playing fields to be fenced.

I didn't want to submit a TVG application, but the school gave us no choice - they told us to shut down our campaign or they would "build a bigger fence and lock us out forever". When the school still didn't want to talk in September 2018, I quickly gathered over 100 witness statements and submitted my TVG application. We are now nearing five years on and hundreds of thousands of pounds have been wasted in the pockets of lawyers rather than improving Stoke Lodge for all.

The fate of Stoke Lodge now rests with your committee. Despite the thousands of pages of submissions, representations and all of the evidence before you, I believe that your decision to grant Stoke Lodge TVG status boils down to two simple questions:

1. Are two outdated and confusing signs sufficient to render the use of a 23-acre site with over 30 formal access points as contentious?
2. Am I and thousands of other community members lying when we say we had no knowledge of the first TVG application and Public Inquiry?

The answer to these questions is of course No. I never read any signs and was blissfully unaware of the issues until mid-2018. Stoke Lodge meets all the legal tests and therefore your committee must grant it TVG status.

The Inspector's process, reports and subsequent comments are nothing short of shambolic. The Inspector himself says that it is now down to your committee to answer these two simple questions – he hasn't looked at/ responded to much of our evidence and hasn't even been sent the 166 witness statements let alone read them. Your meeting is the first time that our community has been given the opportunity to have our case heard – the Inspector refused to allow us a Public Inquiry as required by your procedures. The school's Governor asked the CRA to kick our applications "into the long grass", this was passed on by the CRA to the Inspector and it is precisely what he has done.

As I write this statement today, I have no idea if I will be allowed to address the committee, the CRA haven't yet advised the parties what to expect/prepare with just a few days remaining before the meeting. After five years I may (or may not) get 60 seconds to tell you directly how loved and important Stoke Lodge is to thousands – most of whom didn't know what a TVG was until the school built a fence several months after my application was submitted. Just seconds to explain why a 450m2 carpark in Winterburn V Bennett does not mean that the signage at Stoke Lodge was sufficient and the significant evidence that is before you of both the school and council acquiescing to our informal use throughout the qualifying period. I may have to choose just ¼ of this one-page statement and cover 5 years in just 60 seconds!

Granting Stoke Lodge TVG status is not just the right decision in law but is the only way that this long running saga can end and allow the community and school to start building bridges – to move forward together. We Love Stoke Lodge, we also love sharing Stoke Lodge with Cotham pupils and local sports clubs, but we will not give up our rights in law and as granted to us by Bristol City Council in the schools' lease - however long it takes.

We don't want to end up back in front of your committee again after another Judicial Review, we don't want any more money to be wasted in the pockets of lawyers, we just want to protect this beautiful land for everyone and for generations to come. I implore you to please make the right decision now based on the law and evidence before you.

The Committee is being asked to read an unusually large number of documents for this meeting. Thank you for taking the time to do this – it's important to us that you are able to see for yourselves the ways in which the Inspector's Report misquotes, misinterprets or ignores large parts of the evidence supporting these applications. In the Inspector's final Note he admits that there are errors in his Report but he does not attempt to rectify them - he just leaves it to the Committee to put matters right.

We all deserved better than this. As Bristol City Council argued before the High Court,

- Registration would reflect what has been the position on the land for at least 20 years prior to the application - and Cotham School was aware of this when it took on the lease.
- **The land has been used for a very long period for recreational purposes by the local community and the importance of protecting recreational uses through registration should not be overlooked.**

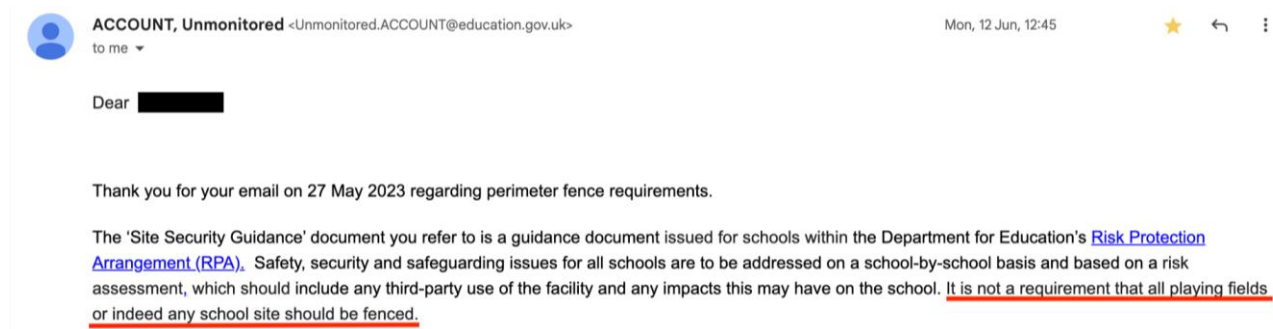
As one example of how badly flawed the Inspector's report is, take his assumption that because he conducted a public inquiry in 2016, 'everyone must have thought' that use had become contentious after that. Here are some of the facts he has ignored in order to maintain that position:

1. **BCC had no power under the lease** or the law to change the day to day use of the land in this way.
2. **BCC spent the next two years arguing FOR registration** before the High Court, as summarised in the bullet points above. Why should anyone have thought that use was contentious?
3. Both BCC and Cotham School say in their submissions that **the school put up new signs on 24 July 2018 specifically to end 'as of right' use** i.e. they both considered that use was ongoing up to that date.
4. **Cotham School asked BCC to issue a landowner statement to end 'as of right' use in summer 2018. BCC took legal advice and decided not to make a statement** - so either it did not object to ongoing use or it thought 20 years' use had already accrued – either way, both parties thought 'as of right' use was continuing. There is no excuse for the Inspector's total failure to acknowledge this issue.
5. In his final Note, **the Inspector recognises that he has not dealt properly with this issue**, but still says the Applicants did not address whether his public inquiry was a 'cause celebre'. You have the submissions and can read the Annex for yourselves – something the Inspector apparently failed to do.
6. **The Inspector has not even looked at the witness statements** - each of these 166 statements includes a specific confirmation that the witness thought their 'as of right' use continued up to the date of the statement. The Inspector was entitled to cross-examine them at a public inquiry but **he is not entitled to assume that the witnesses are all lying**. Had he asked them, he would have heard about use of the field both before and after 2016 by Cubs, Scouts and the church youth group - one witness points out that it is 'inconceivable' that these groups would have continued using the field if they thought it was contentious. But the Inspector has chosen to ignore all this.
7. In his Note (paragraph 20), the Inspector now suggests that a We Love Stoke Lodge poster displayed in mid-2018 may have indicated that tensions were heightened about the School's fence proposal (he fails to notice that BCC was also objecting to this at the time). But **this poster was not included anywhere in the evidence. He is drawing a conclusion based on what he imagines it might have said, while at the same time ignoring all the actual evidence submitted to him.** This is quite outrageous.

The Inspector now says it is a matter of judgement for you whether he is correct that 'everyone thought as of right use had ended' (even though BCC and Cotham clearly did not). In my view his reasoning on this key issue is fatally flawed, and his reliance on imagined evidence is unlawful. It is self-evident that he is wrong.

On statutory incompatibility, Cotham School will try to tell you that the Inspector is wrong and that TVG registration conflicts with land being held for educational purposes. But in this case the land is held under lease and is required to remain as playing fields for over 100 years. TVG registration is wholly compatible with that. Planning laws preventing the development of playing fields are arguably more restrictive than TVG status. And the provision of recreational playing fields is a statutory educational purpose in its own right. In any case, an academy school does not hold land for statutory purposes (and has no statutory duty to provide PE), so this argument does not prevent TVG registration. The Inspector's conclusion on this issue is a matter of law not fact and should be accepted.

Cotham School is likely to try to persuade you that it is required to have a fence under government guidance. That is not true: please see below very recent confirmation from the Department for Education that there is no requirement to fence playing fields (or indeed main school sites). They will not be deprived of playing fields if you decide to register the land – they will just have to abide by the terms of the lease they signed up to.



That just leaves the Avon County Council signs. The Inspector now admits that he may have misinterpreted the *Winterburn* case – he assumed that the signs must be effective despite the Council and the School acting inconsistently with them for 20 years. The mountain of evidence of acquiescence was not contested by the School or the Council. The *Winterburn* case says that the landowner must 'object and continue to object' to the use. It is abundantly clear that there was no continuing objection here. Even the Inspector accepted that from January 1990 Avon CC was not objecting to use of the field, but he failed to consider whether subsequent decades of contradictory conduct by the Council and the School rendered the signs ineffective.

The Open Spaces Society has confirmed our view that *Winterburn* is NOT authority for the proposition that signs necessarily render use contentious (as the Inspector appears to think):

'It seems clear that the *Winterburn* judgment confirms a non-confrontational way for land owners to protect against others acquiring easements by prescription over their land. To the extent that, **for signs to be effective in preventing someone from acquiring an easement by prescription, they must be sufficient to make the position clear to those using the land. This will be a question of fact in each individual case.'**

To make it even simpler, if this Committee considers, as it did in December 2016, that two signs are not enough to make an ongoing objection to use clear to everyone using the field, in the context of a 23 acre site with over 30 formal and informal entrances, then that is the end of the matter - the land must be registered as a TVG. This was the position taken by BCC before the High Court. It is a matter for you to decide, based on the facts.

A decision to register the land as a TVG will restore open access – as BCC has acknowledged, Cotham School took the lease knowing that this might happen and it has previously indicated that it is content to provide PE lessons on a TVG. We ask the Committee to make evidence-based decisions on the matters the Inspector has left in your hands, as the only way to resolve this process without further litigation. You have the opportunity, on 28 June, to restore open public access to this area of historic parkland, preserving part of Bristol's heritage and an important open space both for school and club sports and for the recreational use of current and future generations of Bristolians, and to protect this green space it from development and commercialisation.

6 Kathy Welham

> I ask the PROWG Committee to set aside the Inspector's recommendations because his Report fails to examine so much relevant evidence. They have the right to judge according to their own consciences because relying on such a deeply flawed report will risk further litigation.

> The Inspector wrongly called this a 'straightforward' case. The CRA's agreed procedure requires a public inquiry in cases that aren't clear cut. The Inspector overrode this, impeding a fair hearing. The errors and omissions in his Report and Note seriously undermine their validity and conclusions, e.g. the misunderstanding of the Applicants' refutation of the 'cause celebre' argument. This was avoidable had proper procedure been followed and witnesses questioned. But the Inspector never read the witness statements.

>

> The Report misses the significance of much crucial new evidence - like the fact that BCC in summer 2018, proved its awareness of ongoing 'as of right' use of Stoke Lodge, by deciding not to issue a Landowner Statement after taking legal advice. BCC's defence of Registration in 2016-18 is also ignored. These are glaring omissions.

>

> I ask the Committee to make its decision based on the fully referenced evidence supplied by the Applicants, and on their own good sense, to give the case the fair hearing natural justice demands.

> TVG Registration is needed to protect the Land, and public access to it, against the School's plans to develop it. It's still the beautiful setting of the historic, listed Lodge and only TVG status can keep this priceless asset, with its trees, rich hedgerows, wildlife and space, safe for Bristol.

7 Ian Hughes

Hi,

I am submitting this statement to the PROWG committee considering the Stoke Lodge TVG application. I want to read that to the committee when they meet if that is helpful.

My name is Ian Hughes, and I have been a proud resident of 1 Cheyne Road for nearly twenty years. It is a private road, so you technically walk through my property to enter the Stoke Lodge Playing Fields via the Cheyne Road entrance. There are no barriers, no signs - it's always been an 'as of right' understanding that we, the community, have shared.

Imagine walking through the field entrance; it's been there for decades, unmarked and unhindered. You'd think there'd be a sign if the council or the school disagreed with our 'as of right' use. But there's nothing.

Now, let me paint a picture. It's a clear day, and I'm walking my dog around the field. We enter via the Cheyne Road entrance, turn right, and amble counterclockwise. The air is fresh; the view is untainted by signage—an entire loop around this community haven, not a single sign in sight. That is how the lodge was; while there may have been signage when you entered from the Cheyne Road end and turned right, you could circumnavigate the field without seeing a sign. For the Inspector to rely on these signs being in effect is simply inaccurate. Furthermore, if the landowner had wished to stop usage as of right, it merely needed to put up a sign at that gate. It chose not to.

And so, I would like to tell this committee to look. Look past the assumptions; look at the reality. Consider the voices of the locals who breathe life into these fields daily. This isn't a decision just for us but for generations yet to tread these grounds.

Look at the field, woven into our city's fabric, an undisturbed tapestry of community spirit. Look at the council's power to have restricted access over the decades - yet they chose not to.

I want to ask you to seek the signs. Signs not of restrictions but of a community 'as of right' usage has shaped this place's narrative for years. The inspector may have overlooked these signs. But now, the responsibility is yours.

See the truth before you. Look beyond the jargon, the assumptions, and the imagined. Look at the real Stoke Lodge, the one that's served as a precious space for all.

I appreciate your voting to register this field as a Town and Village Green. A nod to the past, a gift to the future, a sign of our community's enduring spirit. Once you look, it becomes crystal clear: Stoke Lodge is, and always has been, a space for us all to enjoy.

8 Carolyn Jenkins

To whom it may concern:

Re: Stoke Lodge TVG registration for June 28th PROW Committee meeting

Public forum statement:

We have been using Stoke Lodge for recreational purposes as a family since 2005 when we moved to the area.

1. We always believed the land was available for public use, accessing Stoke Lodge from Cheyne Road end there are no signs to state otherwise. When more recently we were made aware of the old Avon signs by the pavilion it was clear that these had not been enforced for decades and we certainly never considered them in force as the land was clearly used by the general public for all sorts of recreational purposes.

2. My children used Stoke Lodge with their Cubs and then Scouts groups over a number of years - for games evenings once a term in Spring and Summer and then latterly as part of the route for hikes with Scouts and rugby evenings.

3. This as of right use continued until the fence was erected in Feb 2019, well past the 2016 public enquiry.

I very much hope the committee will consider the evidence in full and grant Stoke Lodge the TVG status it has by default enjoyed for decades until 2019.

Regards

Carolyn Jenkins

9 Peter Ring

Dear PROW Committee

I would like to make a statement having read the papers published for the meeting above. For the avoidance of doubt I support the TVG application for Stoke Lodge.

Firstly I would ask the committee to review the evidence in full rather than rely on the inspector's initial recommendation. This is given the content of these papers, and a further note from the inspector indicating that they have misinterpreted some of the evidence.

In terms of my own use and signage at Stoke Lodge. I have been using Stoke Lodge for recreation, well being and dog walking since 2006 to present day. My use is once or twice a day, on average 5 days a week. Prior to the fence we enjoyed access to the whole field. I access Stoke lodge via either the Cheyne Road entrance, or the corner from Ebenezer Lane. There has never been signage prohibiting access and use at these points. In fact when using the field in this way the two signs I understand have been at other entrances are not visible at all. Until the first TVG application I had no idea there was anything other than free access to Stoke Lodge - given many of the community and dog walkers could be seen enjoying the site daily.

When accessing the whole field I frequently encountered ground staff mowing grass and was never challenged. This also gave me the view that access was expected and normal.

We also frequently shared the field with formal and informal sports teams of all ages. With plenty of space for all to share.

I hope the Committee will endorse the TVG application, and allow the community to share access to the field alongside the school.

Many thanks,
Peter Ring

10 Chris and Jane Thomas

Statement to the Committee

I have long experience in planning matters (some 35 years); indeed, I was a decision officer at the (then) Department of the Environment on a variety of appeals (planning, listed buildings, advertisements, enforcement notices, LDCs, costs. purchase notices, certificates of appropriate alternative development) for over 10 years. I therefore have long experience of dealing with procedural matters and Inspectors' reports.

The report now before the Committee is inexplicably poor. The Inspector fails to take into account crucial evidence and makes assumptions to supplement his conclusions which are totally unsupported by the submitted evidence. Whilst the Inspector may always use his own discretion, the rules of evidence do not permit him to override submitted evidence (particularly where no contrary evidence has been submitted) at his discretion without giving very convincing reasons as to why he is rejecting uncontested evidence.

His reliance on *Winterburn* is totally misplaced. Stoke Lodge and the site in *Winterburn* are universes apart in size, circumstances and fact. Whilst it is a duty for the Inspector to consider the decision in *Winterburn*, it is not incumbent upon him to follow it slavishly without having regard to the enormously different circumstances which pertain at Stoke Lodge.

The Inspector's conclusions are at odds with the evidence because he has not studied it carefully enough. The report is slapdash and, as an appeals' decision officer, I would have had no alternative but to reject its conclusions and apply the evidence submitted - more or less exactly as one considers a LDC (Lawful Development Certificate). On the evidence and the facts, is the case for registration made? There is absolutely no doubt that the **facts as supported by the evidence of the applicants** lead straight to the conclusion that Stoke Lodge should be registered. The silly assumptions made by the Inspector are red herrings which he creates for himself; and which point to the incorrect conclusions which he has reached.

Finally, the Inspector himself expresses self-doubt; and simply passes the buck to the Committee. This would be unacceptable to any decision officer as a basis for a decision. The Inspector's failure to re-consider the matter afresh from the additional evidence submitted in response to his own enquiries is lazy and incompetent.

I ask that the Committee exercises its proper duty to consider the matter on the evidence submitted; realises that *Winterburn* is **not** a "binding precedent"; and agrees to register Stoke Lodge as a town/village green.

Chris (and Jane) Thomas

11 Judith Evans

Please look closely at the evidence you have been given in support of making Stoke Lodge Playing Field a TVG. Mr Petchey (the Inspector) has failed in his task of adjudicating professionally, and has left this important decision to you.

For 36 years I lived in a house next to Stoke Lodge Playing Field. We had our own back gate onto the field. We used the gate regularly from the day we moved in, until the day I moved out. Often Avon Council workers, and then Bristol City Council workers, were on the field mowing, marking out pitches or undertaking maintenance. Not once were we challenged about our presence on the field, and we always chatted amiably with the workers when they were nearby. We were able to enjoy ourselves in freedom and safety.

For many years I walked across Stoke Lodge Playing Field in order to visit my Mother-in-Law, who lived in Westbury on Trym. I was never told I could not do so. The footpath across the field was well defined by use.

Having our own gate, and always walking across the field, meant that I was unaware of any signs put up by Avon or Bristol until the Public Inquiry. I continued to walk across the field until Cotham School installed their fence, cutting off my route.

Stoke Lodge Playing Field is a vitally important open space. Please ensure that it remains open, accessible, and available for everyone to enjoy. I look forward to learning that you have decided in favour of making it a TVG. Thank you.

Judith Evans

Until the fence went up, I have been walking my various dogs at Stoke Lodge for 57 years, having always lived locally. Just as I did, my three boys spent their childhood playing there; we enjoyed numerous family picnics with Granny and Grandad on the grass and met up with our friends. Never, ever have I or any one I know been told that we should not be there. Now I'm in my 60s and Mum is in her 90s; we make our way round the edge of the beautiful field on the ridiculous 'path', Mum with her shopping trolley and me pushing my grandchild's pushchair, both hoping we won't slip on our way to the shops.

Why was I unaware of any public enquiry? Why wasn't it properly publicised? Why did the groundsmen never tell us that we weren't allowed to be there? Those men were lovely, I remember my Dad often chatting to one who did the lines for the cricket, for what seemed like hours. Why were we all allowed to carry on just as we had always done when out of the blue, a new sign with an obscure message on it went up? If the fields were meant to be private, why were the gates always open, why were quick routes across the boundary walls allowed?

The answer to all of these questions is because to all of us who lived around them and the groundsmen who looked after them, these were fields for us to use, to freely cross, to ride our bikes on, to play on, to raise our children on, for parties, sponsored walks, cycling proficiency tests, for brownie sports, cub nature trails and for peace and quiet for everyone. And yet, when we really, really needed the open space for our sanity during lock down, it stood empty and we looked at it through a stupid fence.

I like many others feel completely bereft, something so precious has been taken from us and it feels like we were never given a chance to object, before suddenly police were on the field and a fence was going up to keep us out.

Please, please listen to us, please read our statements, look at our evidence and then make your decision. Better still if you have time, please visit Stoke Lodge and if there's a gate which is unlocked, go and sit under one of the magnificent trees, take time, look around you and see why this place is and always has been, so important to our entire community. Thank you.

Hilary Corfield

13 Councillors Geoff Gollop, Sharon Scott and Steve Smith

Colleagues,

We are submitting this statement as Councillors for Westbury on Trym and Henleaze. The fields are of course in Stoke Bishop ward, but very close to the boundary with our ward, and have been a valued resource for our residents for many decades.

After years of claim and counter-claim on this matter, it now seems that every objection to registration has been disproved, and the whole case hinges on two slightly antiquated signs and whether the case law in *Winterburn* applies to them. As we understand it the committee's role is to decide as a matter of fact whether the signs at Stoke Lodge were sufficient to prevent use "as of right" over many years. In the *Winterburn* case, it was found that two signs were sufficient to do this in a small car park with only one entrance.

It seems obvious to us that this cannot apply to fields over 200 times the size of that car park with porous boundaries and multiple entrances. Indeed, the Council has made exactly this argument itself in previous iterations of this case. It is also obvious from the huge amount of evidence submitted by residents that many people had used the site for many years, including some with direct access gates from their own houses, with no idea that the signs were ever there or that the Council objected in any way.

We urge the committee to join us in reaching this conclusion, and therefore decide that the land should be registered. This will bring an end to this unfortunate saga, and restore the position that existed for many years where the school, local people and other users can peacefully co-exist on this important green space.

Councillors Geoff Gollop, Sharon Scott and Steve Smith
Westbury and Henleaze Ward.

Public forum statement for the PROW & Greens Committee 28th June.

FROM: Paul Spellward, 35A Coombe Lane, Stoke Bishop, Bristol BS9 2BL

Email: paul.spellward@netgates.co.uk

21st June 2023

To the PROW & Greens Committee, concerning your item:

Applications to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006

I came to Stoke Bishop as a student in the 1990s. Whilst resident in the university halls, I would go running in the local area, including circuits of the Stoke Lodge fields. There was easy access then (as now) through multiple entrances and, as I recall, only one dilapidated gate with a rusty sign saying the land was playing fields.

Since becoming a resident of Stoke Bishop in year 2001, my wife and I have enjoyed using the Stoke Lodge fields for walking (and running) and general recreation. We have never felt that there was any discouragement in doing so from the grounds staff we would occasionally see on site. We used many of the 30 or so entrances around the field, and enjoyed the traffic free route from our (east) side of Stoke Lodge, across to the house / learning centre and to the shops of Shirehampton Road.

We have attended community events, spectated at sports matches, and frequently visited to marvel at the special trees, on the wider site as well as in the arboretum.

The enclosure of the vast majority of Stoke Lodge parkland by the fence was a huge loss of amenity for us and so many others, who had used it for generations with no objections. The exclusion of the community during much of the Covid lockdown, when we needed to be able to walk near home, was vicious cruelty from Cotham School.

I urge the PROW & Greens Committee to register the land as a Town and Village Green, to return it to the shared and harmonious community use we had all enjoyed for so many decades. As I understand it, the only legal obstacle is to confirm that one (or is it two?) rusty old signs on an area of more than 20 acres, with around 30 entrances, were not sufficient to transmit a message of community exclusion from the land. I submit that is completely self-evident and is reinforced by the amicable sharing by land users until Cotham School became involved.

15 Judith Young

Sirs,

I have the following comments to make as my public forum statement.

I lived opposite Stoke Lodge for 18 years, my children learned to ride their bicycles. In the car park, we were friends with the grounds man/caretaker Keith and were in touch if ever we saw cars or motorcycles in there illicitly after the gates were shut. No one ever told us we should not be there. I can only vaguely recall seeing one sign near the house from Avon County Council times - there are many access points to Stoke Lodge with no signage at all.

Both my daughters were Brownies & Guides who used the field on summer evenings for expeditions and games. I regularly walked top from the main entrance across to West Dene to visit a friend in Combe Lane.

I think that signs that Cotham School put up in 2018 were meant to try to stop the community using this open space as of right, which term is included in their lease. The Council have done nothing to ensure that Cotham adhered to the conditions of the lease.

As to the generous perimeter walkway. As a person with mobility issues mostly this is inaccessible to me - and through the winter months the dangerous quagmire here caused many people to fall and cause minor injuries and Cotham effectively banned the community from laying bark to make it safe.

Judith Young

BRISTOL CITY COUNCIL-PUBLIC RIGHTS OF WAY & GREENS COMMITTEE 28TH JUNE
2023
RE-STOKE LODGE TOWN OR VILLAGE GREEN APPLICATION(S)
PUBLIC STATEMENT BY SUSAN J MAYER, 68A COOMBE LANE BS92AY

Why is unfettered access to Stoke Lodge Parkland so important for local's wellbeing, both young and old?

I have lived in Coombe Lane for more than thirty years and throughout this time, it was understood locally that Stoke Lodge Parkland was listed as Important Open/Green Space with unfettered access. The House itself is listed Grade 2 and that status also included the entire parkland in its curtilage until very recently. It has a long history of industrious occupants, having been redesigned and improved by William Munro, who died in 1856 (the earlier farm house is still visible at the rear of the Gothic Style main house); interestingly Munro's son was a Botanist who may have been responsible for the planting of many specimen trees still in evidence throughout the Grounds.

Cotham School has made an issue of "child safety" when engaging in sport on the parkland but only after hearing of a TVG proposal in 2010; clearly this was not apparent to them when they willingly vacated the newly refurbished Kellaway Avenue Grounds to relocate to the very open and publicly accessible Stoke Lodge Parkland, C2000.

Until 2011, the School rarely used the Grounds for sports lessons; the major user was actually neighbouring Bristol University (CDSC) who used it as "overflow" to protect their own grass pitches and at other times, sub letting the parkland pitches to local sports clubs, to cover the cost of cutting the grass. During the ensuing years, local teams were happy to share the parkland with dog walkers and often commented that the (unfenced) pitches were the cleanest in Bristol.

This Neighbourhood has always been a low crime area despite exaggerated claims by the School in recent years. However, the imposition of fencing in 2019 was, in my opinion, a gross act of vandalism to this once scenic Parkland. There was no justification for this draconian action, especially as the School only uses a quarter of the fenced area and for less than fifteen hours per week, yet stubbornly excludes the public for much of the day.

When just three pedestrian gates are grudgingly unlocked, this still disbars wheelchair users because the inward opening gates are too heavy to open from inside the fenced area and the dog-leg ramp adjacent to the pavilion is too tight for most wheelchairs to navigate anyway. Equally, there has never been a proper assessment of public accessibility post the imposition of the fence, despite BCC including public access as a condition of the 2011 Cotham Lease.

Nonetheless, by vacating the site in 2014, the School proved they do not actually need this space and can go elsewhere - but We don't have an alternative Green Space in Stoke Bishop, so TVG for Stoke Lodge Parkland is our only salvation, especially for the elderly and disabled and very young.

I am in no doubt that in just a few years, larger properties throughout BS9 will become HMO style apartments but the innumerable new occupiers will struggle to find any accessible Green Space within walking distance, if this oasis of calm (Stoke Lodge Parkland) is lost to indirect commercial development; so please allow this TVG.

Susan J Mayer (Mrs)

17 Robin Bjoroy

Dear Committee,

As a supporter of the TVG application in respect of Stoke Lodge, I am writing to you to request not only your support in granting the TVG application but also in doing so to review all the evidence supplied in the application.

I am optimistic that in reviewing all the evidence supplied rather than perhaps just the inspector's report, which I do understand omits consideration of some key evidence, you will find that the TVG application provides a compelling, evidence based and valid justification for being legally and transparently granted.

I would note the following which I would request to draw your attention to.

We have been regular users of Stoke Lodge since moving to our home, just across the road from the lower end of the grounds in early 2010. In that time, and especially since 2014 when we also acquired a dog, at no time prior to Cotham School commencing their fence erecting operation was community use of the field questioned or contested in any direct or indirect way. The placement of dog waste bins would seem to further support community use being de facto not only acknowledged but supported.

On numerous occasions prior to the fence being installed I encountered groundkeepers mowing the field. Friendly waves and patience when I made sure I had my dog back on a lead and away from their operations were the norm. I was never challenged on my right to be there by them or indeed anyone.

I understood after the TVG applications were first lodged that there were BCC signs in place. However, I had not noticed them and had I done so would have assumed that they were legacy since use of the fields by dog walkers, leisure users, exercise groups and community sports teams were taking place on a very regular basis, including by seniors who would otherwise I wonder have had little in the way of options to interact with their local community. Sadly I see none of these seniors now since erection of the fence has made access and use of effectively impossible.

I was not aware of a Public Enquiry that took place in 2016 and was only made aware of this more recently. Nevertheless, if there were outcomes pertinent to my own use of the field, I was not made aware of any and continued my use of the grounds as normal.

I am aware that Cotham School asked BCC to issue a landowner statement to end "as of right" use in summer 2018. This would clearly indicate that "as of right" use was in place prior to that time and in itself and alone would I believe provide compelling evidence for TVG approval.

I do look forward to the committee demonstrating a full consideration of all the evidence provided and correctly and legally approving the TVG application without the need for further legal processes to draw on funds of BCC, Cotham School and the local community who are rightly supporting a just outcome.

Yours sincerely
Robin Bjoroy

BISTOL CITY COUNCIL.**PUBLIC RIGHTS of WAY & GREENS COMMITTEE – 28TH JUNE 2023.****Re - STOKE LODGE – TOWN or VILLAGE GREEN APPLICATION(S).****PUBLIC STATEMENT BY DAVID MAYER, 68a COOMBE LANE, BRISTOL, BS9-2AY.**

The legislation pertaining to any Town or Village Green Application in England is set down in the Commons Act 2006 – section 15.1. The qualifying criteria is simple and clear and an Application should be granted and registered where: -

“a significant number of inhabitants, of any locality or 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 for the purposes of clause 15.2. to apply then,
“..and shall continue to do so at the date of the application”.

The “as of right” condition is defined as, “*without secrecy, without permission and without force*”.

If these conditions have been met then the Application must be granted and registered. No discretion relating to any other priorities can be introduced or considered, save only “Statutory Incompatibility”, which is not a matter for consideration here.

This Application is for the Committee to consider and decide based on the submissions and evidence provided by the parties. Importantly, it is not a matter to be decided by the Inspector or Cotham, and definitely not by the Legal officers at BCC.

It is accepted by all parties that all the required qualifying criteria have been met at Stoke Lodge by the Applicants, with the possible exception of “*without force*”.

The argument turns on whether there was, or was not, adequate and effective signage to deny free access to the land by the Community at any time.

Importantly, free access, does not condone any criminal activity - it simply means that local residents were using the land ‘as if they had a right to do so’. The Council argued before the High Court that this was the case, and that ‘as of right’ use had been going on for over 20 years.

The Applicant(s) have argued in their October 2022 submissions (which have been provided directly to the Committee) that when signage was in place it fails to deny free access because it was either irrelevant, inadequate or ineffective as supported by the evidence referred to in the Annex to those submissions, which the Committee has been asked to read.

This includes the fact that the signs were a warning rather than a prohibition, that all the wording on them was out of date or irrelevant before the start of the 20-year period for these applications, and that there were only two potentially relevant signs on a 23-acre site with over 30 formal and informal access points.

Additionally, the Applicants have also provided significant evidence of acquiescence of informal Community use by both the Council and the School throughout that 20-year period. That evidence was not made available by the Council in the first (my) TVG application. The Inspector has now recognised in his final Note that if this acquiescence argument is correct then the land should have been registered in 2016 following my previous TVG application. This finding is clearly also relevant to this Application.



Stoke Lodge TVG PROWGC Meeting – Interested Group Statement on behalf of several local residents (7 families) and as individuals seeking to make a joint five-minute statement.

Individuals including: Anna Caple, Alex and Lisa Moyles, Richard and Joanne Trott, Ewan, Jenny, Posy, Pearl and Ro Wilson, Juliet and Martin Milne, Suzanne and Hugh Williams and Rachel and Antony Barrett.

As just a small group of local residents to Stoke Lodge, collectively we have enjoyed as of right use for over 270 years. Included in this group are families whose gardens back onto the field, families who rely on Stoke Lodge for somewhere safe for our teenagers to hang out to families who have spent many hours on the field enjoying various sports and pastimes on the field for over fifty years. We are just a small group of friends and neighbours but one that represents thousands of local residents who rely on this important and beautiful green space for our health and wellbeing.

We, like most in our neighbourhood, were not aware of the Public Inquiry. We learnt of issues through social media and We Love Stoke Lodge but, in most cases, we still weren't aware of the 2016 Public Inquiry until the Inspector recent report where he uses the Inquiry as an obscure reason to reject these applications. Does the Inspector believe our community to be telepathic and somehow knew that our 'as of right' use had ended because of an Inquiry none of us were aware of? It is clear from the evidence that neither the council nor the school nor their barristers thought our 'as of right' use ended so the Inspectors assumption that we knew is just ridiculous. Our own council argued that Stoke Lodge **should** be registered for two years before the High Court. It said that 'registration would reflect what has been the position on the land for at least the 20-year period prior to the application; it appears that the land has been used for a very long period for recreational purposes by the local community and the importance of the protection of recreational uses that arise from... registration should not be overlooked'. Why would anyone who was aware of the Inquiry in our community have thought that their use was contentious if our own council were arguing the opposite?

We would have all been willing to make statements to an Inquiry to this regard if the Inspector had followed your committee's procedure and held one. As a community we have been denied the right to have our voices heard. Only one person from our group was aware that the TVG 2 application may be made and had a chance to submit a witness statement – we all would have been pleased to do so – the Inspector has not just ignored our voices and evidence but hasn't even seen the 166 witness statements that our community did submit.

For many years we have all been regular users of Stoke Lodge and none of us read any signs – we accessed Stoke Lodge through many different entrances (including garden gates) and no one ever told us we shouldn't be there. Our kids enjoyed using the field for groups such as Scouts and no one ever asked permission or thought permission was needed for family gatherings, picnics and even one member of this group's hen party!

It is very clear that the Inspector made up his mind before reading the first page of these applications – he issued a report in March 21 (when he was simply meant to advise parties of the process he would adopt) without asking to see any of the evidence the applicants told him they held. He just rejected the applications and ever since has continued to ignore repeated submissions. The CRA's Officer says the Inspector's latest report is "thorough" but how can this be? The Inspectors says that the applicants haven't contested his views when they have done so throughout – ignoring huge parts of the applicants' submissions when they have been repeatedly issued to him is certainly not 'thorough'.

How can the report be 'thorough' when the Inspector himself admits and apologises for errors in his report and then continues to ignore vital evidence. In his final note the Inspector admits mistakes and then justifies not changing his mind because of a poster from mid-2018 he hasn't even seen! We are dismayed that the CRA has taken this approach – we implore the committee to consider the issues and evidence before you because the Inspector has got it very wrong, has completely ignored the evidence provided and the voices of our community.

20 -Public Forum Statement

Dear Sirs

Could I formally request that the Committee review all the compelling evidence provided to support the Stoke Lodge Town and Village Green application.

In support of the application, I would like to make the following comments.

Our family have been visiting Stoke Lodge since 2006 for general recreation such as playing sport, meeting friends or just going for a walk. My stepson also played football for Rockleaze Rangers for several years around 2010. This was great for our physical and mental health and wellbeing.

During this time, we accessed Stoke Lodge from many different locations around the boundary as there are multiple access points. We noted that there were some aged, obsolete, poor condition County of Avon signs but assumed these were redundant as there were never any problems or challenges when using the field. There was never a council presence in the field.

While we could freely access Stoke Lodge between 2006 and the installation of the fence we would happily interact with other members of the public and grounds maintenance staff. There were never any restrictions or questions regarding why we were on the field. Additionally, the local community always ensured the fields were spotless (by frequent litter picking) and it was a very safe area where we were happy for my stepson and his friends to play unsupervised.

The installation of the fence and Cotham School signage has not changed my opinion that the public should have 'as of right' access to Stoke Lodge as they have for generations.

The installation of the fence has been detrimental to our family's physical and mental health and wellbeing and frustratingly Stoke Lodge is mainly completely empty apart from very limited usage (circa 2 hours per day) by Cotham School during weekdays in the school terms.

I hope you will support the Town and Village Green application to keep Stoke Lodge parkland as the fantastic open space it should be for the benefit of young and old alike for future generations.

Yours faithfully

Rolf Hudson

21 Susan Thompson

Dear Sirs

Could I formally request that the Committee review **all** the compelling evidence provided to support the Stoke Lodge Town and Village Green application.

In support of the application, I would like to make the following comments.

Our family have been visiting Stoke Lodge since 2006 for general recreation such as playing sport, meeting friends or just going for a walk. My son also played football for Rockleaze Rangers for several years around 2010. This was great for our physical and mental health and wellbeing.

During this time, we accessed Stoke Lodge from many different locations around the boundary as there are multiple access points. We noted that there were some aged, obsolete, poor condition County of Avon signs but assumed these were redundant as there were never any problems or challenges when using the field. There was never a council presence in the field.

While we could freely access Stoke Lodge between 2006 and the installation of the fence we would happily interact with other members of the public and grounds maintenance staff. There were never any restrictions or questions regarding why we were on the field. Additionally, the local community always ensured the fields were spotless (by frequent litter picking) and it was a very safe area where we were happy for my son and his friends to play unsupervised.

The installation of the fence and Cotham School signage has not changed my opinion that the public should have 'as of right' access to Stoke Lodge as they have for generations.

The installation of the fence has been detrimental to our family's physical and mental health and wellbeing and frustratingly Stoke Lodge is mainly completely empty apart from very limited usage (circa 2 hours per day) by Cotham School during weekdays in the school terms.

The perimeter walkway is not maintained and having had 2 hip replacements and knee operations has led to me being unable to use the whole field at all in the wet winter months as I struggle in the slippery mud and do not want to fall and break anything else.

I lost both parents fairly recently and my brother in law has terminal cancer so being able to use this space for my mental health where I am surrounded by beautiful wildlife and friends from my neighbourhood to look after me has had a detrimental effect on my overall wellbeing.

I hope you will support the Town and Village Green application to keep Stoke Lodge parkland as the fantastic open space it should be for the benefit of young and old alike for future generations.

Yours faithfully

STOKE LODGE, BRISTOL

We as a family enjoyed the freedom of Stoke Lodge for about 40 years: regularly walking there, watching sports matches, picnics, taking our children to Brownie and Guide functions. We had no reason to think that we might not be allowed on this space that local people and organisations were enjoying. (There is plenty of photographic evidence of this usage.) We saw no sign to say we were not allowed to use the field when we entered the site (next to the BT box next to the roundabout) and nobody ever suggested to us that we should not be there. But, in spite of a promise from Bristol City Council (when Cotham School was granted a lease for use of the site) that use of the site would be for all and everyone, it allowed Cotham School to fence off virtually all of the approximately 23 acres for themselves, barring us and others from using the field. They declared that there was a “generous” walkway round the edge of the site for the public to use: This is not generous at all and is highly dangerous in winter when the path turns into a quagmire. Many people have slipped and injured themselves - the school and/or council are lucky not to have been sued, yet, for these injuries.

Cotham School never ever uses all of the vast space at one time for their activities. We know this from passing by nearly every day.

Months ago Cotham School shockingly installed a hidden CCTV camera giving a view of the children’s play area and users of the field or path, with no signage to indicate this. They then accused a local person of meddling with their (hidden illegal) camera - this person had discovered the hidden device, but was then arrested by the police though completely innocent. A leading expert in the field of CCTVs confirmed that someone had definitely altered the camera's footage to implicate a particular person - which introduced racism to the mix. Once they were exposed as cheating the **school withdrew their case. This all caused extreme and serious stress to the individual who had discovered the covert camera.**

Now that we have grandchildren we would love them to have the freedom we all used to have at Stoke Lodge (rather than, as now, the short times when the gates are unlocked by the school when it suits them, and people run the risk of being shut in when gates are automatically locked.)

Mrs Sally Causton

I understand that the decision regarding the Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006 is, after nearly 5 years, to be made at the PROW&G Committee on 28th June 2023 and that The Inspector for the case recently admitted that the report he produced in March 2023 may have misrepresented some of the issues presented by the local community (and indeed completely overlooked some other fundamental ones, did not take into account much of the evidence and simply misquoted other information) and so has ended up asking the Committee to decide whether the **legal test for registration** is met. Therefore, my main reason for making this submission is to ask *all* that the Committee members please, please, please end this convoluted catalogue of errors and put aside sufficient time to read the extensive, but necessary, submissions and give this extremely complex application proper consideration because nobody wants this issue to rumble on for another 10-15 years.

I have lived about 10 minutes walk away from this open space since 2003 (and before that only the other side of Westbury on Trym village) and since that time I have walked across the field, from top to bottom, broadly along the public right away to and from the dentist on Bell Barn Road numerous times a year. I first started using it for general exercise and relaxation with my young children in about 2008 and remember seeing one of the two Avon Council trespass warning signs, the one up near the top of Ebenezer Lane, and assuming it was obsolete because the field was so well used by the community whenever I went, because the many other potential entrances to the sizeable parkland didn't seem to have signs up and because I was aware that Avon Council had been abolished in 1996. I recall my children having playdates at houses backing onto the field in about 2010 and it being taken for granted that they would be allowed by their friends' parents to go and let off steam there. Plus their Brownie and Guide groups definitely played rounders and had informal sports days there in the early 2010s and they would not have done so if the leaders felt they weren't allowed to. And I also remember a conversation right under that Avon sign in Spring/early summer 2018 with a someone who was a registered dog walker about the fact the space was open access and for everyone's enjoyment. This, coincidentally, was around the time that The Council took legal advice about whether to end the 'as of right' use for the community but decided, for whatever reason, against pursuing it (however Cotham School went ahead with posh new signs to deter the public). So, importantly for this application, I was, along with many other locals, using the field '**as if of right**' for many years before the fence went up (and only since then has this sadly fallen off because of the limitations brought about by and the aesthetics of the fence). Hopefully the above paragraph demonstrates that, from my perspective, the Avon signs absolutely did NOT clearly and continually indicate an objection by the landowner to informal use which is, I believe, the legal TVG test which the Inspector failed to get a handle on, and led to his premature conclusion to reject the TVG.

I sincerely hope that the Committee is not misled by the outcome of the 2016 TVG application, bearing in mind that *that* committee actually disagreed with the Inspector's decision and the Council ultimately argued in favour of the TVG in the High Court, and it was, I think, basically only refused on a technicality. I believe that if it follows procedure and takes into consideration the compelling evidence submitted by WLSL and the local community (especially in view of the lack of evidence contesting it, only an absolutely shocking and surely unlawful request to ignore all evidence from the community side!), that the Committee on 28/06/23 will understand that the legal test *is* fulfilled and therefore the TVG should be granted, thus protecting recreational use (be that for clubs, schools or the public – young, old and everything

in between) for generations to come. Thank you very much for taking the time to read my attempt to capture the salient points of this frustrating case.

I was very disappointed to learn that the Inspector did not even consider the detailed witness statement that I submitted in July 2019 in support of registering Stoke Lodge as a TVG.

My family have lived within sight of Stoke Lodge Playing Fields since 1997; I moved to South Dene in 2013. Throughout the whole period relevant to this TVG, we freely enjoyed the open green space of Stoke Lodge: by day for nature walks, social gatherings, and watching or taking part in various sports activities; by night to observe astronomical phenomena like meteor showers.

My answers to Section 16 on the official witness form clearly indicate that although I saw one of the Avon signs near Ebenezer Lane, I didn't think it in any way prevented or deterred me from peaceful recreational activities on Stoke Lodge for three main reasons:

1. Local residents had had open access to the land for decades: no-one ever suggested to me that I was "trespassing" there, and I was never asked to leave, even when schools and clubs were using the field.
2. Avon County ceased to exist in 1996, after which there was no authority responsible for enforcing the provisions on the sign.
3. Even if the sign were linked to an extant local authority, the threat of prosecution for "exercising dogs or horses, using motorcycles, parking vehicles or flying model aircraft" was qualified by the phrase "which causes or permits nuisance or disturbance to the annoyance of persons lawfully using the playing field", which could be interpreted as saying all those activities were acceptable provided they were carried out unobtrusively.

In July 2018, when Cotham School erected its new signs warning against trespassing, the wording was very similar to that of the old Avon signs, so I didn't think it made any significant difference to my customary use of the land.

From statements made at the 2016 Public Inquiry which I attended in Shirehampton, I believed that Bristol City Council had promised that this last remaining area of undeveloped land within the curtilage of Stoke Lodge would never be fenced, and that the lease between the council and the school specifically protected "all existing rights and use of the Property including use by the community".

I have been deeply dismayed to see Bristol City Council renege on its promise by redefining key legal definitions such as "curtilage" and "structure" (thus enabling Cotham School to erect a fence and impose severe restrictions on community access) and then curtly refuse to enforce the relevant clause in the lease.

My faith in the integrity of the local authority has been severely shaken during the long and contentious process towards TVG registration, and it is now further frustrating that the Planning Inspector hasn't taken full account of the evidence diligently gathered by members of the community to prove that Stoke Lodge meets the legal requirements for registration as a TVG.

I can only trust that, having seen for themselves the wide range and compelling nature of evidence provided by the applicants, this Committee will rule in favour of registering Stoke Lodge as a TVG, thus restoring and protecting the rights of all Bristol citizens - whether as individuals, school classes or club members - amicably to share this beautiful place as we did for so many years before Cotham School's aggressive campaign to assert complete control.

25 Councillor Henry Michallat

Dear members of PROW,

I am submitting this statement as one of the ward councillors for Stoke Bishop. The Stoke Lodge Playing Fields are a valued resource for my constituents and have been for generations. We are very fortunate to have such a large, beautiful green space, which without a TVG would be vulnerable to future development.

As others have rightly stated in their statements, the whole case hinges on two slightly antiquated signs and whether the case law in *Winterburn* applies to them.

The inspector has stated that the committee's role is to decide as a matter of fact whether the signs at the Stoke Lodge site were sufficient to prevent use "as of right" over many years. In the *Winterburn* case, it was found that two signs were sufficient to do this in a small car park with only one entrance.

However, it is obvious that this cannot apply to playing fields of a much larger size than that car park with porous boundaries and multiple entrances. Indeed, the Council has made exactly this argument itself in previous iterations of this case. It is also obvious from evidence submitted by my constituents that many people have used the site for a large number of years, including some with direct access gates from their own homes, with no clue that the signs were ever there or that the Council objected in any way.

As ward councillor, I urge the committee to consider the points I have raised in this statement and hope that they join me and others in reaching the conclusion that this important green space should be registered as a TVG. I believe that this will bring matters to a satisfactory conclusion, protect this green space from future development and I firmly believe that, once this saga is brought to an end, local residents and the school can co-exist peacefully with everyone able to enjoy this beautiful green space for generations to come.

Councillor Henry Michallat
Bristol City Councillor for Stoke Bishop Ward

26 Ewen MacLeod

I live with my wife in a bungalow in South Dene BS9, a very short distance away from Stoke Lodge Field. We moved into this bungalow in November 2013, but my knowledge of the local area goes back to 1997 when my late mother moved into a bungalow in Ebenezer Lane which is directly adjacent to Stoke Lodge,

I remember seeing just one old sign erected by the former County of Avon near the West Dene entrance to the pavilion which referred to Section 40 of the Local Government (Miscellaneous Provisions) Act 1982. This sign, like the pavilion it stood next to, appeared to be in a state of advanced dilapidation. It was tarnished, fading and rusted, and it bore the name of a local authority which had ceased to exist in 1996. No one paid the slightest attention to this sign. It appeared to be a relic of a bygone age, and legally speaking, a dead letter. No one ever attempted to enforce the archaically worded stipulations on it, and there seemed to be a distinct dearth of people flying model aeroplanes, riding horses and motorcycles etc - and a complete absence of anyone remotely interested in reproaching any local residents who might be inclined to do so. The field was instead widely used by nature lovers, walkers, families, and many adjacent residents who had back-gates or easements leading directly onto it.

I was aware of the TVG1 Public Inquiry in 2016, but was unable to attend the sessions because I was still working at that time. My wife and brother both attended numerous sessions and briefed me on them. My concerns about future development of the site were mitigated by the fact that BCC formally rejected plans to build a new school there, citing the fact that it was a 'Park', and also wrote an extra clause (2.1) into its lease protecting "all existing rights and uses, including use by the community" to underline their public promise that that this land would never be fenced in or enclosed.

The shock felt when that promise was cynically broken in 2018 by a BCC planning department who gave approval to Cotham School to build a fence without planning permission, and then refused to publish the legal advice they were supposedly relying on was profound, and has had an enduring effect on everyone who lives in the area and values the peace and tranquillity of the access to nature that Stoke Lodge can provide.

I was one of the people who wrote a detailed witness statement back in 2019 for a proposed Public Inquiry into TVG 2/3 that never took place. I was appalled to discover that these statements were never even seen or taken into consideration by the Inspector in his most recent report, which appears to be so deficient in its legal reasoning and grasp of the relevant facts, that it cannot possibly be endorsed or relied upon by the PROW committee at its next meeting on 28th June 2023. I would urge the committee instead to pay close attention to the copious evidence (7 large folders) presented by WLSL in reaching their decisions.

Ewen MacLeod

My name is John Moore of 120 Parrys Lane, Stoke Bishop, Bristol BS9 1BJ. I have lived in Parrys Lane since August 1985. I have been asked to recall to the best of my knowledge the use members of my family have made of the parkland at Stoke Lodge.

I can clearly remember that in the run up to the Football World Cup in 1990 that my eldest son, Oliver Moore, began visiting the open space of Stoke Lodge for football kickabouts with his mates. This took place on schooldays in the early evenings and at the weekends any time of the day in good weather. The kickabouts continued with his friends from Elmlea Junior school up until he was 11 in 1993. This activity encouraged my younger son Timothy Moore to follow in his elder brothers footsteps from around 1992 at the age of 8 until he left Henbury School as an 18 year old in 2002.

Both Olly & Tim took footballs over to Stoke Lodge for impromptu games with their mates using jumpers for goalposts. Tim had one friend from Elmlea, Chris, who excelled at Rugby (he went on to play professionally for several years in France) I can recall many was the time that Chris called at our house for Tim to join him in a Rugby kickabout between 1992 and 2002. Chris was always accompanied by the family dog that was never on a lead but was often carrying a soggy tennis ball.

Many were the times when I had to go over to Stoke Lodge as dusk fell to request the boys to come back for supper etc. On hotter days one would come back home with a request for bottles of water to take over to Stoke Lodge.

The boys played cricket in the back garden when younger with a tennis ball but later from around 1995 Tim in particular but also Olly outgrew the garden and would take the cricket ball, stumps, pads & bats over to Stoke Lodge in the summer. If it was just 2 or 3 they would play up against the tractor shed building at the Parrys Lane end of the field. If more were involved and they could afford the luxury of a wicketkeeper then the stumps would be in the middle of the field. I even joined them on occasions.

When the boys went to University in 2000 and 2002 respectively such communal games were less frequent but both used the Stoke Lodge field for golf practice during the holiday breaks and a couple of irons and golf balls resided permanently just inside the front door in readiness. Tim would also run laps around the field to maintain fitness and train for the Bristol & Bath half marathons that he took part in for several years from around 2006.

I have also used Stoke Lodge to indulge in guerrilla gardening since around 2000. We had a hazelnut tree in the garden and as a result suffered squirrels nesting in the loft. We also had plentiful hazelnut saplings springing up all over the garden. I used to uproot these and transplant them amongst the shrubs around the top edge of Stoke Lodge field under the mistaken idea that the squirrels would relocate to Stoke Lodge although not all seemed to take the hint.

In recent years my wife & I enjoyed sometimes watching the local cricket club playing on Saturday afternoons. Since retirement in 2012 we have strolled across the field down to Cheyne Road leading to the footpath by the river Trym and up onto the Kingsweston Weston ridge and Blaise Castle Estate.

Recently during the pandemic the Stoke Lodge park was a boon to all except when the school failed to unlock the gates despite there being no school use of the grass. We noted that both Henbury & Shirehampton Golf clubs welcomed the use of the footpaths crossing their courses.

I do hope that such community & family use of Stoke Lodge park will outlive me and beyond.

John Moore Tel 0117-9684145

urge the PROW committee to review all of the evidence diligently gathered by the TVG applicants before making their decision on the TVG.

The inspectors report appears to be wholly flawed and is disappointing to see an inspector take such little care and attention over such an important subject, such as ignoring evidence and even accepting his decisions were flawed but not re-working them. With the recent revelations of the party gate report and the loss of integrity in Government, this appears to be an opportunity for the PROW committee and Council to demonstrate leadership and demonstrate a fact based approach to decision making by examining ALL of the evidence from the TVG applicants.

To add to the evidence already gathered, I have lived near to Stoke Lodge for the past 20 years and am a regular user of the playing field. From jogging around the perimeter, to using it as a short-cut to Parrys Lane or the playground, going for picnics, ad-hoc games of football and cricket and walking the dog. I enter the field at the Cheyne Road entrance and until Cotham built the fence, I had never been given the impression that I shouldn't be there. There were never any signs at Cheyne Road to suggest I wasn't allowed to enter there and I was never approached by groundsmen or anyone else to suggest otherwise. It was one of the key reasons we bought a house nearby as access to such an important green open space was important to us.

As a Cub and Scout leader for the local scout group, I used to regularly use Stoke Lodge as an open and safe green space for teaching orienteering, running sports events and wide games with the Scouts - it was a valuable resource. At no point were we ever told we did not have a right to be there. Since Cotham built the fence, I do not consider it safe due to lack of exits and the high potential for getting locked in as well as uncertainty about access preventing forward planning. Rather than sharing the space, Cotham School have prevented the 90 local kids in our Scout group, and many other groups and locals, from having free access to the open space that we are legally entitled to by the words in their own lease.

I hope the right decision is made and the TVG is granted, allowing free access for all.

Kind Regards

Jon Kennedy

29 Martha Taylor

Dear all,

I would like to ensure you are aware that the 26th Scout Group have been using Stoke Lodge for many years, since long before my involvement with the group, which began in 2008.

During my time as a cub leader and Scout leader we arranged meetings several times a year at Stoke Lodge with activities such as completing the athletics badge using the marked out running track and long jump pit, orienteering and games. There are currently 9 different sections in our group and they have all used Stoke Lodge for activities at one time or another.

Obviously as part of a large youth organisation and as adults responsible for large groups of young children we would not have arranged meetings at Stoke Lodge if we believed we were not allowed/entitled to. And parents who are all from the local area would have voiced concern about dropping their children there if they were in any doubt about access being allowed.

This continued until 2020 when COVID 19 limited our activities, however we hope to be able to return to this safe, local and incredibly important green space soon.

Many thanks,
Martha Taylor

30 Rachel Austin

Dear Committee,

As a longtime resident of Parrys Grove, Stoke Bishop, BS9 1TT, immediately adjacent to Stoke Lodge, I respectfully ask the Committee to please, please do due diligence and read the submitted evidence by the applicants for the TVG as the Inspector has failed to take this into account.

My family relocated to Bristol in June 2011, renting a property in Eastmead Lane while we searched for a home to buy. Our son was 4 years old at the time. We first discovered and visited the Stoke Lodge field while viewing a property for sale in Cheyne Road. We were really, really taken with the idea that our son would have this beautiful green space to play in as he grew up and came back several times before finally deciding that the house was not the right one for us. We didn't see any signs...just an amazing and beautiful green space and all the possibilities that that would bring for our family. We remained very keen to be close to Stoke Lodge for the same reasons and eventually bought our house in Parrys Grove at the end of 2011. We visited the field regularly from that time, always entering at the the closest point, little gap by the roundabout with the rocky step which was no issue to a young family and the quickest way for us in and out. We have had so many hours of fun, in the field come sun, snow and sometimes rain, and had no idea that there had been a past TVG application during this time and and so it was heartbreaking and it felt intimidating when the fence went up and then when the new signs appeared.

As Committee members I understand that you are able to consider all the evidence for yourselves and I ask you please, please to do this and grant TVG status to Stoke Lodge.

Best wishes

Rachel Austin and family

Dear Sirs

My name is Richard Lloyd. I live at The Club House, Darlingscott, Shipston on Stour, Warwickshire. I am a retired solicitor and I have a close family member who I visit regularly and who lives near to and has used the field at Stoke Lodge for many years. On many occasions prior to the fence being erected I have walked the field and, since the fence was erected, I have walked the perimeter path. I cannot now recall if I was ever aware of the application for TVG1. I did not follow the progress of that application if I was aware of it but I have been aware of and followed the progress of the applications for TVG2 and TVG3 which are to be considered by the Public Rights of way and Greens Committee on 28th June.

I do not agree with several of the conclusions reached by the Inspector but there is one conclusion, in particular, on which I wish to comment. It is a point which is critical to the recommendations that he has made to the Council in its capacity as Registration Authority. This Note will explain the reason why I do not agree with the Inspector on the effect of the signs erected by Avon Count Council (ACC) after the Council was disbanded in 1996.

The Inspector correctly summarised the law on the effect of signs, in this context, in paragraph 79 of his 2023 Report. He said *"As I have explained, the law is that sufficient steps have to be taken by the landowner to communicate to users that their use is contentious"* (my emphasis). He went on to conclude that signs erected by ACC were sufficient communication by Bristol City Council (BCC) to users that their use was contentious. He gave no explanation why a sign erected by a disbanded authority could be an effective communication to users by a successor authority that their use was contentious. He said that a sign did not have to identify the owner to be effective. I agree with him. But he failed to address the situation where a sign does identify an owner and the public at large know that the identified owner is an authority that has ceased to exist. It is not possible to conclude that BCC could have regard as sign erected by and identifying its predecessor in title as a communication by BCC to users that their use is contentious. It is not possible to conclude on the evidence, that BCC took any steps to communicate to users that their use was contentious until BCC erected a sign. The applicants have addressed the issues concerning the sign erected by BCC in 2009 and I do not seek to add to what has been said about that.

The Inspector suggests that a user visiting the site the day after ACC was disbanded would not have thought his legal position had changed. I agree with the Inspector but in suggesting that this point has relevance he has failed to apply the legal test that he correctly identified in paragraph 79 of his 2023 Report. The question that has to be asked on that day is whether or not the owner, BCC, has taken sufficient steps to communicate to users that their use is contentious. Had the existing signs not identified ACC as owner an argument could be made that the signs did communicate that use was contentious on that day. But they did identify the owner and self evidently they were not a communication by BCC.

The Inspector suggests that anyone interested could have discovered that BCC took over the position of ACC and he says (in paragraph 88 of his 2023 Report) that if someone had investigated *"there was no reason for considering that the attitude of the City Council was any different to that of the former County Council"*. It is not for users to make decisions about changing attitudes. It does not matter whether or not, as a matter of law, BCC inherited decisions made by ACC until it made decisions of its own. The Inspector has failed to apply the legal test he accurately identified in paragraph 79 of his 2023 Report. What did BCC communicate to users and, if anything was communicated, was it sufficient to communicate to users that their use was contentious? The answer is nothing was communicated by BCC until it erected a sign in 2009.

The Inspector offered an opinion in his 2016 Report on TVG1 on the effectiveness of the signs after ACC was disbanded and it is an opinion that he did not change in his 2023 Report. In footnote 37 to his 2023 Report the Inspector referred to his 2016 Report and said *"In his judgement quashing the*

decision of the City Council to register the land as a town or village green Sir Wyn Williams upheld my interpretation of the signs and advice that the use in the period 1991 – 2011 had not be use as of right". Surprisingly the Inspector had to correct this statement because it was wrong. In his May 2023 Note the Inspector said at paragraph 11 It is correct to say that the judge did not specifically uphold what I said in mu {2016} Report about the effect of the notices.

And he said at paragraph 12: *Accordingly, strictly speaking, in my report on the current applications , I was wrong to say that the judgement of Wyn Williams J "upheld my interpretation of the signs and advice in the period 1991 – 2011 had not been as of right".*

And at paragraph 13: *What I should have said is that Wyn Williams "did not disagree with my interpretation of the signs and advice that use in the period 1991 – 2011 had not been as of right"*

And at paragraph 14: *"There are however non-disagreements and non-disagreements. If Wyn Williams had thought that what I said about the signs was wrong, one would have expected him to say so; potentially if he thought what I said was wrong, he might have upheld the decision of the registration authority"*

I find what the Inspector had to say in paragraph 14 of his Note very misleading. In disparaging the point taken by the applicants he has failed to address the findings of Sir Wyn Williams and it is the suggestion that Sir Wyn would have said if he thought what the Inspector said about signs was wrong that is wholly misleading.

In paragraph 55 of his judgement Sir Wyn said of the signs *" The Inspector's view was clear, namely that between 1991 and 1996 the signage that existed on the land was sufficient to make use of the land by local inhabitants contentious"*. Sir Wyn accepted that the Inspector was entitled to reach that conclusion on the evidence before him. What Sir Wyn did not do was to comment on the effectiveness of the signs after ACC ceased to exist in 1996 and yet the Inspector suggests Sir Wyn addressed his mind to that period. There is nothing to suggest that he did because his conclusion about the signs between 1991 and 1996 was sufficient to decide the case.

It seems that, when writing his 2023 Report, the Inspector was under the mistaken impression that Sir Wyn Williams had upheld his interpretation of the signs for the period 1991 – 2011. That being the case there is good reason to question whether or not the Inspector properly addressed his mind to the case put by the applicants. That he failed to apply the legal test he correctly identified suggests to me that he failed to properly address his mind to the applicants' submissions on the ACC signs.

I have read the submissions made by the applicants for TV2 and TVG3. I am thus aware of the many differences between the conclusions of the Inspector and the submissions made by the applicants. In light to the conclusions I have reached on the Inspector's assessment of the ACC signs and his error in stating the findings of Sir Wyn Williams it is the applicants' points on procedural fairness and the Inspector's pre-determination of some of the issues which I find most compelling. I do not consider it safe for the Committee to rely on the recommendations of the Inspector without independent legal advice.

I ask the Committee to seek its own legal advice before determining the applications for TVG2 and TVG3.

Please make Committee members aware of my representation

Richard Lloyd

PUBLIC FORUM STATEMENT PROW COMMITTEE MEETING 28TH JUNE

ITEM 5 Registration of land at Stoke Lodge as TVG

We have lived a few yards from the West Dene entrance to Stoke Lodge for more than 30 years. As a family we all enjoyed using the open spaces both for leisure activities and as safe walking routes to nearby facilities.

At no point did we consider we were trespassing or using force to access and use the open spaces. The Notice by the West Dene entrance with the reference to repealed legislation was regarded (like Avon itself) as a relic of the past.

There was never any attempt to prevent our using the facilities and when the Caretaker lived in the Cottage by the entrance he welcomed us rather than discouraged us from using the field.

For several years Fairfield School used the pitches without any problems and it was therefore a shock when Cotham School (for largely imaginary Health and Safety concerns) decided the field needed to be fence off and access severely restricted.

It seems from the evidence, some of which seems to have been ignored by the Inspector, that B.C.C. also considered that use of the area by the local community was to be encouraged and in line with Council Policy.

The rejection of the application to Register the land as a TVG on the grounds that we had not been using it "as of right" flies in the face of our experience and the actions taken by others. The recommendation of the Inspector must be rejected.

Andrew and Catherine Barnes

33 Julie Wright

Statement for the attention of Public Rights of Way and Greens Committee, 28th June 2023
Re Stoke Lodge Playing Fields.

I have lived next to Stoke Lodge Cottages for over 30 years and my garden backs onto the playing fields.

Over the years I have walked children across the playing fields to school, to the shops and to the bus stop. I have helped with the Kewstoke Rd cubs visits to these fields for games. I have chopped the brambles down on the fields at least twice a year as they are very invasive into my garden and I have joked with the grounds people it really was their job but they were more than happy for me to do it! I have regularly walked around the fields (and still do) and have notified the Council on several occasions of fallen branches, for which I have received a "Thank you" from them. I have been on the fields chatting with the Council workers watering the trees.

The residents of West Dene and South Dene have hosted several "celebration" events on the field using the space outside of No. 1 Stoke Lodge Cottages, as we would use their front gate that opens directly onto the field to use their facilities for making teas etc.

In all my visits onto the field, not once, in over 30 years have I ever been asked to leave.

I believe the criteria for registration as a TVG has been met and would ask you, the Committee Members, to vote for TVG status to be granted, thus maintaining open access to an important open space for all.

Julie Wright

34 Graham Wright

Statement for PROWAG Committee meeting 28th June 2023
Re Stoke Lodge Playing Fields

I was a witness at the 2016 Public Inquiry stating that I had used the field for over twenty years without once being asked to leave or being aware of any signs prohibiting my use of the field.

I and other members of the public continued using the playing field, the same as we did before the Public Inquiry, until Cotham school erected their fence under a dubious acceptance by BCC that a 1.5 kilometre fence was not a structure and could be a permitted development.

Until that point the field had been used as a recreational space by schools, sports clubs, and the general public in harmony and without incident.

I also submitted a statement of use for TVG2/3 I now understand the submitted statements were not forwarded by the CRA to the inspector for his latest report. Total incompetence or what?

I believe that the tests for TVG registration have been met and that this playing field should be registered so that it's use by EVERONE would be protected by law. Otherwise my fear is that, outside of school use, it will only be used by those who can pay, and informal recreational use would be lost forever.

Graham Wright

1. The applicant's KC pointed out that a non-statutory public inquiry should have been held and that this is required in law (Court of Appeal in *R (Whitney) v Commons Commissioners* [2005]) and the Inspector's report is unlawful. I cannot see that the Inspector has subsequently addressed this in his response. Can the PROWG committee base a decision on an unlawful report? Doubtful and it is then going to be surely open to further legal challenge. The Inspector's report is therefore unfair and as item 8 of the applicant's KC report states the inspector has undermined his own conclusions.

2. In the Inspector's note (18th May, item 2) he says, "If the use of the land is contentious it is not as of right". I disagree with that statement; the logic seems not correct. The definition of 'contentious' is that it is something that causes, or is likely to cause, an argument or controversy. The two statements 'land is contentious' and 'as of right' are independent concepts. For example, take a piece of common land that people legally have a 'right to roam' on and, legally, anyone can walk, run and climb anywhere. However, the use of the land could still be contentious. A fastidious landowner might take issue over citizens with dogs, if they wished to protect livestock or a wildflower charity might take issue with ramblers walking across rare plants. Such acts are controversial and could cause arguments. These are two examples of use of the land being contentious, and not only 'as of right', but, in fact, more than that, the right explicitly and is protected by the law. I think the Inspector is simply wrong.

3. I think the Inspector is wrong on the Winterburn case. Plenty of people who used the field multiple times over the years, who were observed by the land's owners and leaseholders and not only was nothing said to prevent them from using the land, more often or not, the users of the land also received a friendly and welcoming reception by the owners or leaseholders and/or their representatives. This carried on right up until after the period in question even when the fence was installed. This is classic acquiescence.

4. Signs. There. Were. Only Three. Three signs covering a large space that has multiple entrances (there are 14 entrances shown on many maps and indeed, there are infinite methods of entrance and exit along Ebenezer lane). It is completely possible to enter Stoke Lodge by an entrance, spend hours on the field, walk round and round, exploring the vastness of this beautiful public space, and exit by another entrance without seeing a single sign, of any kind, let alone a prohibitory one. As far as I remember the signs were not double-sided, so even if you did enter by one of the three signed entrances, you'd only see it on the way in, and not the way out.

So, three signs for at least fourteen entrances. I don't know people flows into Stoke Lodge, but 3/14 is just a little over 21%. So, in entering Stoke Lodge you'd encounter a prohibitory sign with a chance of about 21%. The 'probability yardstick' as used by government (e.g. College of Policing, but several other agencies) translates this into you being 'highly unlikely' to actually see a sign. Were there sufficient notices? The Inspector (18th May response, item 5) thinks that "sufficient notices were put up", government guidance plainly indicates that an average user would be 'highly unlikely' to see one. In your car, if it was deemed 'highly unlikely' that anybody could see a particular speed limit sign, would it be fair for you to be issued with a speeding ticket? No, of course not, the law says that the signs must be "clearly visible at regular intervals". This was plainly not the case with the very few AvonCC signs.

These few signs were widely ignored by the public and the site was likely used by hundreds of thousands of people 'as of right' over the long period in question. One reason why the signs were ignored was that they referred to the authority of the Avon County Council, which was abolished in 1996. Many users of the field after this date, those that moved to the area, or young people, would not even know what the Avon County Council was. At any point during this long period Bristol City Council could have put up new signs, clearer signs, undamaged signs and more signs, but they did not. Not once, not in any location and they absolutely knew that, and acquiesced to the field was being used 'as of right' for an extended period. And yet, Bristol City Council did put up signs relating to the Adult Education Centre and car park, so it's not as if BCC were incapable of erecting signs.

5. I did not know about the public inquiry in 2016 (and have lived close to Stoke Lodge for two decades)

6. My daughters were in local Brownies and Guides from 2009 until 2017 and used the Stoke Lodge field regularly, particular in the summer months and they treated the field 'as of right', as far as I am aware.

We have lived within two minutes' walk of Stoke Lodge green space since 1984, and visited the field many times as our children grew up (and attended Cotham School), then it became a safe and welcoming space where they could meet friends, play sport or simply escape for a while. We continued to visit with our extended family, right up until the imposition of the fence.

During all that spread of years, we regarded Stoke Lodge simply as our local park. The fine points of ownership, access, statutory responsibilities and so on were lost on us; we just went there, did our thing and came away carrying our litter. Sometimes our path led us past the litter bins kindly provided by Bristol City Council. Some people played organised sports, others enjoyed a picnic... just like a park, really.

Plenty of ways into Stoke Lodge, plenty of ways out. If, on our meanderings we ever encountered the County Council signs, who knows? Nothing memorable, certainly, and not once during these visits were we, or our children, ever informed by anybody that our presence on Stoke Lodge was in any way contentious.

With regard to the question of access 'as of right', I have read the Inspector's comment regarding the 'Winterburn' case. In his judgment on 'Winterburn', I read that David Richards LJ used the specific words 'clearly visible' to describe the required signs; in the context of a small car park with a single entrance this of course makes sense. In the many acres and access points of Stoke Lodge, the two obsolete signs on which so much seems to depend were certainly not 'clearly visible' across much of the site.

Notwithstanding this, the Inspector is adamant that the particular circumstances at 'Winterburn' should be regarded as a general principle as far as access 'as of right' is concerned, and goes on to apply this opinion - and it is only his 'opinion' - to the signage at Stoke Lodge. It appears, in his logic, that a sign (or in this case, two) would be sufficient to establish contentious access to land of any acreage, of any purpose and with any number of different access points. This is an enormous and fanciful stretch of logic.

I look forward to the Committee considering the evidence in detail and with an open mind, coming to its own non-partisan view that Stoke Lodge should be granted TVG status to secure its long-term future as a green space available to all of Bristol.

Andrew Hiles

This is my statement for the PROWG Committee meeting about the Stoke Lodge TVG applications on 28th June 2023. Unfortunately I will be unable to attend in person.

Kind regards,
Ian Creer

I've lived in the area with my family since 1968, first on Bell Barn Road then on Cheyne Road. We would all use the entrance at Cheyne Road to access Stoke Lodge, there is not and never has been a sign saying that people can't use Stoke Lodge

The absence of any signs indicating restrictions or limitations on accessing Stoke Lodge via Cheyne Road strengthens the argument for its "as of right" use. Over the years, the lack of such signs has effectively communicated the implicit understanding that people can freely and without hindrance enjoy the recreational activities on Stoke Lodge. This historical precedent further reinforces the notion that the area has been openly accessible to the public, contributing to a shared sense of ownership and a longstanding tradition of community enjoyment.

The applicants make a powerful point about the insufficiency of just two signs in the context of multiple entrances to an area. I feel strongly that when there are numerous access points, relying solely on a couple of signs to communicate restrictions falls short in effectively prohibiting or deterring use. While signs may serve as warnings, they do not explicitly prohibit the use of an area. This reinforces the notion that the "as of right" use of the space has been established and recognised over time, as the absence of clear and unequivocal signage further supports the understanding that the area is open for public enjoyment.

The concept of "as of right" use on Stoke Lodge is reinforced by the tacit acceptance demonstrated by the council as the landowner, groundsmen were often seen greeting people. The minutes of meetings clearly indicate that the intention was to encourage usage, despite any potential challenges that might arise. This signifies a conscious decision to support and foster the recreational activities taking place on Stoke Lodge, emphasising the recognition of its importance to the community. Through their actions and documented discussions, the council validated and embraced the notion of public enjoyment, solidifying the idea that the use of Stoke Lodge was intended to be embraced rather than restricted.

38 - Dear Sirs

The purpose of my writing is to support the application to register Stoke Lodge as a TVG.

I have been using Stoke Lodge for 25 years as a dog walker and local resident as if I had the right to do so. I often used the Cheyne Road entrance where there were no signs restricting access. I believed that essentially Stoke Lodge was open amenity land in a residential area.

I attended the public enquiry in 2016 and was dismayed at the arguments put forward by the school particularly with regard to peeping toms and flashers and the need to keep them away from school children. I have never heard of any incident of this nature and believe the argument was put forward to overstate their case.

Many other schools can share sports grounds with the local without the need for a fence. How a fence of that nature did not need planning permission was beyond me. If I had tried to build a fence of this size I would have had to have had planning permission. I believe it was done to restrict the use of the land by locals. Erecting signs after the 2016 public enquiry was closing the stable door after the horse had bolted. How were new signs going to change the habits of many locals. It did not change my use - only the fence did that!!

I don't believe the Council listened to the local residence and am somewhat dismayed having heard that the evidence that has been submitted has not been read or examined . How can anyone make a decision when they have not read and understood all the arguments either for or against? Unless you have already made a decision and the meeting is merely a rubber stamping exercise - hardly democratic.

Please allow the registration of the land as a TVG and hopefully the school and neighbourhood can co-exist on Stoke Lodge without the need for fences or restrictions of use.

Neil Redman

39 - PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE MEETING 28 JUNE 2023

RE: STOKE LODGE TOWN AND VILLAGE GREEN APPLICATION

We have been keen users of Stoke Lodge for recreation for 45 years since we moved to Westbury-on-Trym in 1978. Our two daughters grew up enjoying the 23 acres of green space and now have teenage children of their own, and they too want to use the site but are unable to do so because of the 2 meter high fence that Cotham School erected round the whole site at the beginning of 2019.

Bristol traffic can be a nightmare but because of the fence at Stoke Lodge, hundreds of local residents now have to use their cars to drive to other recreational sites like the Downs adding to the congestion on our roads.

There has been a lot of talk about the signs at Stoke Lodge past and present, but the entrance we use near the roundabout of Parry's Lane and Stoke Hill has never had a sign and doesn't have one now. There are many more access points that don't have signs either such as the Cheyne Road entrance.

Most other sports fields used by schools and sports clubs in Bristol do not have any fencing at all and everyone gets on fine, so why does Cotham School need a fence at Stoke Lodge? They only ever use a fraction of the 23 acres anyway and don't seem to play matches or anything like that. I've seen a bit of frisbee throwing and kicking a football around but most of the time the students seem to stand around looking at their phones anyway.

I urge you to please put an end to this eight year saga and grant Stoke Lodge Town and Village Green status so this wonderful green public facility can be returned to the residents of Bristol, and be enjoyed by the public, schools, sports clubs and everyone all the time.

Geoff Causton

40

Hello,

Please find below a statement for this meeting.

I will be attending.

Please also email confirmation of receipt

Thanks

Jen Smith

It's really time to put to bed the long-running issue regarding Stoke Lodge. The land must be registered as a Town and Village Green and the fence must come down.

For some strange reason, Cotham School are allowed to ride roughshod over Bristol. They're allowed to do what they like, where they like and to whom they like with no accountability. When people stand up against this behaviour, the school reacts like a spoilt child who's never been told no in their life. Or they launch a barrister at it, all the while singing their favourite tune 'we don't recognise that version of events'. That version being a true account of what has occurred.

Having had the misfortune of having a child on roll at the school during the peak 2018-2020 escalation, I found the school's PR campaign offensive and distasteful. It was one that at times focused on Stoke Lodge having to be fenced off because of the poor deprived kids in central Bristol with no access to safe outdoor space. The land grab was certainly not done in my family's name.

As the parent of one of those poor deprived kids in central Bristol with no access to safe outdoor space, Stoke Lodge was of no benefit to my SEND child. This was because of the way the school behaved towards his disability, causing damaging trauma which years later meant he was unable to attend Cotham School despite being on roll, nor other secondary schools. He has just finished his five years of this life period with no GCSEs despite being able to do so.

But what does this have to do with a fence? It has everything to do with it. For Cotham School, Stoke Lodge is not about the children. It's a ridiculous game of power and control.

Having been embroiled in my own legal action against this manipulative school, frankly, they are not to be trusted one bit. The school will go to

any lengths to get what they want and to silence those who oppose it. I have personal experience in this respect.

I'm not surprised we now have a bodged report which somehow rules in favour of the school despite ignoring vital evidence to the contrary. Imagine, a community that has worked tirelessly to provide so much evidence and so much support behind the facts of the matter to now find the one process they thought they could trust can't be relied upon.

There is an inspector who has misunderstood the very case he was relying on for his argument to refuse. The school are so cock-sure they will win they've submitted no evidence. It would be almost comical were it not for the distress of the community who rely upon being able to access it and have suffered years of disparaging defamatory insults lobbed at them from champagne socialists.

Give Stoke Lodge the Town and Village Green status it should legally have. And say "no" to Cotham School. It's time it learned how to behave itself.

23 June 2023

41 - Dear Councillors

It will be a momentous day next Wednesday when you will be tasked with deciding on the fate of the TVG application in respect of the Stoke Lodge playing field.

I live near the top of Shirehampton Road opposite the playing field. I am long past the age of retirement and no longer fit enough to walk to the Downs, therefore the only local green space available to me is at Stoke Lodge. When Lockdown occurred in March 2020 Cotham School locked the gates, and left the community with a narrow space around the edge of this 22-acre field. The impact of that terrible decision still lives with me, and it is an action I find hard to forgive.

What I am asking for is for you, the Councillors, to consider the evidence. I do not believe it is open to you to just accept the Inspector's Report which, by his own admission, has errors in it. You will know that WLSL campaigners have submitted six lever arch files of evidence, including a detailed report from Legal Counsel pointing out the flaws in the Inspector's Report. Is it fair that Cotham School has made a submission of just one page, effectively saying just ignore the evidence from WLSL?

The financial costs for all parties have been huge. I don't want another long stream of litigation. I have willingly financially supported the campaign to date, and will continue to do so if this application goes to Judicial Review. However, it would be much better for TVG status to be granted and for the community, Cotham School and local clubs to co-exist, as they did for many years in the past, without the fence. This can happen again if TVG status is awarded, and all parties act reasonably. Cotham School pupils only use about a third of the land anyway, as it is a sloping site with large veteran, protected trees throughout its 22 acres.

I will leave it to others to defend the TVG application in legal terms. I have chosen to write from the heart.

Yours sincerely

Felicity Pine

Felicity Pine (Mrs)

PUBLIC FORUM STATEMENT

Applications to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006

I write as a user of the parkland of Stoke Lodge since the mid 80's, and local resident since 1998.

In the 80's and 90's my main access to the parkland was via Cheyne Road, and latterly via the opening in the perimeter wall next to the mobile phone mast (by the junction of Shirehampton Road and Druid Hill).

There were no signs at these entrances, and when walking the field I only ever found two "Avon County Council" signs and the instruction carried on these signs was certainly ambiguous.

Avon was abolished as a 'county' in 1996 yet the signs remained. Bristol City Council did not replace them with signs of their own, or even increase the number of signs and it wasn't till the school decided to change its interpretation of the "existing community use" clause in their lease that any new signs were put up.

So, everyday usage of the field by the community clearly was not a problem to the council as steps were never taken to enforce those signs. Using the Winterburn case as the yardstick by which to judge Stoke Lodge does not wash; not only was the site 200 times smaller than Stoke Lodge but their signs were clearly worded and installed where they were highly visible to the public.

Reading through some of the documentation over the years, the one thing that sticks out as, at a minimum 'questionable' and potentially illegal, is that the 'school' requested the 'council' to kick certain parts of the proceedings 'into the long grass' and the 'council' passed this request onto the inspector.

I have no doubts that this request unduly influenced the inspector's ruling in March 2023, especially as other WLSL evidence, available to the 'school' and 'council' had not been forwarded to him, meaning his ruling cannot be considered lawful.

Mike Whitworth

Dear PROWGC

In addition to my statement, as indicated above, I am now aware of more nefarious manoeuvring by the school in requesting support based on a false claim or claims

Their 'public' position
on <https://www.stokelodgeplayingfields.org.uk/frequently-asked-questions> is:-

Is there any specific guidance that says school sites should be fenced? ^

Yes, draft guidance was first published by gov.uk in November 2018 indicating that school site perimeters should be secured using a number of methods including fences. Following consultation on the draft guidance the final published guidance reads:
1.1 Perimeter
The boundary is the first line of defence and should be protected with a secure fence or railings such as Weldmesh fencing to BS1722 or expanded metal or railings over 2.0m high.
More info regarding published guidance to schools can be found at <https://www.gov.uk/government/publications/school-and-college-security/site-security-guidance>

But this is predated by

Cotham School Academy (Bristol) Ofsted requirement for playing fields fencing

Thank you for your email of 12 June 2018 to [REDACTED], Business Support Officer.

To be clear, Ofsted has at no time set particular requirements about fencing in respect of Cotham School or in respect of any playing fields or open spaces the school uses or has used. We do not have particular expectations about how a school should manage issues to do with site security, such as perimeter fences and access for members of the public.

I hope this clarifies the situation for you.

Yours sincerely

[REDACTED]
Her Majesty's Inspector

and recent enquiries to the Department of Education resulted in this reply



ACCOUNT, Unmonitored <Unm... 12 Jun 2023, 12:45
to me ▾

Dear

Thank you for your email on 27 May 2023 regarding perimeter fence requirements.

The 'Site Security Guidance' document you refer to is a guidance document issued for schools within the Department for Education's [Risk Protection Arrangement \(RPA\)](#). Safety, security and safeguarding issues for all schools are to be addressed on a school-by-school basis and based on a risk assessment, which should include any third-party use of the facility and any impacts this may have on the school. It is not a requirement that all playing fields or indeed any school site should be fenced.

But, there s no requirement in law, or from Ofsted or from the Department of Education that playing fields HAVE to be fenced

MIke Whitworth

43 - Dear Sir/Madam

On reading the correspondence reply received by the group We Love Stoke Lodge, I can see clearly that both Ofsted and DfE confirmed that Cotham School's claims for them requiring fencing at Stoke Lodge Playing Fields is not true. Neither institution has required that fencing should be erected on the school's playing fields at Stoke Lodge.

Being locked out of the last green space in our area means that we would have to use transport to use a similar amenity elsewhere and no longer be able to walk to a green field for exercise, meet friends and for de-stressing. For many reasons like saving fuel and reducing pollution this would be undesirable.

This is at a time when we are advised by experts that no one should have to walk more than 10 minutes to find a safe green site to exercise. I believe Bristol City Council made a similar statement fairly recently on this exact point.

I have lived in the Stoke Lodge area for 43 years and can categorically say that I have never seen any sign prohibiting use of the field by the local community. Nor have I have ever heard of anyone I know being challenged for being there. Therefore, I and members of my family have exercised there for numerous years without ever being challenged or being aware of any restrictions in place.

I am aware of recent efforts by some members of Cotham School to make exercising there very difficult, despite the school signing a lease that states it is subject to use by the community.

I do hope that common sense prevails and that further action to ensure the local community use of Stoke Lodge Playing Fields is assured becomes unnecessary.

Your faithfully

Ivete Hunt

44 - To whom it may concern:

Re: Stoke Lodge TVG registration for June 28th PROW Committee meeting

Public forum statement:

We have been using Stoke Lodge for recreational purposes as a family since 2005 when we moved to the area.

1. We always believed the land was available for public use, accessing Stoke Lodge from Cheyne Road end there are no signs to state otherwise. When more recently we were made aware of the old Avon signs by the pavilion it was clear that these had not been enforced for decades and we certainly never considered them in force as the land was clearly used by the general public for all sorts of recreational purposes.

2. My children used Stoke Lodge with their Cubs and then Scouts groups over a number of years - for games evenings once a term in Spring and Summer and then latterly as part of the route for hikes with Scouts and rugby evenings.

3. This as of right use continued until the fence was erected in Feb 2019, well past the 2016 public enquiry.

I very much hope the committee will consider the evidence in full and grant Stoke Lodge the TVG status it has by default enjoyed for decades until 2019.

Regards

Jon Oxley

45 Wendy Batley

Dear Committee,

Re: Application to register land at Stoke Lodge, Stoke Bishop as a Town and Village Green under the Commons Act 2006.

I write in support of the Town and Village Green application

The Independent Inspector appointed by the Council finds that the applicants have satisfied all but one of the legal requirements for registration of the land as a Town or Village Green. He argues, however, that the applicants have failed to establish that use of the land has been 'as of right', citing the case of *Winterburn v Bennett* [2016] in support.

The issue in both cases is whether an objection to informal use had been made clear by the respective landowners, including by the use of clearly-worded signs that were sufficient in number and appropriately located, so that people knew they shouldn't be using the land and so weren't using it 'as of right'.

It is incomprehensible that the Inspector considers that the decision in the *Winterburn* case has any relevance to the land at Stoke Lodge. In *Winterburn* the land concerned was a 7 space car park of around 450 square metres, with one entrance and 2 signs, whereas the land at Stoke Lodge is an open green space extending to some 22 acres with a similar number of signs, 14 public entrances and a good number of householders' entrances.

In the *Winterburn* case one sign was close to the car park entrance and so clearly visible to people using the entrance. There was a similar sign displayed in the window of the building served by the car park which was also clearly visible, although less so because of the greater distance from the entrance. The issue in this case was whether the signs were sufficient to prevent the appellants acquiring the right to use the land as a car park.

As regards the land at Stoke Lodge, the extent of the land, the few signs and the large number of entrances meant that people entering and enjoying the open space during the qualifying period could do so without ever seeing a sign. My own route onto the land was from an entrance adjacent to the mini roundabout at the top of Druid Hill and no notices were obvious to me during my many visits.

It is my considered view that *Winterburn* has no relevance to this application. In *Winterburn* 2 notices were held to be clear as to intent and sufficient for the size of the land in question. In this application the land is many times greater in size and the few signs that existed were not only unclear given that they were erected by a long gone authority and could be assumed to be out of date and irrelevant, but their number and placement was insufficient to warn the public that they shouldn't be using the land.

I urge the Committee to register the land as a Town or Village Green to preserve the land for future generations.

Yours faithfully,

Wendy Batley

46 Helen Ring

Dear PROW committee members,

Please include and consider this email amongst the evidence in favour of the Stoke Lodge TVG application.

I have been using Stoke Lodge on a daily (& sometimes twice daily) basis for the last 14 years for exercise and to walk my dog.

Prior to the fence being erected I had understood that my use was 'as of right'.

This is due to:

a) there not being any signs visible to me whilst using the field. I always entered the field via either Ebenezer Lane at the bottom corner (Bell Barn Road end) or via Cheyne Road.

b) the pre existing use by many other communities, including informal recreation (e.g. runners, kids & families playing football) walkers & dog walkers alike.

c) In all that time I was never asked to leave the field or was told use was not allowed. Indeed I would receive a wave from groundskeepers whilst they went about their business.

Thank you in advance for your considerations of the facts from all the evidence submitted.

Regards
Helen Ring

47 Jane Welham

Statement on Stoke Lodge TVG Application, PROWG Committee Meeting 28 June 2023 @ 2pm (RL01.8)

For nearly 30 years my family have been going onto Stoke Lodge through the Cheyne Road entrance under the oak tree, or from Shirehampton Road via the play park or the arboretum. We've seen the sign near the House, but ignored it as it obviously refers to the area directly round the house, not the rest of the park and playing field areas.

I heard people were trying to make Stoke Lodge a village green to protect it, which was obviously a good idea, and a vague rumour that Cotham School was trying to put up a fence but couldn't get planning permission, and everyone was going there just the same. I knew the house was listed with its land which is Important Open Space, and the Council had promised it would never be fenced so we didn't think anything of it. So the fence suddenly going up in 2019 was a total shock. It has ruined the park and is completely out of place and it needs to go. I now know there was never any legal excuse for it as Ofsted and the DfE have said neither of them requires fencing playing fields anyway!

Why is BCC backing the school in this? What they're doing is insulting and abusive to the public, who should be able to use Stoke Lodge as they have for so long. I can't believe that it isn't already a town or village green because it obviously should be and it's part of the lives of thousands of people. Please judge fairly and protect Stoke Lodge for everyone by approving the TVG.

Jane Welham

I would like to bring to the attention of the PROW committee the ridiculous part the Avon signs have played in the argument which led Mr Petchey to first dismiss the signs as “out of time” and “at the least very peculiar wording” and therefore to grant the TVG1, but then on review, because of one sign on a small private car-park elsewhere in the country, to assume one or two signs on 25 acres was significant to block access, when clearly neither Avon nor BCC ever took action to block access. In fact I was extremely friendly with the groundsman that used to be employed to maintain the field, and frequently passed time with him on the field.

At the public enquiry I was closely questioned by both Mr Petchey and Mr Grounds (the Cotham barrister) as to my understanding of the Avon sign. As a non-legal person there is a plain message in these following words:

“in particular the exercising of dogs or horses, flying model aircraft, parking vehicles or the use of motorcycles and the carrying on of any other activity which causes or permits nuisance or disturbance to the annoyance of persons lawfully using the playing fields will render the offender – etc”

To me the plain English message is that doing anything that does not disturb other users is acceptable – and that includes walking, exercise, game playing or any other lawful pastime. Merely accessing the fields is not an offence and therefore not prevented by this landowner message. In the 50 years I have lived next to Stoke Lodge, neither I nor my children have ever been prevented from using Stoke Lodge for accessing local amenities, playing games, taking exercise – until the day Cotham decided I might be a dangerous paedophile and insisted safeguarding needed a fence . This was in complete contravention of the lease they signed knowing that the local population were the regular users of the fields.

I beg the PROW committee to see our side and restore justice by granting the TVG and returning the fields to the peaceful coexistence of the many users including the school pupils, particularly as clearly Mr Petchey has not taken regard of all the new arguments put forward, and has admitted so.

Sincerely
Alan W Preece

49 Peter and Ghyslaine HOBBS

We bought our house adjacent to Stoke Lodge over 40 years ago, partly because it was adjacent to Stoke Lodge and the free access to the play / recreation space it afforded our children.

Throughout this time we have enjoyed using the playing field "as of right", not withstanding the various notices regarding usage that have been on display over the years.

We have engaged in friendly conversation with ground staff on many occasions.

Never once have we, our children, or more recently our grandchildren, been advised we should not be there.

I attended, and spoke, at the 2016 public enquiry and would attend this meeting had our grandson's sports day not taken precedence.

To all intents and purposes we have used Stoke Lodge playing field as a Town or Village Green.

We would urge the PROW and Greens Committee of Bristol City Council to now declare Stoke Lodge a TVG.

Yours sincerely

Peter and Ghyslaine HOBBS

50 - Public Statement from Stephanie French in the matter of: Application to register land at Stoke Lodge as a Town and Village Green under the Commons Act of 2006.

Item 5 on the Agenda, Wednesday 28th June 2023. PROWG Committee.

Madam Chairman,

I will keep this statement as short as possible. I am aware of the load upon the members of the Committee.

I have two points to make:

1. **Signage**: At times during the relevant period under consideration (1998 to 2018) I was, and still am, a frequent user of the land from 2007 to the present day. I did use the land from 1983 to 2000, but more on an ad hoc basis.
I would enter the land from either of two entrances – at Cheyne Road, and from the breach in the wall by the telecommunications cabinet et the footpath along Parrys’ Lane. There are no signs there, and I never saw any signs.
2. **Contentious and “As of Right” use of the land**: In my role as Tree Champion for Stoke Bishop I have made several visits to the land by appointment with BCC Tree Officers to discuss Neighbourhood Partnership funding, and s106 funding, for replacement trees. These meetings were during the existence of the Stoke Bishop, Westbury on Trym and Henleaze Neighbourhood Partnership in the relevant period. There have also been such meetings in more recent times.
During those visits the Council Tree Officer and I were seen, and were approached by, members of the public, residents of Stoke Bishop, eager to contribute to our discussions. (They love the trees and they knew/know my role.)
These residents were not present by appointment. They were already present using the land for recreation.
The Council Officer did not, on those occasions, ask the residents to leave the land, which, if their presence was contentious in his view and the view of his employers, surely he could, even should, have done?
I do not know which entrances to the land those residents might have used on those occasions, nor if they had seen any signs.
But I form the view that if they had seen a sign asking them not to use the land, and then made their presence known to a Council Officer, and were not asked to leave the land, then they would conclude their use of the land was not contentious, despite the wording of any sign they may or may not have seen. They would conclude that the Council was not enforcing a restriction on their entrance to the land. They were not challenged by a Council Officer for being there, so no matter which entrance they had used and what signs, if any, were present, which they may or may not have seen, they would have regarded their use of the land as being as of right.

Stephanie French
18 Old Sneed Avenue
Stoke Bishop.
Bristol. BS9 1SE

51 Witness statement
Penelope Dove

I moved to Cheyne Road in January 2007. I access Stoke Lodge at the Cheyne Road entrance, where there have never been any signs. I mainly walk across the field to the Shirehampton Road exit, again there are no signs.

After the public enquiry If the council wanted public use of the land to stop surely they would have put up lots of signs to cover all the various entrances?

Since the fence has gone up our green space is miserable.

- in winter the perimeter is muddy and slippery. Due to my medical condition it is unsafe for me to walk on, so I drive rather than walking across the field.
- the gate near to the Cheyne Road entrance has to be manually unlocked. This used to be done by an elderly neighbour, but he has moved, so the gate is now frequently locked, even when Cotham School would allow access.
- if I access the field I don't know if the exit is open. One Sunday I was crossing the field to go to church. The top gate was shut so to avoid being late I walked back and drove instead.

The council policy is to provide green space for everyone, why should Stoke Bishop be any different?

Ofsted do not require a fence, so the land can still be used by the school but also by our community who do require free access to green space.

Please look carefully and objectively at the legal arguments.

Kind regards
Penny Dove

52 Sarah Greaves

Dear Sir / Madam,

I am writing in support of the application for a TVG status for Stoke lodge. I live less than 5 minute walk from Stoke lodge and yet my 2 boys can not use the fields like they used to. Instead they are blocked out by a large ugly fence when they'd love to run around the fields and play football or cricket. It's criminal that such a large open space is not accessible at all times for so many families who live locally.

A school playing field does not require a large ugly fence and I see absolutely no reason why the public and Cotham school can't both enjoy the space. Instead the local people are forced into a small portion of the field around the perimeter.

Back in 2016 when the TVG application was put forward I had no idea there was a public enquiry. The communication and engagement with the local community must have been very low key. Had we been aware of the inquiry and the consequences (the fence and exclusion) we would have most definitely contributed and made our opinion known.

I urge the committee to see sense for all parties in passing a TVG to enable both the local people and Cotham school pupils to enjoy the space equally.

Yours faithfully,

Sarah Greaves

53 Jeremy Bewley

Please register this area as a TVG to protect it from development and enable its use for sport, leisure and education for years to come. This is the best chance that Bristol City Council has to protect this land for the next generation. Leave a legacy to the people of Bristol now. Protect this land and improve their health.

This land has over 30 entrance points, has been used by local people for several generations freely and without hindrance. The old Avon County signs had no meaning when they were only located at 2 entrances that were rarely used.

I have lived in Stoke Bishop for over 20 years and I was not aware that there was a public inquiry in 2016.

My daughter and son played sport on this parkland with their school and local cricket club. We celebrated birthday parties on this land too.

Do the right thing and protect this land now for schoolchildren of all backgrounds and all the people of Bristol for now and into the future.

Jeremy Bewley

54 Colette Bewley

Dear council, please protect this precious space enjoyed for generations by locals including my family. We held summer birthday parties unaware of any signs. We ran, walked and enjoyed its beauty. A space for everyone.

Thank you.
Colette Bewley

55 Sue Geary

I used to go onto Stoke Lodge on my mobility scooter and it was very important to me, as someone with a physical disability, just to be able to get out under my own steam -I did see one old sign, at the West Dene entrance I think, but did not see any others and people were using the space freely so there was obviously no application of anything on this single sign.

The advent of Cotham's fence sadly put an end to all that and since then I have not been able to get onto the lodge unless I have someone with me - even when the gates are unlocked there is no way to open them from a mobility scooter. I would not even be able to access the arboretum unless someone, certainly not Cotham Academy, had made a ramp from the footpath along Parry's Lane.

It was never the local residents' intention to stop Cotham from using Stoke Lodge we just want to share it, as had happened for decades. Despite many requests Cotham would not sit down and discuss how we could best make this work for everyone and I find it very sad now to see the field empty and gates locked for so much of the time. Despite Cotham's claims neither Ofsted nor the DFE actually require fencing. When I think about what could have been created for the benefit of the children, so many educational opportunities presented by the beautiful space, it saddens me even more.

This is the last green space in the area. We are always hearing about how good it is for your health to be out in nature, so it is doubly sad that the Council, instead of supporting keeping this beautiful space free for all to use, have done the very opposite and reneged both on a promise that the field would never be fenced and upon the clause in the lease stipulating that the lease was subject to all current uses including use by the community.

I would be grateful if you could look at ALL the evidence presented as in the past decisions have been made based on false information.

Thank you.

Sue Geary

56 Susan Hollyman

I have accessed the grounds of Stoke Lodge since 1975. My main entry point has always been at the top of Druid Hill by the roundabout. In my youth I used to slip over the low wall. I can honestly say that I never saw a sign and had no idea that there could have ever have been restrictions on access. Over these 48 years I have used the field for family leisure or to walk across the grounds passing under the old oak tree on Cheyne Road at the bottom of the field in order to reach Coombe Dingle, The River Avon or The Blaise Castle Estate. In the last 17 years I exited at the bottom of Ebenezer Lane to reach my daughter and grandchildren in Bell Barn Road. I supported with an intense amount of childcare as both parents worked long shifts in the police force. As the children grew older they were able to cross the field in safety to visit me. The fence has blocked off both these exit/entry points. I have been particularly distressed also on the effect of our local wildlife. We have seen a rise in badger deaths, a trapped deer, a fox trapped in a football net inside the locked fence and bright lights placed near bat habitats. This green land is part of a natural line from the Downs to Blaise and also to the River Avon. I have known many years when we have amicably shared this land with Cotham School. Please save it from development for the people of Bristol.

From someone who loves Stoke Lodge,
Susan Hollyman.

57 Philippa Miles

Dear sir

I am writing to ask you to agree to designate Stoke lodge playing fields as a TVG

My family and I have lived in the area around Stoke Lodge for over 35 years and have until the fence went up always believed it to be public land for everyone to use including Cotham School.

I have never been challenged for using it and hope that your Committee will clear up all the confusion and upset the fence has caused and grant the TVG to this land so it can be available to all for generations to come

Many thanks for reading this

Philippa and Barry Miles

58 - Jenny and Peter Weeks

Sir/Madam

We are Jenny and Peter Weeks living at 2A Druid Road, Stoke Bishop, BS9 1LH since 1991. Stoke Lodge is our nearest park, about 5 minutes walk. Our nearest entrance is by the roundabout at the S corner (Parry's Lane/Shirehampton Rd/Druid Hill).

We must have visited Stoke Lodge hundreds and hundreds of times over the past 32 years. We went frequently as a family with our children when they were young and we still go frequently as a couple. We have never seen a sign or anything similar at or near this entrance to say that Stoke Lodge was private, or that access was limited, or that this was anything other than a public park, free and open to all. We were never challenged by anyone saying we could not enter or use Stoke Lodge. When our children were in the local Cubs and Scouts they often used Stoke Lodge for games and outdoor activities. For years and years we all people living locally enjoyed unfettered access as stated in the 2010 Council Cabinet Briefing Note.

We ask the Committee to read all the evidence carefully. Please understand why so many local people believe Stoke Lodge always was, is now, and should be our park. We would love Cotham School to continue to use Stoke Lodge as their playing fields without a fence, as many schools do.

Regards

Jenny and Peter Weeks

59 -Statement by Sheila Preece to PROW committee for meeting on June 28th 2003.

-Re application to register Stoke Lodge playing field as a TVG.

Many years of evidence that accrued showed that residents and others continued without hindrance to use the Stoke Lodge field for 'lawful sports and pastimes'. It is unbelievable that the issue of old signs erected by Avon CC has resurfaced when the signs had been deemed inadequate and (quote) 'at the least, peculiar wording' which was said to be ambiguous with very unclear definitions. So how can previous dismissed evidence be resurrected like this? It is a fact that most of the many entrances had no sign and I, like others, could enter and exit the field without seeing a sign especially when walking on more than one of the established informal footpaths. Any argument over the existence of these de facto footpaths has only to look at the footage obtained during a previous long drought when they became clearly evident on the ground and showed the continuous use which witnesses had sworn to.

Stoke Lodge is the only green space in the area and the ludicrous offer of a perimeter walkway was unusable. As soon as it rains the path is a dangerous mudslide and many have fallen on it. Disabled people have for a long time been denied what was once their only independent outing and parents taking children to Stoke Bishop Primary have been relegated to going a long way round on a very busy road instead of across the field.

I have lived in a house overlooking the field since 1972 and during the whole of the time before Cotham School decided that residents were unwelcome there was never any constraint in walking there. I and my children used often to talk to the friendly groundsman. In recent years to go to the field at hours selected by the school became just hit-and-miss as gates were unlocked at random. During the Covid lockdown they were permanently closed when clearly the field was not being used by the school and when residents really needed somewhere to walk in the fresh air of 26 acres of green field. Earlier, despite Ofsted and the DfE stating that there was no requirement for playing fields to be fenced Cotham School proceeded to erect one, not only digging into the roots of many trees to make concrete foundations but also nearly digging into a gas main at the top of the field until I phoned Wales and West to urgently come to move the excavating several metres away.

The 'as of right' use over 20+ years seems to me to be unarguable and long-term residents in particular know that we used the field over all those qualifying years and never interfered with any sporting activities of schools or clubs.

I urge the PROW committee to carefully consider the application for the TVG status in the light of the fact that the lease for the field which was signed by Cotham School guaranteed continuing unfettered use by residents which was supported by BCC cabinet.

60 Judith Brant

Just RE Stoke Lodge TVG Application - PROWGC 28th June 2023

Public forum statement by Judith Brant

Firstly, as the inspector has submitted a follow up note saying his interpretation of the laws was flawed it is important the committee take the time to review the evidence for themselves before robbing a community of its LAST green space. We all know the school will lock the gates for good if TVG status is not granted.

The council promised our community that the land at Stoke Lodge would never be fenced, clearly believing the public were using the field as of right and you can infer that they agreed with informal use. Yet here we are, locked out at random times, children no longer with an easy safe walk to school across the field. Field not open on times when the school don't even use it. What a waste of a precious resource.

Why, if the council did not agree that the public had "as of right" access, was a VERY specific clause put into the school's lease? "subject to all existing rights" says it all.

What signage?

23 acres. Multiple points of entrance, not just two. Were two signs sufficient? That's a resounding "No". People did not see them. Once Avon County Council was abolished in 1996 no one would have taken any notice of those signs.

From where we enter the field from Parrys Lane there was never a sign and none visible so nothing to refer to. Certainly nothing from entry via Cheyne Road either. There were many access points along the pathway and not a barrier, not a sign.

We used the field with council workers present and along with people from Stoke Lodge House and was never once stopped since moving here in 1996. We've used the field when it was in use by schools. Nothing was ever said and we never interfered with other users.

Thank you.

Judith Brant

61 Sara Ugarte

Dear team,

I'm writing to show my support to We love Stoke Lodge. We have lived in Stoke Bishop for 15 years. Stoke Lodge is our closest green space. We used to go running, walking the dog, play cricket, rugby....and for the last few years only been able to look at it from a fence.

We don't need more houses, we need more GREEN SPACES where kids play and people enjoy the outdoors to keep their bodies and minds healthy.

Please, please, please, please save our lovely Stoke Lodge. Green spaces that EVERYONE can enjoy.

Thanks a lot in advance,

Sara

62 Louise Hills

Dear Sir,

Stoke Lodge playing fields have been my go to place for calm, space and fresh air. I have lived near the playing fields since 1995, taking both my children and dog to a near open space for a run around. The signs were never a threat, or really adhered too. Our whole community used the green space happily.

All that changed when Cotham decided to exclude us. Never has there been any useful communication with the school. Many lies and rules have been used to erect a perimeter fence. The playing fields are now controlled by a school who barely uses it. The cost for the fence to be erected has been immense, financially, and emotionally.

Please do not let this school take away our green area, it's all we have.

Kind regards

Louise Hills

63 Namisha Birmingham

To whomever this may concern,

I wanted to email to show my support for the TVG status for Stoke Lodge. This site is 0.2 miles from my home and I have used it for over 15 years since moving to Reedley Road. Initially my husband and I would use it for walks and runs before my son was born in 2013 after which we used the site not only for walks and runs but also for family times, my son starting kicking a ball around the field when he was two, used the cricket pitch from when he was five and continues to use the site on a regular basis today (as long as we can get in and the gates are not shut!)

I understand that there are we're two Avon signs that said use of the site was prohibited, however I'm not sure we ever saw those as we'd cut through the gap in the wall by the roundabout on Shirehampton Road as this was the quickest way in from where we lived. Lots of people used the fields when we were there so we weren't aware that's this was prohibited. Im sure you'll agree that having only two signs isn't really sufficient for a 23 acre space with over 30 entrances.

When we were there we did occasionally see what we assume were council groundskeepers and they didn't at any time tell us we shouldn't use the facilities, surely if the general public we're not supposed to use the site someone would have told us. As far as we were concerned the Council were happy for use to use the site for informal use.

I understand there was a public inquiry in 2016 which we weren't aware of and an as we weren't aware we continued to use the fields as before. We did notice some signs when we were walking to Coombe Dingle sports centre some time during the summer if 2018 that I think the council or Cotham School put up, however we continued to use the site as again none of the workers we saw there ever told us we couldn't use it. and/or did you think that it changed anything

This is the last green space in our area which we can enjoy as a family to play sports on and if the School continues to make it a challenge to access the site it would be disastrous for the local community which includes many families with children who do use the site regularly.

We are more than happy to use the site with Cotham School, there is plenty more f space for it to be a communal site.

Regards,

Nimisha Birmingham

RE: Stoke Lodge TVG Application - PROWGC 28th June 2023

Having lived within 15 metres of Stoke Lodge Parklands on Cheyne Road and being very aware for the last 12 years of living in such close proximity to the Parklands, and understanding this glorious space as the curtilage of Stoke Lodge and hence the preservation orders (TPOs) on so many of the trees. The groundsmen historically would happily greet and discuss their activities, be it managing trees (removing damaged branches, trees struck by lightning), the invasive knot weed in the most westerly part of the grounds behind the properties on Stoke Paddock Road, the discussion of badgers, the visits of deer, the placing of a 'hedge' to mask the electrical substation (bottom of Parry's Lane) – the gardener sharing his knowledge of the best hedge growth as I too was seeking to develop a hedge in lieu of a panel fence around my property, the maintenance and repair of the walls, the placing of rubbish bins, the clearing of rubbish and the planting of new trees, which always drew positive comments and appreciation.

Of particular note is that whomever came to work on, manage, plant, remove, cut/prune, develop the site, they were always friendly, careful, accountable and clearly genuine groundsmen/gardeners as they were responsive, informative, professional and always willing to share their knowledge and intent.

In addition, if they ever had to bring large vehicles to cut or carry wood away, and when mowing the grounds, they were always deeply respectful of the land and moved around carefully, always slowing/stopping if a dog was off the lead or a child in the vicinity. They would even stop and chat! All of this happened before the fence went up, something BCC promised would never happen!

As for signage, there never has been from the Cheyne Road entrance, and the first and only sign anyone entering the field from this point would see as a sign, was at the edge of the road, directly in front of the Lodge, which meant the listed activities should not occur on the Stoke Lodge lawns! This was also true for people coming to the car park. The signage never read as applicable to the Parklands because of its position and orientation. A great many people enter the Parklands from these two locations. The fact that other signs appeared/disappeared was not relevant to many people as they would see the public happily walking dogs, playing sports, picnicking, chatting in small groups, learning how to ride bikes, flying kites etc.

The Public Inquiry in 2016 altered nothing about my, or my neighbours' perceptions of the use of the field as we all carried on enjoying the green space and continued to see all the 'regular' users on daily or weekly basis. The placement of signs by Cotham in 2018 was met with outrage being perceived as an attempt to restrict use (which had existed for 70 years as witnessed by residents living their whole lives on Cheyne Road!) and everyone considered them irrelevant too because Cotham's use was subject to community use under the lease. The fence, Ofsted insisted was not necessary, was also met with outrage. Being a governor of two schools for many years each with unfenced playing fields, this is a tragic miss-use of school funds and alienating to the whole local community.

Dr Sharon Lloyd

65 Joanna Walker

I write in support of Stoke Lodge being granted TVG status. I did not see any signs informing of this court case and I visit the site weekly. Two old outdated signs are not sufficient for a 23 acre space with over 30 Stoke Lodge is extremely important to my family I lived in Elmlea Avenue as a child I now live in The Dell and have two sons who need this safe space to play this is the last green space in our area and it needs to be protected from development.

Yours sincerely

Joanna Walker

66 Ruth Reid

To whom it may concern,

I wanted to put our voice and concerns to you over the much loved local green space, Stoke Lodge.

We have lived in very close proximity to this green area for 15 years and it has been devastating that it has gone from an area which was free to roam with our family including two children to a caged in area. During the winter now the paths are impassible due to the amount of footfall it just becomes a mud bath.

If the area was unfenced, the students of Cotham surely wouldn't be at any increased risk? Many schools operate with sports fields which aren't fenced, however by having it fenced and not available to local people, including teens from this area are at increase risk to their mental health. It would be a safe area to go and let off some steam if it was freely accessible, at the moment there is always the worry that you will get locked in.

The people of the area are responsible and if there were clear signs on rules of operation without a fence locals would respect them.

I'm am concerned that this valuable green space the last remaining in the area, will be developed and this is the overall intentions of the school needing a fence?? This would be detrimental and wrong on so many levels.

Kind regards,

Ruth Reid

Statement from Dr Robert Welham, 22 Shaplands, Bristol BS9 1AY:

I urge the PROWG Committee not to accept the Report's recommendations but to evaluate the evidence for themselves.

The Inspector's Report contains such serious errors that a decision based on it cannot stand. New evidence has been left unaddressed, so its conclusions are untenable.

The community use of Stoke Lodge has never been contentious.

It has been accepted and encouraged over the decades by complete lack of intervention by the schools or the Council and mutual acknowledgment between community members, schools and groundsmen. BCC supported TVG registration till 2018!

The public inquiry of 2016 was not widely known or discussed on the ground. Community use just went on.

I never saw a sign other than the one by the Lodge which clearly applied only to the area round the house.

You can assume that Cotham's fence applications, insofar as they were known, were seen as empty threats because:

(a) We knew BCC had previously promised that Stoke Lodge would never be fenced and told the community to stop worrying about it.

(b) BCC said planning permission for a fence WOULD be needed but NOT granted because house and grounds were listed.

Only the fencing has ever interfered with community use of Stoke Lodge.

It has been disastrous for general wellbeing, for the health of both people and parkland, and for those reliant on safe, unrestricted access to the one remaining local green space. We know that the DfE and Ofsted refuted the school's claims that fencing was legally required.

I ask you please to protect Stoke Lodge and its land from development, by recommending TVG registration.

It means too much to too many to be taken from its devoted community, and is far too valuable ecologically to lose to artificial pitches and hard standing.

68 Charles Elderton

Dear Sirs

Please accept the following as my public forum statement regarding Stoke Lodge TVG.

I would respectfully ask the Committee to look very closely and consider all the evidence available to it in making its decision.

I have lived in the local area surrounding Stoke Lodge, initially moving to the area in 1985 when I was 16. We lived as a family in Bell Barn Road, BS9, one road away from Stoke Lodge. It was from there we came to play football, walk the dog and make full use of Stoke Lodge. I do not recollect any sign saying we couldn't use the land, let alone the Council or anyone else ever refusing us entry or asking us to leave. It was used communally by all my friends and family at that time.

Up until the public inquiry in 2016 I wasn't even aware there was an issue with use of the land. There was no reason to. Even then it made no difference to how I would use the land - still walking a dog and playing football and rugby with the children on Stoke Lodge right up until the fence went up.

I am also Chair of the 43rd Bristol Scout Group, based very locally to Stoke Lodge. For many years, both before and after the public inquiry, the Group has used Stoke Lodge as of right as a safe place to take the Beavers, Cubs and Scouts to learn new skills, run around and have fun.

Stoke Lodge is an important piece of land which should be freely used by all in the community and for future generations to come.

I would strongly ask that you grant the land TVG status..

Yours sincerely

Charles Elderton

My family and I have lived close to Stoke Lodge for almost 30 years. I took my children there to play when they were toddlers. Sometimes we saw a sign, depending on where we entered the parkland. As there were always people on the land, we assumed the signs were outdated.

As my son got older and his primary school friends went to numerous different secondary schools (we didn't have a local school then) , they would meet up in the evenings to play football on the lodge. It was in the centre of all their homes. They would enter through different routes, many without signs. When they left and went to University they would meet there in the holidays to enjoy a kick around together. The space has always been special to our whole family. And then it was fenced off. The boys met up in the pub instead. I can't walk my anxious dog there due to the narrow pathway. Birthday picnics can no longer be held there as you can't be sure it will be open. We have lost our space. Why? We were happy to share it with the school.

Alison Foster

70 Laura Dove

Hello,

This relates to Stoke Lodge TVG.

I have lived on Cheyne Road since 2015 and have used the field consistently since then. Prior to the fence I entered several times a week from the Cheyne Road entrance by the big tree, of which there was no signage about usage from the council. When coming from the other direction to go home I either climbed over the low wall by the road by the mini roundabout. This wall was low so you could just lift your leg over, of which there were no signs. Or I entered through the openings by Parry's Lane, Cross Elms Lane, of which there was no sign not to use the space. I was not aware this was supposedly not a "public space" as I accessed it every few days from various entrances and never noticed signs. I would sometimes enter and exit by the changing rooms to get to coombe dingle, and never noticed signs not to use the place. I regularly used it freely for walks, hanging with friends, as a shortcut, for picnics etc. This has been hampered by having the fence unfortunately and I have not been able to use the fence as much as I would like to due to being locked out times.

Since the fence I still use the space, but it is impacted greatly by the fence. As the last green space in my area, I am keen to be able to use it without a fence. I became disabled, and use the field for required physio, the fence and being locked out severely impacts my lifestyle and ability to do this. It worries me to try to access the field now that the perimeter is so muddy in the winter.

I want to be able to access my last local green space freely, as I have done since 2015. It is extremely important to me that this is designated a TVG, so that I and my family can use the space for quality of life.

Offsted doesn't require a fence, you can still have schools using a playing field without a fence. There is a children play area, a carved tree etc, that show it is a community park space. It is extremely upsetting to be locked out of my local park by a school when the school could still use the space without the fence. They have parks in Cotham, but this is the last green space in this area. The lease was designated 'as of community use' so should remain with community still having access to the space like before Cotham got the lease. The fence stops some of this use.

Please grant the space TVG to protect it and keep it for generations. Having green space is so important for my mental and physical health. Plus for the wider environment

Regards,
Laura Dove

71 Margaret Hiles

Our family has lived close to Stoke Lodge since 1984. As a mother of young children back then, Stoke Lodge was a local and wonderful safe space to take the children and meet up with friends.

Having contacts in the area as I grew up, I've long been aware of Stoke Lodge as a place for young people to meet, play games or just 'hang out'; the space was used also for school and other sports with no conflict between this and casual users. We were never once challenged by park attendants or grounds keepers to suggest our presence was in any way contentious.

This freedom to enjoy the parkland was also given to my children, who incidentally attended Cotham School. However, the actions of Cotham School and BCC have meant that my grandchildren no longer have the access that their parents made so much worthwhile use of.

If I visit Stoke Lodge parkland now, the enclosure by a two metre high steel fence is intimidating in itself, and even more so to be inside it. With limited access through gates that are externally controlled in a capricious manner, and with only a single point of egress if you find yourself locked in, it feels most unsafe as a lone female to enter the compound.

It is no longer welcoming; I have to assume this is intentional, and affects community members of all ages. Now, the only sanctioned access inside the fence is for those who live elsewhere, arrive by bus or car, zoom in and, as quickly, leave.

Cotham School publicly assert that Department for Education (DfE) guidance in some way requires the remote playing field at Stoke Lodge to be fenced. A written response in May 2023 from the DfE confirms that this is not the case, yet the school continue to promote this fallacy as justification for their actions in enclosing this beautiful green space.

In the immediate area, several former green spaces have been lost; Stoke Lodge is the only one remaining. I feel a profound sense of loss, and can only hope that sense prevails and the TVG application is granted.

Margaret Hiles

72 Scott Defries

I'm writing to you to offer my full support to Stoke Lodge becoming a protected TVG status. Having read through a number of articles regarding the "Independent" Inspector, Philip Petchey's decision to reject the TVG I was amazed to find out that the Barrister admitted that he may have misinterpreted the evidence that was given to him by supporters of the TVG. So, this is a so called Independent Inspector saying he had misinterpreted some of the evidence – any other case and it would be thrown out!

We live local to Stoke Lodge and we would always get into Stoke Lodge by Parry's Lane. We only noticed the one sign at the Car park entrance to the Adult Learning centre and even then it was poorly located. The park is huge and yet we only ever saw this one sign

My children and I have often used Stoke Lodge and have never been asked to leave the field by anyone connected to Cotham School or BCC. We feel sad that access is now restricted and that the huge field is surrounded by a prison like fence.

We do feel that there is something more too it then the school using the field for its sports facilities. They used it before the fence went up so what has changed? Is the land been appropriated for other purposes down the line is developing the land into housing estates etc – **watch this space**

Thanks

Scott Defries

73 Cllr Tim Kent

Dear Committee,

I fully understand the requirement of the committee today to seek to make a just and lawful decision – I sat on the committee in 2016 and 2018.

I wanted to write to make clear the concerns I held then and continue to hold which conflict with the recommendation of the Inspector.

It should be noted that in 2013 the Inspector issued a report to register the land as a Town Green. It was decided not to implement this decision as several new cases were being decided - two of which I expand on below – Taylor and Winterburn.

Firstly, I agree with the clear case law that suitable and clear signage is enough to make use of land contentious. I agreed with that position in 2016 and 2018. At the same time we struggled with other factors- the undermining of the authority of the signage through multiple entrances not signed, whether the signage being from Avon County Council implied they were out of date, that they were not clear in intent, the provision of waste bins - even next to a sign - implying consent to use the land by the landowner, and previous meetings between residents and the council where usage was permitted. Whether there were enough signs around the perimeter and entrances to meet the lawful test.

This was all explored in detail and debated in the 2016 decision which decided to register the land. The 2018 Judicial Review heard by Judge Williams overturned this, but the court stated that ‘Taylor’ was binding on the court and believed that the PROWG Committee had accepted that the signs made the use of land contentious, which was not the case.

In 2018 the Committee was informed by officers that the Court had overturned the registration and found in favour of the inspectors' advice (Cotham School vs Bristol City Council 2018) and that the committee had no other option. The minutes show officers advised that ‘Taylor was binding but maybe the inspector was not aware of it when he produced his original report’. The minutes also state that officers said the judge ‘was mindful of the two judgements in relation to the position of signage’ (Bristol City Council minutes of PROWG Jun 2018).

We now see in the Inspectors final response that this advice by council officers was overstated. The Inspector has admitted that the Judge Williams did not uphold his interpretation of the signs and advice that use had not been as of right’ (Appendix 6 of your papers, para 12).

In the High Court judgement by Lord Justice Williams mentioned the case of Taylor vs Betterment Properties 2012 (see appendix 2 for Agenda Item 11 Jun 2018 PROWG)).

Interestingly though little to no evidence was given to the committee about Taylor vs Betterment Properties by the Inspector (as noted in the minute of PROWG Jun 2018). In his original report he mentions it once in his 91-page report and in his update report to you he mentions it 4 times across 32 pages.

The Taylor vs Betterment Properties case has many similarities to the case before you. It was for an area of land of 46 acres, whereas Stoke Lodge is 22 acres. It was originally registered then overturned and at the heart of the case is whether usage was made contentious through signage.

The Court found that the landowner had erected many signs, on multiple occasions, as well as fencing off entrance points and contesting what was aggressive use, often involving vandalism.

What is it then in Taylor vs Betterment Homes that is missing from the report in front of you?

One simple line. The judgement of Taylor vs Betterment Homes 2010 by Judge Morgan, then repeated in the judgement by Lord Justice Carnwath, Sullivan and Patten in 2012 includes one very crucial paragraph as a finding of fact:

“I now turn to the question of whether signs were erected and, if so, where they were erected, what they said and for what period they remained erected. I find that the Curtis family did erect and re-erect signs with reference to the total area of the land which they owned. I find that this process of erecting and re-erecting signs continued for many years and was not a short-lived affair. As to the location of the signs, there is sufficient evidence **that there were clearly visible signs, and not just one or two of them**, which would have brought home to a person using the registered land that the registered land was governed by such a sign.” (my emphasis)

The Inspector has advised you as a committee that it is his belief that 3 signs is enough to achieve the purpose for land in similar size to that of Betterment Properties (Taylor), where the Court has clearly stated that multiple signs were needed, and that Betterment Properties did not rely on just one or two signs. The difference is one sign – signage from an Authority that no longer existed, that were placed in ad hoc locations not covering many of the entranceways, for an area where the council regularly undermined the position that the use of land was contentious.

It would not only be appropriate, but essential, that the committee ask the Inspector why this part of the judgement of Taylor is ignored in his report and how he gives greater weight to the judgement on the Winterburn car park rather than the clear ruling by the courts that signage should be **‘clear and visible to bring home to a person that the land was governed by the sign.’**

In 2018 I requested that the committee explore the issue of Taylor more before deciding. Officers spoke against this suggestion and the committee instead rejected the application to register the Town Green. It is my opinion that this remains an unresolved issue where the Inspector has failed to highlight the narrowness of his judgement and that whether there is sufficient signage is in itself contentious. Previously the Committee has called an inspector to answer questions before making a final decision. Given the contradictory case law and narrowness of judgement used by the Inspector I cannot understand why the Inspector has not been called to be present to answer questions on the crucial point missing from his report.

I hope you will consider the Courts opinion **‘not just one or two of them’** when making your decision today.

Cllr Tim Kent

A\ Reference: PROW committee meeting 24th May 2023 to decide TVG at Stoke Lodge

My interest in the case is as a former Facilities Manager for Cotham School, formerly with management and maintenance responsibility for Stoke Lodge (as well as the rest of the school).

I am writing, independent of any interested party in this case, to urge the PROW committee to make its decision purely on the facts and legal position, and to offer a succinct precis of this below.

The facts of the case are as follows:

- In 1982 a new law was passed, intended to hand power to exclude nuisance and disturbance from school premises. In particular the law was concerning matters like dog walking or indeed horse riding on school land, it was also concerned about general disturbance of activities on school premises during the school day *Section 40 Local Government Miscellaneous Provisions*
- Following this new power Avon County Council decided that it would install prohibitory notices to the above effect, followed by three notices being installed at Stoke Lodge sometime soon after. The council also erected the same notices at playing fields across the county.
- The notices remained in place until one was replaced in 2009 by BCC and the others were replaced in July 2018 by Cotham School. The wording on the notices remained relevant from 1982 to date.
- The notices were known to exist by all users of the land during the entirety of the claimed period (1998-2018).
- There was a TVG application made in 2011 (TVG 1) which was the subject of a 9-day inquiry in 2016. The notices and whether people knew about or had seen them was a subject of much discussion at the public inquiry in 2016 and established as fact that they were seen by all witnesses.
- The vast majority of local residents were aware of the TVG and the inquiry, it was well attended and well publicised locally and in newspaper articles at the time. It is also of note that the applicant for TVG 3 gave a supporting statement to TVG 1, later stating they had no prior knowledge of TVG 1.
- Also in 2011, Cotham School was granted a fully demised lease of the land for 125 years, the lease also passed statutory responsibility for the land to the school.
- The 2011 TVG was eventually rejected by PROW in 2018 (not as of right) after initially being approved (erroneously and unlawfully – *see Sir Wyn Williams judgement*) by the PROW committee in 2016 (against the findings of the inquiry and officer legal advice – *see 2016 IR and 2016 officer report*).
- In May 2018 Emma Burgess attended a meeting for SSLP, and “took up the reins” in a continued “fight” against restricted access at Stoke Lodge. It would have been fairly obvious to any observer at this point (including the applicant) that this was an ongoing and contentious matter.
- We Love Stoke Lodge undertook a concerted awareness campaign from May 2018 on. This included posters around Stoke Bishop, in shop windows, on bus stops and a social media campaign bragging 1400 users at the time. It would have been obvious to any observer that the campaign was regarding a matter of some contention between the residents and Cotham School. The issues between Cotham School and residents in Stoke Bishop was even described as a “war” by a councillor. The dispute over access at Stoke Lodge was patently very well known and very contentious during a significant part of the qualifying period (1998-2018).
- In May 2018 Cotham School met with the TVG 1 applicant and Cllr Goulandris as local representatives and informed them that the school would erect a fence and any use after the date of the meeting would be with the permission of the school. The school released a statement to this effect the following day online, in local media, and displayed a copy at the site. ***Any use after the date of this (well publicised) statement can only possibly be considered either conditionally permitted or contentious.***

- In June and September 2018 Cotham School met with We Love Stoke Lodge, restating conditional restricted use and the plan to fence the site in order to control access.
- In July 2018, in preparation for the fence, Cotham School replaced the signs at Stoke Lodge. The school used largely the same wording as existing signs, only changed to reflect more current legislation. The signs caused a great deal of local outcry and concern that unrestricted use was no longer permitted. It is reasonable to assume that the signs in the 1980s caused the same kind of response. Ignoring the signs does not make them invalid (*Winterburn*).
- In September 2018 Emma Burgess made an application for TVG (TVG 2). This application was made on the basis that as of right use continued at the date of the application, despite the new signs erected by the school in July and the meetings that she had attended with the school which clearly explained what was permitted on the site and what was not.
- In July 2019 Kathy Welham made an application for a TVG (TVG 3) stating that as of right use ceased in July 2018 (when Cotham School erected signs). This application was made despite the applicant having full knowledge of the 2016 inquiry, the 2017 JR and its 2018 outcomes, as they happened.
- In 2023 (now) an inspector's report has found that use at the site has not been as of right, either due to notices, TVG 1 inquiry making use contentious *and* being a 'cause celebre', or use having been permitted. Fully published conditional permissive use is a matter of fact after May 25 2018

To my mind it would make no sense whatsoever if the PROW committee now found that use has been as of right between 1998 and 2018, as is necessary for this TVG to be awarded. A mistake of this nature was made previously (in 2016) by the PROW committee, to the detriment and cost of the council, it should not make the same mistake again.

The decision that needs to be made is purely one of the legal facts of the case, the decision should not be made for any supposed moral, environmental, or political reasons, but purely for legal ones. The decision is quasi-judicial in its nature and failure to make the decision for purely legal reasons could (and should) be of detriment to the council if the case is challenged in court as it was previously.

I urge you to read and understand the reasons given in the inspector's report and finally make the correct decision. The land is not a TVG, nor is it a park (or "parkland"), it is a school playing field, held as educational land and should continue to be considered, held, and used as such.

I would like to close my statement with a question I feel the committee really need to put their mind to. We Love Stoke Lodge like Save Stoke Lodge Parkland before them say they wish to return to a time of peaceful co-existence. This raises the question when did "peaceful coexistence" last exist at Stoke Lodge Playing Fields? If you can put a date on that, I believe you show when locals started using the land in a knowingly contentious manner.

Personally, I believe that any peaceful coexistence that *ever* may have existed at Stoke Lodge Playing Fields ended when David Mayer entered the first TVG application for the land in 2011 which drew immediate and prolonged objection from both the council as landowner and the legitimate (rightful) users of the field - the school, the university, football clubs.

During the Judicial Review into TVG 1 the court heard: *"From 2004, the School used the Site for PE and games. Over the next 10 years the School's use of the Site peacefully coexisted with the lawful sports and pastimes carried out by local inhabitants – Andrew Sharland (2017)"* At that time (2014) "peaceful coexistence" categorically ended, the school risk assessed the field, and from 2014 on there was a stated intent to restrict public access to the land in order to be able to continue to use it for school purposes. The whole community knew that the school wanted to restrict access and there was a notable push to increase use against the wishes of the school. The issue has been a very public "battle" ever since. Many school statements, meetings between parties (including a 9 day inquiry and a 2 day Judicial Review), and media articles since 2014 attest to this one fact.

Nathan Allen

Home address given on request

A2 Kirsty Bennett

This is my statement regarding the TVG application for Stoke Lodge Playing fields.

Please respect the strong legal advice from the Independent Inspector, who recommended that the TVG is not granted.

Significant amounts of taxpayers money have already been spent on this issue, ignoring the inspectors advice and granting the TVG just means that even more money will be spent on this to the detriment of everyone, the school, the council and ultimately the local community.

This Education land is so Important for children to be able to have sport and activity as part of their education. Children in Private education have amazing sports facilities and yet children in State Education are really poorly provided for.

Both my children are at Cotham School, and for a significant part of their secondary education, they did not have off site playing fields that the school could safely use. I feel this has negatively impacted on their Health and attitude to sport.

Please don't let this happen to any other Children. The Children of Cotham School have the right to have safe, clean, dog free playing fields that they can use for school sports.

Kind Regards

Kirsty Bennett

A3 Amanda Hall

Dear PROWG Committee

I am a parent of a child at Cotham School. I am writing to ask the committee to follow the recommendation of Mr Petchey not to register Stoke Lodge playing fields as a TVG.

As a parent, it is important to me that Cotham School continue to have sole responsibility and control of their playing fields to ensure the safety and security of their students. This includes being able to restrict dogs from using the playing fields - dogs and school sport are incompatible.

Cotham School has demonstrated that the playing fields can be shared with the local community, allowing community access to the fields outside school hours, and during holidays (apart from dog walking).

Yours,

Amanda Hall
Parent of a child, Cotham School

A4 Rachel Crocker

I am writing to support Cotham School prior to the meeting on Wednesday. I am fully in support of keeping Stoke Lodge safe for use by the pupils of Cotham School. I believe that it is necessary for the area to be fenced off in order to keep us safe and clean for the students. I feel that it's the least they deserve to have a dog poo free area and also an area where members of the public are prohibited from entering when the school is using the area. I'm sure that many other schools enjoy a safe, clean area for their students to enjoy sport, why should this be any different for Cotham Students?

If the locals want to use the area, then they can do so during the many hours that it is open to them. For obvious reasons, then cannot take their dogs on there. Of course, there's a massive open space just up the road called The Downs if they feel their dogs really need a good run around. I understand that there is also considerable space around the perimeter for general use, including dogs.

Surely, keeping a safe, clean space also means that it would be suitable for other groups to use, thus making it a much more usable community space. I cannot see how making any changes would improve the area for anyone.

Yours,

Rachel Crocker

A5 Catrin & Simon MacDonnell

We feel strongly that Stoke Lodge playing fields be retained for educational purposes and not be registered as a TVG. This has already been recommended by an independent inspector and we ask that the committee follow this recommendation.

Cotham School needs a playing field and fitness is essential for the young people of Bristol. We live in Stoke Bishop and there are so many other green spaces we can use.

Yours sincerely,

Catrin & Simon MacDonnell

A6 George Griffith

Dear Sir/Madam

This has gone on too long. My son is in his second year at university but he was a pupil at Cotham and during his time there, he managed to get to Stoke Lodge about twice due to the issues the school had at the site.

It is abundantly clear from every report that has been written, that the school is the leaseholder and has the right to exclusive occupation. There's clearly no doubt about it at this stage. Each report that has been undertaken, every inspector has concluded that this is not a village green. It's private land and Cotham School are the rightful leaseholders with the rights associated with their title to the land.

This just has to end. The council needs to agree with this independent report and put an end to this ridiculous state of affairs.

Please, enough really is enough.

agree with the report and recommend its findings.

Yours

George Griffith



Providing a life-enhancing education that develops the character, talents and potential of every child

ACHIEVEMENT ~ DIVERSITY ~ RESPECT

Headteacher: Ms Jo Butler

Please find the statement from the party, Cotham School, in relation to the Public Rights of Way and Greens Committee on 28th June 2023

1. Land can only be registered as a village green if it meets the statutory criteria at s.15 Commons Act 2006. If an application does not meet all those criteria, it must be rejected. There is no discretion to allow an application which does not meet all the criteria. Here, the consistent advice of an independent barrister, instructed by the Council, has been that the applications do not meet those criteria and the land should not be registered.

2. The fatal flaw in these applications is that the landowner has made it consistently clear, through the erection of signs and their conduct resisting the earlier village green application, that they object to the unfettered use of the land by the public for sports and pastimes. In those circumstances, the use by the public has not meet the statutory requirement to be "as of right" because, to be "as of right", means that the land has been used without being told (expressly or impliedly) that it is contentious. It follows that there is no legal route by which the Council can grant these applications.

3. The School is under a statutory duty to provide sufficient outdoor space for its students. It has no other land available for this purpose, except this land. The School is also under very strict safeguarding duties which make it impossible to allow the general public to use the land whilst its students are present. Granting these applications would have very serious consequences for the operation of the School within the current regulatory framework.

4. The School does wish to bring to the attention of the Committee details of the dedicated website about Cotham School Playing fields. It provides amongst other information clear details on the times they are open outside of school use for members of the public to access: www.stokelodgeplayingfields.org.uk

5. What is not possible however, is for the general public to use the land at any time. That would effectively mean the School could not use the land (as it would be in breach of its safeguarding duties) and would therefore be in breach of its duties to provide sufficient outdoor space.

6. The School asks the Committee to follow the advice of its officers to reject the applications, which has been based on the very detailed consideration by a specialist barrister independent of the Council.

7. If the Committee fails to follow that advice then the School will have no choice but to consider challenging the Committee's decision in the Courts, including on the issue of statutory incompatibility, an issue consistently raised by the School and which the Committee can see addressed in our solicitor's letter to the Council of 5 April 2023 (p 45 of the Committee's Report Pack).

June 26 2023

Cotham School, Cotham Lawn Road, Bristol, BS6 6DT | 0117 919 8000 | info@cotham.bristol.sch.uk | www.cotham.bristol.sch.uk



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Registered in England: Company Number 07732888.
Registered Office: Cotham School, Cotham Lawn Road, Cotham, Bristol BS6 6DT.

Statement from Jo Butler, Headteacher, Cotham School: 26 June 2023

Cotham is a comprehensive school with around 1670 students on our roll:

- Our student population is highly diverse with stark contrasts between the socially and economically advantaged and disadvantaged.
- The school's catchment reaches into areas with very high levels of deprivation, eg. St Paul's and Easton with the school pupil base in Quintile 4, according to Ofsted's Inspection Data Summary Report (IDSR) This places it in the 'more deprived' of all schools in terms of deprivation.
- Over 50% of our students are in the very highest category of deprivation evidenced by the IDACI indicators.
- The number of students now in receipt of Pupil Premium Funding (at 30%) is higher than National and in Quintile 2 of the IDSR.

The context provided above is relevant because many of our students live in areas of Bristol that have little or no access to green spaces. For the size of our student population we have very restricted space available on the main school site. Therefore an off-site sports provision is not a luxury but an imperative for delivering our PE/ sports curriculum. It should be noted that this has been the case for many years. Even before the significant growth in student numbers in recent years Cotham needed to use Stoke Lodge to be able to deliver PE/ sports from 2004.

Academies and maintained schools have a statutory requirement to provide safeguarding and welfare of their students, a statutory duty to provide physical education which is maintained so far as is reasonably practicable to a standard that the health safety and welfare of students are ensured. The question of security within school premises is ever changing and needs to be kept under constant review, with measures implemented to target identified areas of risk and remedial actions implemented to address them. A school's premises comprise all land and all buildings provided for the school, including both permanent and temporary buildings and significantly in this case, detached playing fields. School premises are not public places and anyone who enters without permission of the Headteacher (who has day to day management of the school) is trespassing. Some groups of people, such as parents, have an "implied licence" to enter school premises at stated times and it is up to the school to decide what these times are; however a school's premises is a private place, to which the public has no automatic right of entry.

As Headteacher I am responsible for ensuring that staff and students can work and learn at the playing field in a safe and secure environment. Should our school playing field at Stoke Lodge be designated as a TVG, we would be forced to stop use if this meant that we would be made to take down our perimeter fence. Without the fence around our school playing field it would be very difficult to ensure the health, safety and safeguarding of students and staff and this was in fact the case prior to the school installing the fence.

Prior to the fence being erected there was a danger from not being able to control strangers coming onto the field during school use. NB: it is normal to secure school sites and access to the buildings so that trespassers cannot easily get past the secure line. It is also normal for schools to have security measures in place to prevent vulnerable students from leaving the school site without permission. Furthermore, prior to the fence being installed dog walkers did not always properly control their dogs. We know dog excrement is dirty, carries health risks and is unpleasant and of particular concern on sports pitches where players frequently slide on the surface and to grounds staff when mowing.

TVG status would seriously frustrate Cotham's ability to use our playing field. In fact I would go further and say that I cannot see that it would be possible to operate on the site due to the incompatibility between our statutory duties and open public access. The school is subject to duties to secure the safety of its students and TVG status and the free public access to our premises that would come with that status is clearly incompatible with that duty. The school provides an exceptional level of public access to the premises- every afternoon and evening on school weekdays, weekends, public holidays and every day during school holidays.

Our playing field was held for 'educational purposes' for many years before the lease between the local authority and the school and there is no other secure facility available to the school for its needs. I am therefore deeply concerned that should Mr Petchey's and Council Officers' recommendation be rejected by the PROWG that one of the largest schools in Bristol will be left without an alternative way to deliver our PE/ sports curriculum and our students, now and those in the future will be left without regular access to green space that should be their entitlement. It is therefore my sincere hope that members of the PROWG Committee will accept Mr Petchey's report and recommendations by not approving the TVG applications. Thank you.

Statement from Sandra Fryer, Chair of Governors Cotham School
Public Rights of Way Committee Bristol City Council
Meeting to be held on 28 June 2023
Re Town and Village Green Applications on Cotham School Playing Fields

Cotham School is pleased to see the clear recommendation to the Public Rights of Way and Green Committee to reject the applications from Emma Burgess and Cathy Welham to designate Cotham School Playing Fields as a Town and Village Green. This is a long overdue decision, following a protracted legal process, which has cost all parties time and expenditure. The Inspector's report and recommendation is very clear and we urge the Committee to accept and approve the recommendation to not designate the playing fields as a Town or Village Green.

We would remind members of the PROWG Committee that Cotham School has more than 1600 students on our roll. We serve a very diverse student body and since Covid we have faced an increasingly complex level of need and for many of our students visiting the playing fields provides an opportunity not only to play sport as part of the school curriculum but also to support their health and wellbeing. For some Cotham School students, this is their primary access to open space.

As Governors we have a duty to lead the school in line with the Government's regulations including those set out in the Schools Academies Handbook, 'Keeping Students Safe at School' and wider regulation and legislation including respecting our duty of care to our staff and students. We work with the Headteacher and senior leadership team to ensure clear arrangements for safety of all through the school day, that the school is a safe place for students, minimising the risk of infectious diseases, such as Toxocariasis, and being secure in the knowledge others cannot access the school campus unannounced. We must also have a clear strategy for managing our assets, our school buildings and estate, to keep them in good condition, to have a programme of maintenance and improvement, and to do this in the most cost-effective way – this includes our school playing fields at Stoke Lodge.

The two applicants and the wider community have led a campaign against the school which seems to have failed to understand the huge responsibility we have in running one of the largest secondary schools in Bristol. This campaign has brought a massive challenge to the school in terms of time, costs and most significantly, risk. Once the TVG applications are dismissed we hope that the campaign will cease and that we can move forward harmoniously with the local community who have access to Cotham's School Playing Fields when not in use by the school. It is noted this is a very generous concession to the local community, no other school in the city from the public or private sector, affords similar community access to their school playing fields.

I urge that the members of PROWG Committee accept the Inspector's recommendation and dismiss the two TVG applications.

Sandra Fryer
 Chair of Governors
 Cotham School

The Cotham Parent and Carers Group would like to begin by thanking the CRA for designating it an interested party and allowing it to take part in this process as objector to the two TVG applications. We are glad that we have been able to provide significant evidence which the Inspector, Mr. Philip Petchey, found useful for his report.

The Cotham Parent and Carer Group for Stoke Lodge emerged from a number of us having children at the school over the last decade and becoming aware of the strange situation where Cotham did not use its own council-allotted playing fields at Stoke Lodge. It was in this very Council Chamber in 2016 that we first saw quite how odd things were when, despite a clear recommendation from the inspector and the CRA's legal expert, post public inquiry, the then chair of the committee and councillor for Stoke Bishop used his extra casting vote to reject legal advice that Stoke Lodge should not be a TVG.

We all know how that ended up in the High Court with an unlawful and erroneous ruling, but here we are again, fighting to preserve the School's playing fields. I say preserve because despite what the applicants say about their self-declared benevolence and safeguarding expertise (and despite not knowing the complexities of the children's requirements), we have no doubt that registering this education land as a TVG would make it unusable for the school again - just like in 2014 when the school were driven off by increased dog use and fouling and people wandering into lessons and even into the changing room.

When the We Love Stoke Lodge launched in May 2018 (note that date as it's inside the 20 year TVG qualification period) we parents and carers began to engage with an open mind. But it was not long before we became very alarmed at the misinformation spread about the school. Some of it was plain ridiculous, some deluded (we had some of WLSL compare their plight to the Civil Rights Movement), and some downright malicious causing pain and harassment to school staff and contractors. We documented all of this via the @Justice4Cotham Twitter profile.

All that evidence is available there online if you would like a deep dive into the goings on at Stoke Lodge over the last few years and to get an alternative (we would say truthful) point of view to that which continues to be pushed by WLSL and SSLP..

But your job today is to make a decision based on what is legally relevant rather than respond to emotive arguments. TVG law is complex. That's why the CRA appoints a legal expert to weigh up evidence and make a recommendation, and has brought a KC in today.

Where do we fit into this?

As paragraph 74 of Inspector Philip Petchey's report of 2nd March 2021 notes:

'The Council's view is that the [public] inquiry itself was a well-publicised local cause celebre. Few people who might have been affected by it would not have known of it or the views expressed by the Council, which Mr Mayer and his supporters sought to rebut. If the signage was itself insufficient to render the use contentious, the Council's public stance at the public inquiry did so.'

In our response to that submission we concentrated on collecting evidence for cause celebre within the 20 year period.

Firstly we curated a map of multiple notices and signs placed by Save Stoke Lodge Parkland around the school playing fields. The Inspector has since referred to this map to reinforce his conclusions about cause celebre. The Applicants have tried to explain the signs away but have failed to convince the Inspector who has labelled their attempts '*tendentious*', a description that naturally we agree with.

However, the map of signs and notices was only one part of our evidence that use of the playing fields was a cause celebre over the 20 year period. We found many references to the ongoing highly contentious situation that gripped the popular imagination of the local area and its inhabitants - some of which we were surprised to see involved back then since they later claim ignorance of events as they became key players in the current TVG applications. All this amounted to over 100 pages in the evidence bundle.

Some highlights of our findings:

Save Stoke Lodge Parkland, the pressure group organised by David Mayer who was the applicant for TVG1 in March 2011, collected 690 signatories on a petition against the fencing off of the fields and the land being '*given to Cotham Grammar School*' in the local Spar shop and followed that up with a '*protest picnic*' on the fields in August 2010 '*attended by in excess of 170*' people who were asked to give their names and addresses to register their attendance. We were able to cross reference names from the witness list for TVG3 which revealed that of the 62 witnesses collected by the Applicant 26 had previous involvement in the TVG1 campaign or knowledge that the issue was contentious.

Further petitions, signs and newsletters issued by SSLP were included in the bundle which testify to the assiduous publicising of the dispute by Mr Mayer and fellow campaigners as well as raising money for a then QC for the High Court proceedings. The local press featured the dispute.

As Sir Wyn Williams, in his High Court judgement which found that the PROWG committee had acted erroneously and unlawfully in awarding TVG1, said, Mr Mayer's campaign before the PROWG meeting '*generated a lot of local support. Hundreds of people sent emails supporting the registration of the land*'. BCC set up a dedicated email address specifically for this.

SSLP and, following on from this, the We Love Stoke Lodge campaigns were prolifically advertised and amplified through multiple channels within the TVG3 period, including in the local press, neighbourhood partnership meetings, the local scout group, social media, politicians' newsletters (for example Councillor Goulandris featured the dispute over use of the playing fields in his newsletters), 2016 public inquiry notifications, flyposting and commercially printed signs.

It is simply not credible that any user of the playing fields including those acting as witnesses for the campaigners could have failed to register these signs, particularly the unlawful oversize '*Sense not Fence*' boards, and believed use of the field was not contentious as is claimed on pages 29 - 30 of Andrew Sharland's 'Submissions on behalf of Ms Burgess and Ms Welham in response to the inspector's report dated 2nd March 2021'. Shoppers at Waitrose on Northumbria Drive would see

the poster inside the redundant telephone box by the library across the road. One poster even made it on to Google streetview.

I'd like here to relate in full the text of two of these printed signs to illustrate this point.

2017. Poster with picture of non-specific playing fields surrounded by c3m high fence.

'Please help prevent Stoke Lodge looking like this.'

'Stoke Lodge was granted TVG status by Bristol City Council 12 Dec 2016 but Cotham School has now applied for a Judicial Review against this decision. If the Judicial Review overturns the TVG application, then Cotham School can move forward with their plans to fence in the whole of Stoke Lodge to exclude free public access and to fully develop it and commercialize it.'

'Up until now the Save Stoke Lodge Parkland (SSLP) community group has avoided incurring costs but a Judicial Review is a legal process in a court, so in order to fight to maintain TVG status, SSLP needs to state its case in court and this requires solicitors and a barrister. The chosen firm is DAC Beachcroft who are excellent but do charge for their services, so SSLP needs to raise a very large amount of money in a short time - £50,000 - £60,000. If we can win this Judicial Review then it would be the last stage. Stoke Lodge would be saved against foreseeable threats... Don't leave it to others. If Stoke Lodge is lost to the local community it will be gone forever, for everyone.'

Also 2017. Poster.

'A further plea to save Stoke Lodge Parklands for us all. Another planning application threatening this space. Please object to the plan for new changing rooms... Thank you everyone, the fight will be so worth it to save this lovely site.'

We also found evidence of clear continuity of personnel and action between the first TVG's Save Stoke Lodge Parkland group and the current We Love Stoke Lodge group. A note on We Love Stoke Lodge was included in our submission. It read:

'Ms Welham's assertion (in applicant response to additional objectors 15th June 2020) that it is 'abundantly clear' that We Love Stoke Lodge (WLSL) and Save Stoke Lodge Parkland (SSLP) are 'separate entities' is disingenuous. The WLSL Facebook page was originally called SSLP and there is ample evidence showing direct connection between the two groups prior to 22nd July 2018 and how WLSL 'took up the reins' of SSLP after the TVG1 application failed and residents were rallied to attend a public meeting at the local church on 14th May 2018.'

Other things we discovered include:

Kathy Welham twice donating to the Save Stoke Lodge Parkland donations page (set up by Emma Burgess) on 21st May and 11th of July 2018. The fundraiser campaigned 'to retain open access' with an accompanying map of the proposed fence; Sue Mayer, wife of TVG1 applicant David Mayer, thanking everyone for keeping up momentum; WLSL and SSLP on the same poster; a substantial donation from SSLP to WLSL to fund their QC.'

What is abundantly clear is that both Kathy Welham and Emma Burgess were highly aware of the contentious nature of the use of the playing field before the TVG3 twenty year requisite period expired and so were many other local residents.

In the face of this evidence, I would like to stress the fact that such knowledge has been specifically denied by the applicants in their submissions. Some examples:

Kathy Welham to Sue Mayer (SSLP) 14 May 2016:

'I'm writing to express my dismay that Stoke Lodge Parkland should no longer be open for the enjoyment and recreational use of local Bristol People.'

TVG 2 / 3 applicants submission to CRA 30 July 2021:

'As detailed in the May submissions, neither of the Applicants was aware of Mr Mayer's application or the Council and School's resistance to it until May 2018. Similarly the vast majority of the members of the We Love Stoke Lodge Group (a group comprising over 1,400 members) were also unaware of the previous application and the Council / School's resistance to it, or of any really threat of ongoing informal use of the land before November 2018.'

TVG applications only need one ground to fail on. These applications fail on at least 2 - signs and cause celebre - or people knowing use was contentious. It may well fail on a third ground, statutory incompatibility if this goes to high court.

So if you vote for registration against the Inspector's and CRA officers' very clear advice, what message does that give to our city? That those who shout the loudest get their pleas of exceptionalism pandered to? That you're willing to join Cllr Abrahams in making unlawful and erroneous TVG decisions?

And what message does it give to our kids who come from all 34 wards across Bristol, who've seen locals deliberately park to block their coaches, had their PE lessons monitored and watched with binoculars and had to sit cold and wet on the bus home because locals tried everything they could to frustrate refurbishment of their changing rooms? Sorry, you don't come first on your own school premises, you don't belong here.

Yep, that's an appeal to emotion again. So instead let's think of the practical consequences of voting for this TVG. There's the waste of public funds which we calculate are into the hundreds of thousands of pounds already. But you're not meant to decide this on cost. There's the loss of playing fields to the city and to sports clubs and other schools having a secure site for sports day. There's loss of funding to maintain the grounds, paid for by Cotham from national funding, rather than out of stretched local park budgets, because let's not forget this is not a park and never has been despite attempts to rebrand it. There's Cotham having to find another playing field, and pay for it.

It's depressing to think of putting the school through all that. So instead let's think of some positive things about the future of SL. In a growing city let's look at the opportunities for more kids, sports and holiday clubs to use this as a green space and outdoor classroom. How could Adult Education work with the school to solve parking? Why don't we institute the fantastic plan to increase biodiversity drawn up by a founder member of the Bristol Tree Forum. Let's talk to Sports England, last time we did they said they love to have a decent cricket pitch back at Stoke Lodge. Let's sort an accessible path around the perimeter, but let's do that by working together not by stealth and trying to undermine the school. Let's stop the Hot Fuzzery that seems to have become some people's

hobby and look to the future. Because not being allowed on a playing field for a few hours during PE time is hardly a sacrifice is it?

This isn't Brislington Meadows, Yew Tree Farm or Western Slopes. Those may well be places to reject official legal advice and hills to die on for the good of our city and as a response to ecological crisis.

But this is not. This is a school playing field.

Please don't limit the educational opportunities for the city's children for the 100 plus years that remain on the lease. Let this be a space where they can breathe, thrive and feel that, for just a small window in their school day, they come first.

END

**IN THE MATTER OF TWO APPLICATIONS TO REGISTER LAND REFERRED TO AS STOKE
LODGE PLAYING FIELDS, STOKE BISHOP, BRISTOL AS A NEW TOWN OR VILLAGE GREEN**

**SUBMISSIONS OF BRISTOL CITY COUNCIL ("BCC") AS LANDOWNER
(26 JUNE 2023)**

1. These submissions are made by Bristol City Council in its capacity as landowner. In short, there is no good reason to do anything other than accept the Inspector's recommendation to reject both applications. This is not a decision about whether it would be a good or bad thing to register the land a village green. The question is whether the land qualifies under the Commons Act 2006: this is matter that requires expert and close analysis. In the present case, this has occurred via Mr Petchey.
2. Although the outcome is no doubt disappointing to the Applicants they have have done better than most in terms of having more than a full opportunity to make submissions and have the evidence considered. A vigorously contested public inquiry was held during which relevant evidence was considered. Where a second application is made by the same parties or their privies or where the relevant issues are subject to an extant public inquiry process (including via written submissions) it is not mandatory to hold a further public inquiry or have all matters reconsidered afresh.
3. There is no justification for yet further delay or the expenditure of further public monies on instructing a barrister to hold, what would be, an inquiry into an inquiry or to retrace the steps that Mr Petchey took. The process that Mr Petchey employed can not be said to be anything other than fair. Attempts to undermine Mr Petchey's recommendation by focusing on procedural points have no basis in fact or law. Long and elaborate submissions on alleged procedural points should not cloud the committee's judgement: it would be a very strong thing to say that the process was in some way unlawful and the law will not readily lend itself to such conclusions. It goes without saying that in any determination of contentious applications there will always be people disappointed with the outcome but at some point there has be a final decision made.

4. However, in the instant case, the evidence which is sought to be adduced at the public inquiry, relating to signage, is in any case legally inadmissible and irrelevant for the reasons set out in previous submissions. BCC (as landowner) repeats its earlier submissions relating to signage and the reasoning set out therein. There is therefore no merit to considering the evidence at a further inquiry. The Applicants' submissions, although very detailed, do not grapple with the effect of more recent decisions of the courts on contentious user. The effect of these cases cannot be brushed aside.
5. The position is therefore simple. The Registration Authority appointed an expert in this field of the law, Mr Petchey, who held a public inquiry and made additional provision for very full submissions on issues that subsequently arose (including in the aftermath of the judicial review proceedings). Unless there is a good reason to depart from his recommendation it should be endorsed. A good reason means a good reason in law.
6. There is one aspect of Mr Petchey's recommendation that BCC as landowner disagrees with. This relates to statutory incompatibility. Sir Wynn Williams held in ***R. (on the application of Cotham School) v Bristol City Council* [2018] EWHC 1022 (Admin)** at paragraph 96 that there was "*no doubt that the land is and has been, at all material times, held by the landowner for educational purposes.*" Extensive submissions have already been made on this point. The law in simple terms in this area means that the public benefit relating to the provision of education should not be thwarted or interfered with by registration of land as a village green. The benefit of educational provision and its importance to the future wellbeing of local people does not require any further elaboration.

Paul Wilmshurst

New Square Chambers,

12 New Square

Lincoln's Inn, London

26 June 2023

A 12 Anna King

To whom it may concern:

I support the Inspector's recommendation to reject the application to register Stoke Lodge as TVG. It is important to retain the land for use by Cotham School as educational use for vital sport opportunities for school students. Local people could still have access to the land outside of school use. This whole ongoing debate is really a huge waste of scarce school resources and unnecessary.

Yours faithfully,

Anna King