

Public Rights of Way and Greens Committee Agenda



Date: Tuesday, 27 September 2022

Time: 2.00 pm

Venue: A Committee Room - City Hall, College Green,
Bristol, BS1 5TR

Distribution:

Councillors: Tessa Fitzjohn (Chair), Jude English, Lily Fitzgibbon, Paul Goggin, John Goulandris, Jonathan Hucker, Philippa Hulme, Tim Rippington and Andrew Varney

Copies to: Theo Brumhead, Nancy Rollason (Head of Legal Service), Tom Dunsdon (Solicitor), Duncan Venison (Network Operations Manager), Eddie Procter and Gemma Dando

Issued by: Democratic Services
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Date: 16 September 2022



Agenda

1. Welcome, Introductions and Safety Information

(Pages 4 - 6)

2. Apologies for Absence and Substitutions

3. Declarations of Interest

To note any declarations of interest from the Councillors. They are asked to indicate the relevant agenda item, the nature of the interest and in particular whether it is a **disclosable pecuniary interest**.

Any declarations of interest made at the meeting which is not on the register of interests should be notified to the Monitoring Officer for inclusion.

4. Minutes of Previous Meeting

To agree the minutes of the previous meeting as a correct record.

(Pages 7 - 12)

5. Public Forum

Up to 30 minutes is allowed for this

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 - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on 21 September 2022.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on 26 September 2022.

6. Current Claims Inquiries and Miscellaneous Rights of Way Matters (Report of the Executive Director for Transport, Growth and Regeneration)

(Pages 13 - 21)

7. Town or Village Green (TVG) Applications

(Pages 22 - 27)

8. Date of next meeting

The next meeting is scheduled for 2pm on Tuesday 31 January 2023 in a Committee Room, City Hall, College Green, Bristol.



Public Information Sheet

Inspection of Papers - Local Government (Access to Information) Act 1985

You can find papers for all our meetings on our website at www.bristol.gov.uk.

Public meetings

Public meetings including Cabinet, Full Council, regulatory meetings (where planning and licensing decisions are made) and scrutiny will now be held at City Hall.

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COVID-19 Prevention Measures at City Hall (from March 2022)

When attending a meeting at City Hall, the following COVID-19 prevention guidance is advised:

- promotion of good hand hygiene: washing and disinfecting hands frequently
- while face coverings are no longer mandatory, we will continue to recommend their use in venues and workplaces with limited ventilation or large groups of people.
- although legal restrictions have been removed, we should continue to be mindful of others as we navigate this next phase of the pandemic.

COVID-19 Safety Measures for Attendance at Council Meetings (from March 2022)

Government advice remains that anyone testing positive for COVID-19 should self-isolate for 10 days (unless they receive two negative lateral flow tests on consecutive days from day five).

We therefore request that no one attends a Council Meeting if they:

- are suffering from symptoms of COVID-19 or
- have tested positive for COVID-19

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You can get committee papers in other formats (e.g. large print, audio tape, braille etc) or in community languages by contacting the Democratic Services Officer. Please give as much notice as possible. We cannot guarantee re-formatting or translation of papers before the date of a particular meeting.

Committee rooms are fitted with induction loops to assist people with hearing impairment. If you require any assistance with this please speak to the Democratic Services Officer.



Public Forum

Members of the public may make a written statement ask a question or present a petition to most meetings. Your statement or question will be sent to the Committee Members and will be published on the Council's website before the meeting. Please send it to democratic.services@bristol.gov.uk.

The following requirements apply:

- The statement is received no later than **12.00 noon on the working day before the meeting** and is about a matter which is the responsibility of the committee concerned.
- The question is received no later than **5pm three clear working days before the meeting**.

Any statement submitted should be no longer than one side of A4 paper. If the statement is longer than this, then for reasons of cost, it may be that only the first sheet will be copied and made available at the meeting. For copyright reasons, we are unable to reproduce or publish newspaper or magazine articles that may be attached to statements.

By participating in public forum business, we will assume that you have consented to your name and the details of your submission being recorded and circulated to the Committee and published within the minutes. Your statement or question will also be made available to the public via publication on the Council's website and may be provided upon request in response to Freedom of Information Act requests in the future.

We will try to remove personal and identifiable information. However, because of time constraints we cannot guarantee this, and you may therefore wish to consider if your statement contains information that you would prefer not to be in the public domain. Other committee papers may be placed on the council's website and information within them may be searchable on the internet.

During the meeting:

- Public Forum is normally one of the first items on the agenda, although statements and petitions that relate to specific items on the agenda may be taken just before the item concerned.
- There will be no debate on statements or petitions.
- The Chair will call each submission in turn. When you are invited to speak, please make sure that your presentation focuses on the key issues that you would like Members to consider. This will have the greatest impact.
- Your time allocation may have to be strictly limited if there are a lot of submissions. **This may be as short as one minute.**
- If there are a large number of submissions on one matter a representative may be requested to speak on the groups behalf.
- If you do not attend or speak at the meeting at which your public forum submission is being taken your statement will be noted by Members.
- Under our security arrangements, please note that members of the public (and bags) may be searched. This may apply in the interests of helping to ensure a safe meeting environment for all attending.



- As part of the drive to reduce single-use plastics in council-owned buildings, please bring your own water bottle in order to fill up from the water dispenser.

For further information about procedure rules please refer to our Constitution <https://www.bristol.gov.uk/how-council-decisions-are-made/constitution>

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The privacy notice for Democratic Services can be viewed at www.bristol.gov.uk/about-our-website/privacy-and-processing-notice-for-resource-services



Bristol City Council
Minutes of the Public Rights of Way and Greens
Committee



20 June 2022 at 2.00 pm

Members Present: -

Councillors: Tessa Fitzjohn (Chair), John Goulandris (Vice-Chair), Jude English, Lily Fitzgibbon, Chris Jackson (substitute for Tim Rippington) and Andrew Varney

Officers in Attendance: -

Theo Brumhead, Anne Nugent (Legal Officer), Duncan Venison (Network Operations Manager) and Jeremy Livitt (Democratic Services)

1 Welcome, Introductions and Safety Information

The Chair welcomed all parties to the meeting and asked them to introduce themselves.

2 Confirmation of Chair

It was noted that Councillor Tessa Fitzjohn had been elected Chair of the Public Rights of Way and Greens Committee for 2022/23 Municipal Year at the annual meeting of Full Council on Tuesday 24th May 2022.

3 Confirmation of Vice-Chair

It was noted that Councillor John Goulandris had been elected Vice-Chair of the Public Rights of Way and Greens Committee for 2022/23 Municipal Year at its meeting on Tuesday 24th May 2022

4 Membership of the Committee

The membership of the Public Rights of Way and Greens Committee for 2022/23 Municipal Year was noted as follows:

Councillor Tessa Fitzjohn (Chair)
Councillor John Goulandris (Vice-Chair)
Councillor Jude English
Councillor Lily Fitzgibbon



Councillor Paul Goggin
Councillor Jonathan Hucker
Councillor Philippa Hulme
Councillor Tim Rippington
Councillor Andrew Varney

Councillor Chris Jackson to substitute for the Labour Group if required

5 Terms of Reference including Scheme of Delegation

RESOLVED – that the proposed Terms of Reference and Scheme of Delegation be approved.

6 Dates of Meetings for 2022/23 Municipal Year

The following meetings of Public Rights of Way and Greens Committee were agreed for the remainder of 2022/23 Municipal Year:

(all commencing at 2pm)

Monday 20th June 2022
Tuesday 27th September 2022
Tuesday 31st January 2023
Monday 20th March 2023

7 Apologies for Absence and Substitutions

Apologies for absence were received from Councillor Paul Goggin, Councillor Philippa Hulme, Councillor Jonathan Hucker and Councillor Tim Rippington (Councillor Chris Jackson substituting).

8 Declarations of Interest

There were no Declarations of Interest.

9 Minutes of Previous Meeting held on 20th January 2020.

RESOLVED – that the minutes of the meeting held on 20th January 2020 be confirmed as a correct record and signed by the Chair.



10 Public Forum

The Committee noted the written responses which had been provided to the following sets of questions:

Q1 – Alan Preece

Q2 – Philip Bird (St George Active Travel Group)

Verbal supplementary questions and answers were made as follows:

Q1 – Alan Preece

Supplementary Question 1 – Since less than a year ago it was obvious that the fence would obstruct routes and entrances, the relevant officer has been requested to collect the relevant evidence of this before the area in question became inaccessible. Has this been done?

Answer: Yes the evidence had been collected. A further assessment would shortly be made.

Q2 – Philip Bird

Supplementary Question 1 (for Written Question 1) – How often are Public Rights of Way checked to ensure they are free of obstruction and why is there apparently no accurate record of how long this PROWG has been obstructed?

Answer: : Officers tried to ensure paths were inspected as regularly as possible and contractors had been requested to do this approximately every three years. A regime was now in place to ensure these inspections took place on a regular basis. The earliest recording of the obstruction is circa 2009. Prior to that time no regular inspections took place, so it is unknown how long the path was previously obstructed. Obstructed paths are reported to the Rights of Way Liaison Group to which the Chair is invited along with other interest groups such as The Ramblers.

Supplementary Question 2 (for Written Question 2) – What progress, if any, has there been since I received the answer to this question in November, and why is progress not included in the report at Agenda Item 12?

Answer: The actions taken by officers depended on progress with each case since these were complicated issues. In certain cases, officers were waiting for planning applications to come through before they could proceed with them. Enforcement isn't a PROWG matter, but a report could be included on currently obstructed rights of way for information only in future papers.

Supplementary Question 3 (for Written Question 3): Where can I and members of this Committee, see the current list of cases being acted upon by the enforcement team.

Answer: Officers could provide this to the Committee, including a list of currently obstructed paths.

ACTION: Officers to provide this information in an update report for the next meeting – Duncan Venison



Supplementary Question 4 (for Written Question 4): What action is the Council (in their role as Highway Authority) currently undertaking to “assert and protect the rights of the public to the use and enjoyment” of PROWG BCC/381?

Answer: Inspections were in place to tackle the backlog of work including via the Liaison Group.

Members of the Committee received Public Forum Statements in advance of the meeting. The Statements were heard before the application they related to and were taken fully into consideration by the Committee.

11 Town or Village Green (TVG) Applications - Tom Dunsdon

Anne Nugent introduced this report and made the following comments:

- There was one application outstanding for Stoke Lodge
- Bristol City Council had spent £7,000 for external costs, probably related to Inspector’s costs
- The Inspector would give his recommendation to the Commons Registration Authority
- A significant amount of work had already taken place on this
- The Inspector was currently considering the submissions and significant amount of paperwork involved
- The Inspector had observed the site
- Anne Nugent indicated that she would shortly be writing to the Inspector and would be updating the Committee on the situation **ACTION: Anne Nugent**

Anne Nugent left the meeting at this point.

The Committee agreed that, following an informal briefing of the Committee by officers, it would be helpful to visit the Stoke Lodge site, if possible, with other interested parties from the school and transport (growth and regeneration) **Action: Jeremy Livitt to seek legal advice from Anne Nugent on the operation of the site visit**

It was also noted that the local Plan Working group were examining green sites (which might include this one) and that issue needed to be considered.

RESOLVED – that the report be noted.

12 Current Claims Inquiries and Miscellaneous Rights of Way Matters (Report of the Executive Director for Transport, Growth and Regeneration) - Duncan Venison and Theo Brumhead

Duncan Venison introduced this report and made the following points concerning some of the applications listed in Appendix A (Applications for Modification of Definitive map and Statement):



- Claimed footpath at Argyle Place, Cliftonwood – This had been a very complicated case with legal action having been taken. Following this becoming public land, it had stalled and the claim was being investigated
- Claimed footpath at South Hayes and Parkside Gardens, Lockleaze – Public access was still available through this route. However, this was the top priority case to deal with unless cases are reprioritised to deal with newly obstructed claims.
- Claimed footpath from Machin Rd to Crow Lane, Henbury – This matter had been initially resolved in 2019. However, following a legal challenge from the landowner, it had been considered by the Secretary of State which had delayed it for a long time
- Claimed footpath at Ridgehill, Henleaze – Despite repeated attempts, officers had been unable to contact the landowner in this case. The footpath, however, remained open to the public and was being used. If the landowner continued to be difficult to contact, more detailed investigations would be made. In response to a question from Cllr Fitzgibbon regarding what would happen if a landowner couldn't be traced. There had never been a situation when the landowner had not been able to be contacted. It was noted that during COVID records had been closed which had created problems in applications where they were required.
- Claimed footpath from Blackberry Hill (south of Frome Bridge) to FP153 – Whilst this had open access, it still remained to be validated.
- South Purdown, Lockleaze route B-C – This route remained open
- Claimed footpath Trymwood Close, Henbury Hill to Arnall Drive – The route remained open. This was Council owned land
- Claimed footpath Fishponds Road to Laburnum Grove – This was being further investigated and might need to be placed as an application with a high priority
- Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene – This application had previously been discussed under Public Forum and was a high priority
- Claimed footpath Penpole Lane to Public Footpath BCC/565 – This was a high priority application
- Claimed footpath Woodgrove Road to Public Footpath BCC/21 – no work had been carried out on this application yet

ACTION: that Duncan Venison/Theo Brumhard provide a timeline and reprioritised Appendix A list for the next meeting

In relation to Appendix B (Miscellaneous Rights of Way Orders, Agreements and Legal Proceedings), Duncan Venison made the following points:

- Most of the work relating to Public Path Orders was delegated to officers to bring the definitive map up to scratch
- A further three cases were being submitted through the legal team.

In relation to Appendix C (Legal Event Modification Orders), he made the following points:

- There was a backlog of 166 cases from between 1966 and 2008 which needed to be put on the definitive map.



- The part time Rights of Way and Greens Officer is working to ensure the map was up to date

The Committee expressed their thanks to this officer for the work they were carrying out.

In relation to the Improvement Programme Summary (Appendix B), he explained the following:

- This programme received a budget of £50,000 per year and set out a list of the works over the last two years – work included kissing gates and styles
- There had been recent success in getting Section 106 grants for PROWG
- City Regional Sustainable Transport Settlement – this had been doubled to £100,000 for the next 5 years. A large number of requests had been received for lighting on paths. Ecology issues remained important, particularly in more rural areas
- There had been a recent article in the PROWG magazine by a Bristol City Council officer (Eddie Procter) concerning rights of way in the urban environment.

In response to members' questions, officers gave the following responses as required:

- It was noted that some Local Authorities (Including Devon) were using drones to assess public Rights of Way and produce photographs which saved time. However, officers explained that this would be more difficult in a largely urban environment like Bristol as there were regulations concerning flying drones near properties. However, they were used on some of the rockfaces on the Avon Gorge.
- It was noted that the Active Travel Guide to London used MESH (a travel payment management system) which enabled active travel from one end of the city to another.

RESOLVED – that the report be noted.

13 Date of Next Meeting

It was noted that the next meeting was scheduled for 2pm on Tuesday 27th September 2022 in a Committee Room, City Hall, College Green, Bristol.

The meeting ended at 3.20 pm

CHAIR _____



AGENDA ITEM NO.

BRISTOL CITY COUNCIL PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE 27th September 2022

CURRENT CLAIMS, INQUIRIES AND MISCELLANEOUS RIGHTS OF WAY MATTERS

(Report of the Executive Director for Transport, Growth and Regeneration directorate)

(Ward: Citywide)

Purpose of Report

1. To report for information on the present position with regard to claims under Section 53 of the Wildlife and Countryside Act 1981; public inquiries; and miscellaneous rights of way orders, agreements and legal proceedings.
2. To inform members on the public right of way improvements made between June 2022 and September 2022 and the proposed improvements planned for 2022/2023.

Background

2. As Surveying Authority for the purposes of the Wildlife and Countryside Act 1981 the City Council has a duty, as imposed by Section 53(2)(b) of the Act, to keep the Definitive Map and Statement under continuous review and to determine any valid applications for Modification Orders which it receives.
3. There are currently ten outstanding claims that are waiting to be determined by the Authority, the most recent of which was validated by Legal Services in November 2019. See table at Appendix A for present position with applications.
4. There is no statutory advice relating to the order in which claims should be processed. However, the Council's standard practice is to deal with each application in chronological order of receipt, unless the claim is affected by a planning application in which case it is prioritised. Following a recent review of outstanding DMMO applications, officers resolved to prioritise routes over which the public currently have no access, as a result of development or other obstructions.
5. The area of work undertaken by the prow team is guided by statute and the targets set out in the Rights of Way Improvement Plan (ROWIP) 2018-2026. The ROWIP is a Highway Authority requirement under the Countryside and Rights of Way Act 2000.
6. A summary of the PROW improvement programme for 2022/23 is attached at

appendix D. These works are carried out under the Highway and Surveying Authorities duties; to assert and protect the rights of the public, to ensure routes are adequately signposted, maintained free from obstruction and fit for purpose and, to keep the definitive map and statement under continuous review.

Consultation None.

Appendices

Appendix A - Table of Definitive Map Modification Order applications.

Appendix B - Table of miscellaneous rights of way orders, agreements and legal proceedings.

Appendix C - Enforcement actions and longstanding obstructed PRow

Appendix D - PRow Improvement programme summary

Appendix E - PRow forums

Policy Implications There are no specific policy implications arising from this report.

Resource Implications There are no specific resource implications arising from this report.

Other Approvals Necessary None.

Recommended - that the report be noted

Contact Officers:

For queries relating to rights of way matters:
Joanne Mansfield, Solicitor, Legal Division, Business Change

Theo Brumhead, Public Rights of Way, Traffic Services, Growth and Regeneration

APPENDIX (A)

APPLICATIONS FOR MODIFICATION OF DEFINITIVE MAP AND STATEMENT UNDER SCHEDULE 14 OF WILDLIFE AND COUNTRYSIDE ACT 1981

Location	Date Received / Validated	Current Position*	Revised Priority
Claimed footpath at South Hayes and Parkside Gardens, Lockleaze	15.06.2006 [Validated 15.03.07] (Ref. ID3.640)	Investigation underway, to report to Committee January 2023	1 – Route currently obstructed
Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene	30.05.2018 [Validated 07.06.18] (Ref. IEO14/15)	Awaiting investigation	2 – All routes currently obstructed
Claimed footpath Penpole Lane to Public Footpath BCC/565 Claimed footpath Penpole Lane to Public Footpath BCC/565	18.12.2018 [Validated 01.10.19] (Ref. IEO.1500)	Awaiting investigation	3 – Route currently obstructed by adjoining landowner
Claimed footpath at Argyle Place, Cliftonwood	24.04.1998 [Validated 1998] (Ref. ID3.83)	The Property Portfolio Officer is in the process of arranging the transfer to and adoption of the land by the Council, as required by the S106 Agreement. Investigation commenced as other means of resolving claim have reached an impasse	4 – Route currently unobstructed, within amenity space.
Claimed footpath at Ridgehill, Henleaze	14.10.2006 [Validated 24.11.06] (Ref. ID3.654)	A meeting with the landowner to enquire about the possibility of an express dedication of the claimed route was positive. A confirmatory letter from the owner, of the discussion and understanding is awaited by the officers	5 – Route currently unobstructed

Location	Date Received / Validated	Current Position*	Revised Priority
Claimed footpath from Blackberry Hill (south of Frome Bridge) to FP153	28.06.2008 [Validated 11.07.08] (Ref.ID3.685)	The lead claimant lodged an appeal with the Secretary of State which has not resulted in a direction to BCC. The land has subsequently been registered as a Town & Village Green.	6 – Route available to the public by virtue of being part of a Town & Village Green
South Purdown, Lockleaze – route B-C	14.03.2011 [Validated 21.09.11] (Ref. ID3/739)	Awaiting investigation	7 – Route on BCC Parks land and available to the public
Claimed footpath Trymwood Close /Henbury Hill to Arnall Drive	March 2014 [Validated June 2014] (Ref. ID3.788)	Awaiting investigation	8 – Route currently unobstructed
Claimed footpath Fishponds Road to Laburnum Grove	26.02.2007 [Validated 24.11.16] (Ref. ID3/651)	Awaiting investigation	9 – Route currently unobstructed
Claimed footpath Woodgrove Road to Public Footpath BCC/21	18.11.2019 [Validated 25.11.19] (Ref. IEO.1644)	Awaiting investigation	10 – Route currently unobstructed

* Valid applications will be dealt with in chronological order of receipt, except when prioritised as a result of development proposals, or because the current claimed route is obstructed.

ORDERS CONFIRMED WITHIN LAST 12 MONTHS

Location	Date Received / Validated	Current Position	Outcome
Claimed footpath rear of Shaldon Road and Morris Road, Lockleaze**	09.05.2007 [Validated 18.05.07] (Ref. ID3.665)	The Definitive Map & Statement Modification Order No.1 2019 was made on 5 th February 2019 and the consultation closed on 28 th March 2019. Objections were made and not withdrawn, An updated Order was confirmed by the Planning Inspectorate 1 st July 2022.	Complete, added to the Definitive Map & Statement as Public Footpaths BCC/609, BCC/610, BCC/611

MISCELLANEOUS RIGHTS OF WAY ORDERS, AGREEMENTS AND LEGAL PROCEEDINGS

Item	Ward	Site address/ description	Remarks
PUBLIC PATH ORDERS – Town and Country Planning Act 1990			
1	Avonmouth & Lawrence Weston	Public Footpaths BCC/6 (part) & BCC/17(part) combined order	Diversion Order made on 11.11.2021 Awaiting certification subject to developer works
PUBLIC PATH ORDERS – Highways Act 1980			
2	Lockleaze	Public Footpath BCC/80 (part) combined order	Diversion Order currently being advertised
3	Avonmouth & Lawrence Weston	Public Footpaths BCC/543 (part) & BCC/543A (part) combined order	Diversion Order currently being advertised
4	Southmead	Public Footpath BCC/47 (part) combined order	Diversion Order made 17.08.2021 Order confirmed 19.11.2021
PUBLIC INQUIRIES			
5	None		

APPENDIX (C)

ENFORCEMENT ACTIONS AND LONGSTANDING OBSTRUCTED PROW

Location	Issue	Timescale	Proposed remedy
BCC/2A, Moorhouse Lane, Avonmouth & Lawrence Weston	Section under railway blocked by fence	Longstanding	Network Rail have agreed to remove
BCC/4, Moorhouse Lane, Avonmouth & Lawrence Weston	Route blocked by concrete barrier, lack of a bridge over a rhine and overgrown path	Longstanding	Planning application to develop land for solar farm: opportunity to resolve obstructions
BCC/142, Dovercourt Road, Lockleaze	Western part of route is inaccessible - overgrown/ locked gate/ stream crossing	Longstanding	Planning application for housing on Dovercourt Depot site includes proposal to divert PROW onto new pedestrian route across site/ new bridge
BCC/151, Park Road, Frome Vale	Route gated/ fenced off halfway towards terminus at M32	Longstanding	Route blocked off by construction of M32 and needs to be stopped up or diverted as and when resources allow
BCC/260A, Whitehall Road, Eastville	Encroachment onto path from house garden boundaries and dumped garden waste obstructing path	Longstanding	Identify parties responsible for physical obstructions and pass to enforcement for action. Adjacent industrial estate may be developed for housing under Bristol local plan
BCC/261, Deep Pit Road, Eastville	Impassable due to various obstructions: dumped materials, overgrown, parked vehicles and boundary fences of adjacent housing	Longstanding	Potential for diversion through new estate, subject to discussions with landowner

Location	Issue	Timescale	Proposed remedy
BCC/337, Oaktree Gardens, Hartcliffe & Withywood	Installation of stile, damage to surface	March 2019	Passed to Neighbourhood Enforcement August 2022 to instruct to remove stile or replace with self-closing gate
BCC/381, Netham Park, St. George West	Obstructed by various parties including fence and dwelling without planning permission	Longstanding	Pass to Neighbourhood Enforcement
BCC/408, Queen Ann Road, Lawrence Hill	Obstructed by locked gate and pub garden wall	Longstanding	Development application to convert pub alongside PROW: opportunity to divert or stop-up, or remove obstructions
BCC/419, Sherwell Road, Brislington East	Locked gates midway and at east end	Longstanding	Future improvement scheme to clear vegetation and install gates/remove fences were appropriate
BCC/484, Kings Head Lane, Bishopsworth	Blocked at both ends. Closed due to unsafe walls in 2006; now illegally blocked due to crime/ ASB concerns from local residents	2006	Case to be reviewed to identify potential remedies
BCC/547, Hartcliffe Way, Filwood	Locked field gate	2022	Liaise with BCC land manager/ tenant to unlock. Future improvement scheme – consider installing pedestrian gate alongside field gate
BCC/548, Wilson Street, Ashley	Fence and brewery storage area blocking route	2022	Informal contact with brewery and hotel to remove now hotel development complete August 2022

2022/23 PROW IMPROVEMENT PROGRAMME SUMMARY

Capital improvement schemes

1. Strawberry Lane, Hartcliffe and Withywood (BCC/335A). Stone infilling of gullying and drainage improvement. *Completed – see before (left) and after (right) photos below.*



2. Bridgewater Road to South Liberty Lane, Bedminster Down, Bishopsworth (BCC/430). Stone resurfacing and steps renewal. *Underway.*
3. Somerset Terrace, Windmill Hill (BCC/570). Installation of new light columns. *Underway.*
4. Cherry Orchard Lane/ Trym Valley, Westbury-on-Trym (BCC/89, BCC/90). Surface improvement.
5. Avon Gorge/ Severn Way Bristol Link, Clifton/ Stoke Bishop (BCC/182, BCC/268, BCC/598, BCC/599, BCC/602). Replacement of boardwalk under railway bridge, drain and gully clearance and surface improvement.
6. Lamb Hill/ Strawberry Lane, St George Trooper's Hill (BCC/363, BCC/366A). Removal of fallen bank materials, restoration of revetment walling, drain and gully clearance, and pedestrian road crossing measures.

Externally funded schemes

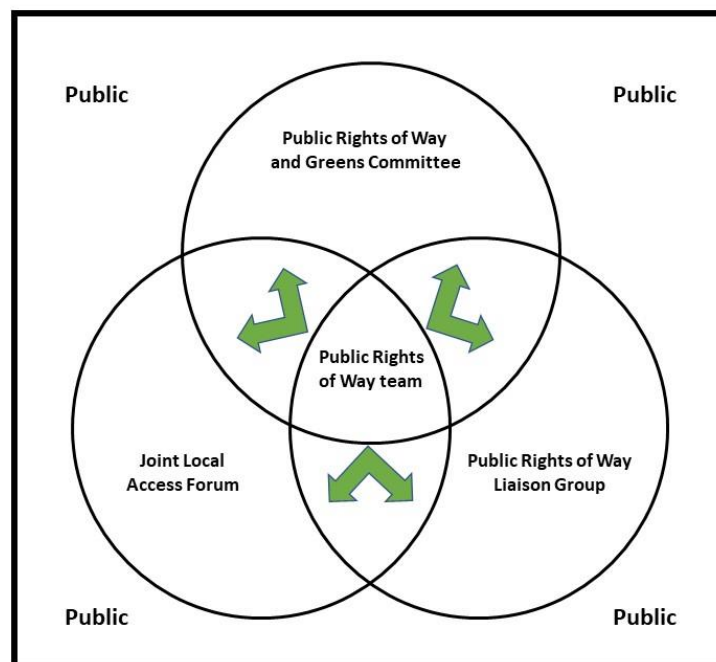
7. Grove Wood, Frome Vale (BCC/153). Renewal of steps, surface improvement, wall repair and removal of fallen trees (S106 funding).
8. ASEA Area 4 Hallen Marsh habitat mitigation scheme, Avonmouth and Lawrence Weston (various PROW). New signage and waymarking, and other improvements for diverted PROW routes (S106 funding).

Appendix (E)

PRoW FORUMS

The Bristol Public Rights of Way team works with different forums each of which have their own specific agenda but all overlap in the desire to ensure rights of way are continued to be protected and enjoyed by the public. The key forums are:

- Public Rights of Way and Greens Committee who have a regulatory function;
- Joint Local Access Forum who bring together highway authorities, landowners, and user and interest groups to address PRoW and public access issues across Bristol, B&NES and South Gloucestershire;
- PRoW Liaison Group who represent Bristol user and interest groups and provide advice, support and comment on matters that the Rights of Way team are working on both currently and in the future.



Public Rights of Way and Greens Committee 27th September 2022



Report of: Commons Registration Authority (CRA)
Title: Town or Village Green (TVG) Applications
Ward: Citywide
Presenting Report: Legal Officer

Recommendation

To note the present position with regards Town or Village Green (TVG) Applications.

Summary

This report sets out the present position with regards current TVG applications duly made under the Commons Act 2006.

The significant issues in the report are:

To update the position with regards to TVG applications



Policy

1. There are no specific policy implications arising from this report

Consultation

2. **Internal**
Not applicable
3. **External**
Not applicable

Context

This report is to update the Committee on the current position of TVG Applications.

The CRA has one current application. On 20th July 2022, the Inspector issued Directions for the progress of the application that the parties are actioning . On 2nd August 2022 the Inspector agreed to vary the Directions timetable with a view to all evidence having been sent to the Inspector by 21st December 2022. Thereafter the Inspector will prepare his Report to the Committee (please note that the timescales may change).

Proposal

4. To note with regards TVG Applications

Other Options Considered

5. None

Risk Assessment

6. None undertaken as no decision is being taken at this stage

Summary of Equalities Impact of the Proposed Decision

7. Before making a decision, Section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular,

to the need to --

- remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
- tackle prejudice; and
 - promote understanding.

Legal and Resource Implications

Legal

The City Council in its capacity as CRA has responsibility under the Commons Act 2006 to determine whether the land or a part thereof should be registered as a green.

The criteria to be applied for successful registration are provided by the Commons Act 2006. The applicant must establish that the land in question comes entirely within the definition of a town or village green, to be found in Section 15(2) of the Commons Act. The Registration Authority must consider on the balance of probabilities whether or not the applicants have shown that:

- a significant number of inhabitants of the locality or neighbourhood indulged in lawful sports and pastimes as of right on the land for a period of at least twenty years; and they continue to do so at the time of the application.

“As of right”

User “as of right” means user without force, secrecy or permission (*nec vi nec clam nec precario*). User as of right is sometimes referred to “as if of right” and must be contrasted with use “by right” (see below).

“By right”

User “by right” means that users already have a statutory or other legal right to use the land for those purposes. Such users are not trespassers. Land is not used “as of right” for lawful sports and pastimes if user is “by right”. If land is used “by right” then the statutory test cannot be satisfied.

In its capacity as Registration Authority, the City Council has to consider objectively and impartially all applications to register greens on their merits taking account of any objections and

of any other relevant considerations. The Committee must leave out of account wholly irrelevant considerations. In cases where an inspector gathers the evidence and provide recommendations on the registration or otherwise of the land as a town or village green, the Committee must always give reasons for departing from such recommendations

The outline procedure for how the City Council as CRA deals with TVG applications is at **Appendix 1**

(Legal advice provided by Tom Dunsdon Solicitor, Litigation, Regulatory, & Community Team, Legal Services)

Land

There are no specific policy implications arising from this report

Personnel

Not applicable

Appendices:

Appendix 1: TVG Procedure Approved by PROWG 25 June 2012

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

Section 15 Commons Act 2006

Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007

APPLICATIONS FOR REGISTRATION OF TOWN OR VILLAGE GREENS

THE COMMONS ACT 2006 THE COMMONS (REGISTRATION OF TOWN OR VILLAGE GREENS) (INTERIM ARRANGEMENTS) (ENGLAND) REGULATIONS 2007

(TIMESCALE – the entire process can take about a year)

OUTLINE PROCEDURE (approved by PROWG 25 June 2012)

An application to register land as a town or village green (TVG) can be made by anybody on any land. The effect of registration is that the land can only ever be used as a town or village green.

1. If anyone enquires about how to make an application to register a TVG they are sent a letter referring them to DEFRA, and to the Open Spaces Society as all the information they need is available on these websites.

2. Receipt of application:

On receipt of application Form 44, the Commons Registration Authority (CRA) allocates an application number, stamps the application using the CRA stamp and sends a letter acknowledging receipt together with the notice giving the reference number.

3. The CRA checks the application documents:

Ensures the form complies with the Regulations and is procedurally correct, relevant sections are completed, all supporting documents referred to are present, and that the plan complies with Regulation 10. It then gives preliminary consideration (Regulation 5(4)) to the application and to the evidence and reaches a decision as to whether to:

- (a) reject the application at this stage due to it being incomplete or not in compliance with the regulations;
- (b) reject the application at this stage based on the evidence;
- (c) call for additional information;
- (d) proceed with the application.

Before any application is rejected under clause 3(a) the applicant will be given a reasonable opportunity of taking action to put the application in order. Before any application is rejected under clause (3)(b) the applicant will be given a reasonable opportunity to put forward further evidence or arguments which the CRA will then consider. The CRA will give reasons for the rejection under clause 3(b) to the applicant. If the applicant does not accept the CRA rejection the application will be referred to PROWG by the CRA. Having considered the report of the CRA and any representations from the applicant PROWG may decide to allow the application to proceed to the full process or confirm the rejection.

4. Publicity:

- (a) any known owner, potential objector or other interested party to be served with notice;
- (b) notice posted at site, if reasonably practicable;
- (c) notice published in newspaper;
- (d) relevant ward Councillors notified;
- (e) copy of application papers on deposit at the Council House

(f) notice published on Council's website.

5. Any objections are referred to the applicant (Regulation 6(3)) for comment. If necessary, the CRA will ask for any further information or documents to enable the application to be determined.

6. All applications will be determined in accordance with the legal test set out in the Commons Act 2006 and as soon as possible after the date by which statements of objection to an application have been required to be submitted (regulation 6(1)).

- a) Straight-forward cases where there is no significant conflict of evidence, or no significant objection will be dealt with on the paperwork. The decision will be taken by the delegated officer (strategic director of corporate services) or PROWG as appropriate. Whether or not an independent inspector needs to be appointed prior to determination, particularly where the Council is the landowner, is a matter for PROWG.
- b) In other cases there will be a public inquiry, ie. a hearing, open to the public, where both sides are able to present their evidence and make representations. Depending on the circumstances and the nature of the case, the inquiry will be heard by either a council legal officer, PROWG (or a sub-committee of PROWG) with advice from a council legal officer, or an independent legally-qualified inspector. Where the Council is landowner the inquiry will be conducted by an independent legally-qualified inspector otherwise PROWG will decide who is to conduct the inquiry.
- c) Whoever is holding the inquiry may carry out a site visit during the inquiry process. The parties are normally invited to attend the site visit but are not permitted to make any further representations.
- d) Following an inquiry hearing, there will be a report to PROWG summarising the evidence and facts with a recommendation as to whether or not the application should be accepted. This report will be prepared as follows:
 - o Where the inquiry is held by a council legal officer, by that officer;
 - o Where the inquiry is held by a committee (either PROWG or its sub-committee), by the council legal officer who advised the committee;
 - o Where the inquiry is held by an inspector, by that inspector.
- e) Following an inquiry, the application will be determined by PROWG on the basis of the report prepared at stage d) above.

When conducting an inquiry, which is a quasi judicial process, the CRA will ensure that the rules of natural justice are met.

8. Applicants and objectors are informed of the decision.

9. Application papers are returned to unsuccessful applicants, or land is registered in the case of successful applications.

25 June 2012
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