

# Public Rights of Way and Greens Committee

## Agenda



**Date:** Monday, 11 September 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 and Andrew Varney

**Copies to:** Anne Nugent (Legal Officer), Tom Dunsdon (Solicitor), Nancy Rollason (Head of Legal Service), Duncan Venison (Network Operations Manager) and Theo Brumhead

**Issued by:** Democratic Services  
City Hall, College Green, Bristol, BS1 5TR  
E-mail: [democratic.services@bristol.gov.uk](mailto:democratic.services@bristol.gov.uk)  
**Date:** Friday, 1 September 2023



# Agenda

## 1. Confirmation of Chair 2023/24

The Committee is requested to note that Councillor Tessa Fitzjohn was appointed Chair of the Public Rights of Way and Greens Committee for 2023/24 Municipal Year by Annual Full Council at its meeting on 9<sup>th</sup> May 2023.

## 2. Confirmation of Vice - Chair 2023/24

The Committee is requested to note that Councillor John Goulandris was appointed Vice - Chair of the Public Rights of Way and Greens Committee for 2023/24 Municipal Year by Annual Full Council at its meeting on 9<sup>th</sup> May 2023.

## 3. Membership of PROWG Committee 2023/24

Councillor Tessa Fitzjohn (Chair)  
Councillor John Goulandris (Vice-Chair)  
Councillor Jude English  
Councillor vacancy  
Councillor Christopher Jackson  
Councillor Jonathan Hucker  
Councillor Philippa Hulme  
Councillor Tim Rippington  
Councillor Andrew Varney

## 4. Dates of meetings 2023/24

To note dates of meetings for 2023/24

All at 2pm

Monday 11 September 2023

Monday 15 January 2024

Monday 13 May 2024

## 5. Welcome, Introductions and Safety Information

(Pages 5 - 7)



## 6. Apologies for Absence and Substitutions

## 7. 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.

## 8. Minutes of previous Meetings

To agree the minutes of the meetings as a correct record for -

**(Pages 8 - 16)**

20 March 2023

28 June 2023

## 9. Public Forum

Up to 30 minutes is allowed for this item.

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](mailto: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 5 September 2023.

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 8 September 2023.

## 10. Current Claims, Inquiries and Miscellaneous Rights of Way matters

**(Pages 17 - 26)**



**11. Current Town or Village Green (TVG) Applications**

**(Pages 27 - 31)**



# Public Information Sheet

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

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## 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.

Members of the press and public who plan to attend City Hall are advised that you may be asked to watch the meeting on a screen in another room should the numbers attending exceed the maximum occupancy of the meeting venue.

## COVID-19 Prevention Measures at City Hall (June 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 (June 2022)

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

- are required to self-isolate from another country
- are suffering from symptoms of COVID-19 or
- have tested positive for COVID-19

## Other formats and languages and assistance for those with hearing impairment

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](mailto: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>

### Webcasting/ Recording of meetings

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



**20 March 2023 at 2.00 pm**

**Members Present:**

**Councillors:** Tessa Fitzjohn (Chair), John Goulandris, Jonathan Hucker, Philippa Hulme, Tim Rippington and Andrew Varney

**Officers in Attendance:**

Nancy Rollason (Head of Legal Service), Tom Dunsdon (Solicitor) and Duncan Venison (Network Operations Manager), Steve Gregory (Democratic Services)

**1 Welcome, Introductions and Safety Information**

The Chair welcomed all parties to the meeting, and everyone introduced themselves.

The Chair asked members to swap agenda items 6 and 7 around due to the presence of the public attending for agenda item 7, this was agreed.

**2 Apologies for Absence and Substitutions**

Apologies for absence were received from Councillors Jude English, Lily Fitzgibbon, Paul Goggin.

**3 Declarations of Interest**

There were no Declarations of Interest.

**4 Minutes of Previous Meeting**





**RESOLVED – that the minutes of the meeting held on 31 January 2023 be confirmed as a correct record.**

## **5 Public Forum**

A statement had been received from Councillor Steve Smith regarding an unresolved claimed footpath application at Ridgehill, Henleaze. Members noted the statement and discussed the issues about the claimed footpath, Definitive Map Modification Orders (DMMO's), backlog.

The Network Operations Manager informed members that claimed footpath applications were dealt with in order of receipt but were reprioritised where DMMO's were affected by planning applications or where the claimed route was currently obstructed.

Limited resource in the Public Rights of Way team only allowed for a small number of DMMOs to be investigated each year with any complications further adding to delays. Further to this any applicant had the option to request that the Planning Inspectorate review their application if it was felt that the length of time to resolve the claim was unreasonable.

Members were reminded that the Public Rights of Way and Greens committee had recently reprioritised DMMOs to focus on obstructed paths and therefore routes that were unobstructed, such as Ridgehill, Henleaze, were lower down on the list of priorities.

The 2015 Deregulation Act aimed to introduce a streamlined process that would assist with DMMOs and make them quicker to resolve, however these elements had yet to be enacted by the government and there was no clear date as to when they would be implemented.

## **6 Current Town or Village Green (TVG) Applications**

The Committee received a report setting out and updating the present position regarding current TVG applications duly made under the Commons Act 2006.

The CRA had received 2 applications which were the subject of consideration and report by an Inspector appointed by the CRA.

### **Stoke Lodge Playing Fields Shirehampton Road**

The CRA had received the report in the week commencing the 13 March 2023



1. The Inspector's report had been sent to the parties for comment.
2. Parties would have 14 days to comment. The Inspector may respond separately but the report would not be amended.
3. The comments and Inspector's response would form a separate report to PROWG Committee which would be published at the same time as the Inspectors report.
4. The CRA would agree a date for the PROWG Committee meeting in consultation with the Chair and the Inspector's report would be published with the agenda in accordance with the Council's Standing Orders and Committee Procedure Rules (CPR), this would be 5 clear working days prior to the meeting.
6. An informal visit to the site was now considered to be the best way for members to see the site and members could choose when they wanted to visit, prior to the meeting.
5. The CRA would provide parties with a further direction in line with the above and a timescale.

### **Land at Ridgehill Henleaze**

1. The CRA had decided that the application was duly made and had passed the preliminary stage to enable it to be proceeded with.
2. The application would be advertised and interested parties would have the opportunity to make objections and the Applicants an opportunity to respond.
3. The Legal Officer would send a map to members showing the area of the T&VG application.

**RESOLVED – that the present position regarding Town or Village Green (TVG) Applications be noted.**

### **7 Current Claims, Inquiries and Miscellaneous Rights of Way matters**

The Network Operations Manager introduced the report and highlighted key points concerning some of the items listed in Appendix A - Applications for Definitive Map Modification Orders, Appendix B – Miscellaneous rights of way orders, Appendix C – Enforcement actions and Appendix D – PROW improvement programme.

Members welcomed the update and were encouraged to raise any issues about outstanding footpath claims or unauthorised obstructions so that any reprioritisation could be accommodated.

**RESOLVED – that the report be noted.**

Meeting ended at 3.00 pm



CHAIR \_\_\_\_\_



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



**28 June 2023 at 2.00 pm**

**DRAFT COPY**

**Members Present:-**

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

**Officers in Attendance:-**

Nancy Rollason (Head of Legal Service) and Tom Dunsdon (Solicitor)

**1 Welcome, Introductions and Safety Information**

The Chair welcomed all parties to the meeting, and everyone introduced themselves.

**2 Apologies for Absence and Substitutions**

Apology for absence was received from Councillors Fitzgibbon who was substituted by Councillor Christine Townsend.

**3 Declarations of Interest**

Councillor Townsend declared an interest due to being involved with education for 20 years and during that time had been in contact with Cotham school before it became an academy but did not consider that this constituted a conflict of interest as this matter was about a separate piece of legislation not connected with education.

**4 Public Forum**



Members of the Committee had received Public Forum Statements in advance of the meeting regarding agenda item no.5 - Application to Register Land at Stoke Lodge as a Town and Village Green under the Commons Act 2006, Section 15(2). The statements were taken fully into consideration prior to reaching a decision.

The Chair outlined the procedure that would be followed for hearing public forum statements and following that the procedure for the meeting –

- 1) Regarding public forum there would be five statements from interested groups with each being allowed to speak for 5 minutes each. In addition, there would be an additional 5 minutes to allow 8 speakers in favour of the TVG and 2 speakers against the TVG, as this was proportionate to the number of statements received.
- 2) Regarding the procedure leading to the decision-making process the Head of Legal Services, representing the Commons Registration Authority (CRA), would present the Council's report. Mr Edwards, KC, advising the Committee would then give a legal overview of the matter. This would be followed by a general debate by committee members and following that a motion would be put and seconded, and this would be put to the vote for decision.
- 3) The Committee was required to give its reasons for the decision. If the Committee accepted the Inspector's recommendation, for the reasons he had given in his report, then the Committee must make that clear. Conversely if the committee rejected the Inspector's recommendations, they must provide clear reasons for doing so.

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

The Committee received a report of the Commons Registration Authority regarding the TVG applications duly made under the Commons Act 2006 in relation to Stoke Lodge playing fields.

The Commons Registration Authority (CRA) had received two applications from Emma Burgess and Katherine Welham, to register a site known as Stoke Lodge Playing Fields, Stoke Bishop, Bristol as a Town, or Village Green. The Applications were the subject of consideration and a report by an Inspector appointed by the CRA.

The Head of Legal Services clarified that the committee on behalf of the CRA had a statutory duty under the Commons Act 2006 to determine objectively whether or not the land in question should be registered as a Town or Village Green having full regard to the relevant statutory requirements and whether those requirements had been met.



The CRA officers' view was that the Inspector had fully examined the applications and the process under the Commons Act 2006, and that the advice and recommendations made were correct in fact and law. Therefore, the recommendation was that the Committee adopted the recommendations of the Inspector and that the land should not be registered as a Town or Village Green.

For clarification Bristol City Council's interest as landowner and as an objector of the applications was wholly separate and independent from its role as CRA. The separation of interests and of functions had been carefully maintained throughout the process. The CRA was satisfied that a clear separation of functions and interests had at all times been maintained and procedure properly followed.

Mr Edwards KC then gave a summary of the legal context as it applied to both applications. The burden and standard of proof was explained as were the statutory qualifying requirements. The Committee was advised that the burden of proof rested solely with the applicant and that the Committee needed to be satisfied that all of the qualifying requirements were met on the balance of probabilities. The Committee was advised that it needed to have and to give good reasons for rejecting the Inspector's conclusions and for departing from conclusions which it reached in rejecting the town/village green application concerning Stoke Road Playing Field in 2018, on issues which are common to the current applications.

The Committee then debated the applications and the Inspector's findings and, during the debate sought clarification from Mr Edwards KC about various points of law.

During the debate there was wide ranging discussion and questions asked including and in particular about the sufficiency of the signage that had been erected on the site at various points in time. Along with other key factors the following points in particular arose during the debate -

- 1) Cotham school had claimed that the 1985 Avon County Council signage and the sign erected by Bristol City Council in 2009 made the position sufficiently clear that use of the site was contentious and not 'as of right'.
- 2) Some members felt that due to the size of the site, circa 23 acres, there was not sufficient number of Avon County Council or Bristol City Council signs to render use of the site contentious and not 'as of right' and this had been exacerbated by Avon County Council ceasing to exist.
- 3) It was considered that Cotham school's management of the land and that of previous landowner had sent contradictory signals in challenging use of the site.
- 4) In respect of Avon County Council becoming defunct it was recognised that the inspector concluded that irrespective of this the signs were sufficient to render the use of land as contentious and not 'as of right'.
- 5) It was important to acknowledge that the merits of continued use of the land and the neighbourhood's wish to continue to use the land were not relevant considerations. If the committee was influenced by these points, it would be acting unlawfully.



After full consideration of the facts and their legal context Councillor Goulandris moved that the Inspector's recommendation be rejected and that the first application to register the land at Stoke Lodge as a Town or Village Green be granted. Councillor Varney seconded the motion. Each Councillor then set out their view.

On the Motion being put to the vote there were 6 in favour, 1 against, 2 abstentions.

The reasons given by the committee were –

1. There were some fourteen entrances to Stoke Lodge Playing Fields, a 23-acre site, and the signs placed on the land by Avon County Council in the mid-1980s were not sufficient in number or in locations to render use of the land contentious during the relevant period. The replacement sign erected by Bristol City Council in 2009 was not sufficient to render use of the land contentious either. Overall, the extent of signage was not sufficient to render the use contentious and not as of right.
2. Furthermore, Bristol City Council and Cotham School took no further action to dissuade people from using the land. The conduct of the Bristol City Council/Cotham School throughout the relevant period for this application was consistent with acquiescence to informal use by the community rather than that use being contentious.
3. The public inquiry in 2016 was not well publicised and it was anecdotally known that there were many such public inquiries in the city and people were often not aware of them. This was clearly the case with the Stoke Lodge public inquiry, therefore the City Council and the Schools objection to the village green application on this basis carried limited weight in terms of making the use contentious thereafter.
4. The Inspector's conclusion that statutory incompatibility was not relevant in this case should be accepted for the reasons set out in his report.

After the vote had been taken to grant a TVG the Head of Legal Services reminded members that there were two applications and the vote had only been about the first application from Ms Welham. Legal clarification was sought regarding the status of the second application, it was noted that the qualifying period ended later than the first application.

After due consideration and given that the Committee had accepted and passed the first application to register the TVG, the Head of Legal Services confirmed that the second application from Emma Burgess could lapse. The Committee accepted this position.

**Resolved – That the Committee reject the Inspector's recommendation and that the application by Ms Welham to register the land at Stoke Lodge as a Town or Village Green be granted.**



Meeting ended at 4.50 pm

**CHAIR** \_\_\_\_\_





## AGENDA ITEM NO.

### **BRISTOL CITY COUNCIL PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE 11th September 2023**

#### **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 March 2023 and September 2023 and the proposed improvements planned for 2023/2024.

#### **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 thirteen outstanding claims that are waiting to be determined by the Authority, the most recent of which was validated by Legal Services in June 2023. 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 2023/24 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**

<b>Location</b>	<b>Date Received / Validated</b>	<b>Current Position*</b>	<b>Revised Priority</b>
<b>Claimed footpath at South Hayes and Parkside Gardens, Lockleaze</b>	15.06.2006 [Validated 15.03.07] (Ref. ID3.640)	Investigation underway, to report to Committee December 2023	1 – Route currently obstructed
<b>Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene, Stoke Bishop</b>	30.05.2018 [Validated 07.06.18] (Ref. IEO14/15)	Contractor to be appointed to complete research and report to Committee March 2024	3 – All routes currently obstructed
<b>Claimed footpath Penpole Lane to Public Footpath BCC/565 Claimed footpath Penpole Lane to Public Footpath BCC/565, Avonmouth &amp; Lawrence Weston</b>	18.12.2018 [Validated 01.10.19] (Ref. IEO.1500)	Awaiting investigation	4 – Route currently obstructed by adjoining landowner
<b>Claimed footpath at Argyle Place, Cliftonwood</b>	24.04.1998 [Validated 1998] (Ref. ID3.83)	Investigation underway, to report to Committee December 2023	2 – Route currently unobstructed, within amenity space.
<b>Claimed footpath at Ridgehill, Henleaze</b>	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
<b>Claimed footpath from Blackberry Hill (south of Frome Bridge) to FP153, Frome Vale</b>	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

<b>South Purdown route B-C, Lockleaze</b>	14.03.2011 [Validated 21.09.11] (Ref. ID3/739)	Awaiting investigation	7 – Route on BCC Parks land and available to the public
<b>Claimed footpath Trymwood Close /Henbury Hill to Arnall Drive, Henbury &amp; Brentry</b>	March 2014 [Validated June 2014] (Ref. ID3.788)	Awaiting investigation	8 – Route currently unobstructed
<b>Claimed footpath Fishponds Road to Laburnum Grove, Frome Vale</b>	26.02.2007 [Validated 24.11.16] (Ref. ID3/651)	Awaiting investigation	9 – Route currently unobstructed
<b>Claimed footpath Woodgrove Road to Public Footpath BCC/21, Henbury &amp; Brentry</b>	18.11.2019 [Validated 25.11.19] (Ref. IEO.1644)	Awaiting investigation	10 – Route currently unobstructed
<b>Claimed footpaths around Moorgrove Wood, Henbury &amp; Brentry</b>	28.11.2022 [Validated 29.11.22] (Ref. GM04.146)	Awaiting investigation	11 – Routes currently unobstructed
<b>Claimed footpath from Airport Road to Willinton Road, Filwood</b>	12.02.2023 [Validated 17.01.23] (Ref. GM04.140)	Awaiting investigation	12 – Routes currently unobstructed
<b>Claimed footpath from Public Footpath BCC/156 to Public Footpath BCC/310, Frome Vale</b>	19.06.2023 [Validated 26.06.23] (Ref. GM04.166)	Awaiting investigation	13 – Routes 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.

## APPENDIX (B)

### MISCELLANEOUS RIGHTS OF WAY ORDERS, AGREEMENTS AND LEGAL PROCEEDINGS

Item	Ward	Site address/ description	Remarks

<b>PUBLIC PATH ORDERS – Town and Country Planning Act 1990</b>			
1	Avonmouth & Lawrence Weston	Public Footpaths BCC/6 (part) & BCC/17(part) combined order	Diversion order made on 11.11.2021 Order confirmed 10.02.2022 Order withdrawn and to be readvertised as
<b>PUBLIC PATH ORDERS – Highways Act 1980</b>			
2	Lockleaze	Public Footpath BCC/80 (part) combined order	Revised diversion order currently being advertised
3	Avonmouth & Lawrence Weston	Public Footpaths BCC/1A(pt), BCC/2A(pt), BCC/552(pt), BCC/554, BCC/555(pt) & BCC/556(pt) combined order	Advertised 30.03.2023, confirmed as an unopposed order 23.05.2023
<b>PUBLIC INQUIRIES</b>			
5	None		

## APPENDIX (C)

### ENFORCEMENT ACTIONS AND LONGSTANDING OBSTRUCTED PROW

Location	Issue	Timescale	Proposed remedy
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: landowner to apply for a diversion which will 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
BCC/337, Oaktree Gardens, Hartcliffe & Witherwood	Installation of stile, damage to surface	March 2019	Passed to Neighbourhood Enforcement August 2022 to instruct to

<b>Location</b>	<b>Issue</b>	<b>Timescale</b>	<b>Proposed remedy</b>
			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 or consider for stopping-up or diversion order
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

## 2023/24 PROW IMPROVEMENT PROGRAMME SUMMARY

### Capital improvement schemes

1. Sea Mills Severn Way Bristol Link, Stoke Bishop (BCC/598, BCC/599). Install glass reinforced recycled plastic boardwalk and handrail under railway bridge. *Underway – see before (left) and during works (right) photos below. Additional works to be completed October 2023.*



2. 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. *Strawberry Lane completed/ Lamb Hill to be scheduled 2023/24.*
3. Cherry Orchard Lane/ Trym Valley, Westbury-on-Trym (BCC/89, BCC/90). Surface improvement. *To be scheduled 2023/24.*
4. Sir John's Lane/ South Purdown, Lockleaze (BCC/227). Surface improvement and drainage work. *To be scheduled 2023/24.*
5. Avon Gorge, Clifton/ Stoke Bishop (BCC/182, BCC/268, BCC/602). Drain and gully clearance and surface improvement. *To be scheduled 2023/24.*

### Externally funded schemes



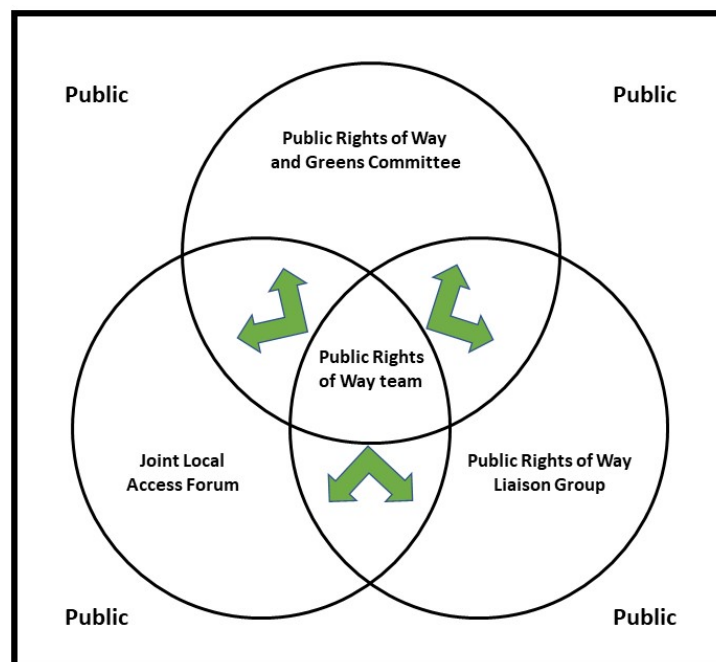
6. England Coast Path, Avonmouth and Lawrence Weston (BCC/543). Signage, waymarking and other improvement prior to England Coast Path opening (DEFRA funding). *Completed July 2023.*
7. Grove Wood, Frome Vale (BCC/153). Renewal of steps, surface improvement, wall repair and removal of fallen trees (S106 funding). *To be scheduled 2023/24.*
8. Corbet Close, Avonmouth and Lawrence Weston (BCC/11). Surface improvement (S106 funding). *To be scheduled 2023/24.*

## 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

11 September 2023



**Report of:** Commons Registration Authority (CRA)  
**Title:** Report to PROWG Committee  
**Ward:** Citywide  
**Presenting Report:** Anne Nugent Team Manager Legal Services

## 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

4. **Context**

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

The Commons Registration Authority (CRA) has two current applications:

- 4.1 **Stoke Lodge Playing Fields Shirehampton Road**

This application is to be registered on the CRA register and the entry to be placed on the land register has been sent to His Majesty's Land Registry.

- 4.2 **Land at Ridgehill Henleaze**

The application has been advertised on the application land and on the Council's website. Interested parties have been given until 13<sup>th</sup> September 2023 to respond. A map of the site is at Appendix 1. Thereafter the CRA will send any responses received to the Applicants and make a decision on how the Application should be dealt with in accordance with the outline procedure at Appendix 2.

5. To note with regards TVG Applications

**Other Options Considered**

6. None

**Risk Assessment**

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

**Summary of Equalities Impact of the Proposed Decision**

8. 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.

## 9. 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 Town or Village Green.

The criteria to be applied for successful registration are provided by the Commons Act 2006. For land to be registered as a town or village green, the statutory qualifying requirements set out in section 15 of the Commons Act 2006 must be met.

The qualifying requirements are:

- a) that the land has been used for lawful sports and pastimes;
- b) by a significant number of the inhabitants of a locality or of a neighbourhood within a locality;
- c) that that use has been carried out *as of right*; and
- d) that qualifying use which conforms to the above, has been carried out for the requisite period for the purposes of the particular application under consideration.

With regard to the requisite period, s.15, to the extent relevant to the applications for the Committee provides for two different periods. The first is a period of at least twenty years ending on the date of a town/village green application (see s.15(2) Commons Act 2006). The second is a period of at least twenty years ending on a date not earlier than one year before the date of a town/village green application (s.15(3) Commons Act 2006).

The qualifying requirements raise matter of fact and of law. In respect of matters of fact, the burden of proving that the qualifying requirements are met, rests with the Applicants. The standard of proof is the balance of probabilities.

#### *Use of the land for lawful sports and pastimes*

Lawful sports and pastimes include normal recreational activities such as walking, dog walking, children’s play and formal and informal ball and other games. The Courts have held that the scope of lawful sports and pastimes is wide. In substance, any type of lawful recreational activity which is indulged in on land may, in principle, fall within the scope of lawful sports and pastimes.

#### *Use by a significant number of the inhabitants of a locality or of a neighbourhood within a locality*

Use must be shown to be by a significant number of the inhabitants of a locality or of a neighbourhood within a locality. A locality is required to be a legally recognised administrative area, such as a parish.

A neighbourhood is a flexible concept but must be an area with sufficient identity and cohesiveness to be recognised as such. A housing estate can and often is regarded as a neighbourhood.

Whether there has been use by a significance number of inhabitants of a neighbourhood is a matter of impression for the decision maker. What is required is a sufficient use to allow a conclusion that there has been use by the community rather than use by isolated trespassers.

#### *Use as of Right*

Use *as of right* means use without force, stealth or permission (*nec vi nec clam nec precario*)

#### *Use for the requisite period*

With regard to the requisite period, s.15, to the extent relevant to the applications for the Committee provides for two different periods. The first is a period of at least twenty years ending on the date of a town/village green application (see s.15(2) Commons Act 2006). The second is a period of at least twenty years ending on a date not earlier than one year before the date of a town/village green application (s.15(3) Commons Act 2006).

#### *Statutory Incompatibility*

Where land is held by a body exercising statutory duties and powers, then it has been held by the Courts that such land may not, depending on the circumstances, be capable of being registered as town/village green.

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

## **Appendix 2**

**(Legal advice provided by Anne Nugent Solicitor/ Team Manager Litigation, Regulatory, & Community Team, Legal Services )**

### **10. Land**

There are no specific policy implications arising from this report

### **11. Personnel**

Not applicable

#### **Appendices:**

**Appendix 1:** Map of Ridgehill TVG Site

**Appendix 2:** 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