

Public Forum
PROWG Committee
2pm on Wednesday 20th June 2022



- 1. Members of the Public Rights of Way and Greens Committee**
Councillors: Tessa Fitzjohn (Chair), John Goulandris (Vice-Chair), Andrew Varney, Jude English, Lily Fitzgibbon, Paul Goggin, Jonathan Hucker, Philippa Hulme, Tim Rippington
- 2. Officers:** Duncan Venison, Eddie Procter, Theo Brumhard, Tom Dunsdon, Lauren Kemple



Statement/Question Number	Name
Q1 – Questions (i) and (ii) Agenda Item 12 - Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene – 1E014/15	Alan Preece
S1 – Stoke Lodge	Helen Powell
S2 – Stoke Lodge	Alan Preece
S3 – Stoke Lodge	Emma Burgess (someone may attend on her behalf to speak if she is unable to do so)
Dispatched Separately - Q2 PROWG BCC/381/10 connects Blackswarth Road and Netham Road within the St George West Ward.	Philip Bird, St George Active Travel Group



Q1 – Alan Preece

Question to the PROW&G Committee for the meeting on 20 June 2022

From Alan Preece, 12 South Dene, Bristol

QUESTIONS

- (i) Is the Committee considering additional meetings now to tackle the inevitable long backlog after 2½ years of cancelled meetings?

ANSWER: As I've no doubt your aware covid had a considerable impact on the delivery of all council services, including PROW committee works. This will be our first meeting for over two years, and the first job for the committee will be to assess the backlog and will put in place the necessary measures required to ensure that any outstanding applications will be dealt with as quickly as possible.

- (ii) As it is now four years since my application in May 2018 for registration of PROWs across Stoke Lodge Parkland, where is my application in the queue which at the end of 2019 was estimated by the Mayor not to be considered until (quote) " the back end of 2020"?

ANSWER: Whilst the Public Rights of Way team were disappointed to not make as much progress as proposed over the period of the pandemic, there was additional work and progress carried out on Definitive Map Modification Orders (DMMO) applications which had been through the Public Rights of Way & Greens committee. These 2 applications, Shaldon Rd and Crow Lane as referenced in update report papers, went through a long and detailed process with the Planning Inspectorate, and this has provided invaluable experience in both this process and how applications can be reported to committee for future works on other DMMO applications. Whilst one of these routes is now open to the public and has been added to the definitive map and statement, the other is still awaiting a final decision from the planning inspectorate.

DMMOs are processed in chronological order unless they are related to a development in which case they are brought forward. Consideration is being given to prioritising DMMOs that involve obstruction over what could be a public right in which case Stoke Lodge would be brought forward along with others submitted around the same time. Assuming this prioritisation strategy is adopted, we will then be able to publish a revised programme.

St George Active Travel Group

Encouraging Active Travel in the St George area of Bristol



16 March 2021

Questions to the Public Rights of Way and Greens Committee (meeting date currently unknown) - Q2 Philip Bird

Obstruction of PROW BCC/381/10

PROW BCC/381/10 connects Blackswarth Road and Netham Road within the St George West Ward. The Public Right of Way (PROW) has been obstructed for a number of years. There are no signs directing people from the road to the PROW and there are no visible indication of the route that the PROW is supposed to take. It is understood that over a period of many years, Bristol City Council has permitted a series of buildings to be built on the route of the PROW.

The obstruction of the PROW has previously been reported to the Council, and was considered by the Council not to be a priority matter. Years later, there appears to have been no progress in allowing unhindered passage along the PROW.

The PROW remains shown on maps, and so pedestrians would expect the path to be available. There are no signs at the PROW to advise that it has been closed.

Bristol City Council has failed in their statutory duty under the Highways Act 1980, s130:
"It is the duty of the highway authority [in this case Bristol City Council] to assert and protect the rights of the public to the use and enjoyment of any highway [which includes all public rights of way] for which they are the highway authority."

Question 1:

According to BCC records, how long has BCC/381/10 been obstructed?

Question 2:

What action, if any, is being taken to enable "the use and enjoyment" of PROW BCC/381/10?

Question 3:

What action, if any, is being taken to ensure other PROWs are not allowed to be obstructed by building(s) being built on the PROW.

Question 4:

If the Council has no intention of restoring access to PROW BCC/381/10 what is the timetable for either extinguishing the PROW or diverting it?

Written Response Provided to Mr Bird prior to the meeting and recorded in the Minutes – PROWG Committee Monday 20th June 2022

Question 1:

According to BCC records, how long has BCC/381/10 been obstructed?

Answer: A condition survey reported the PRoW obstructed in 2009. Records suggest the PRoW has been blocked multiple times in its history, as far back as 1987. Whether or not it was ever available to the public between 1987 and 2009 is not clear but is unlikely.

Question 2:

What action, if any, is being taken to enable "the use and enjoyment" of PROW BCC/381/10?

Answer: The PRoW team have liaised with the developers of the site at the west end of the PRoW to ensure that PROW BCC/381 is provided for in their plans. This site has had various false starts for redevelopment over the years, but it is hoped that once this development is complete, that BCC enforcement would be able to take forward enforcement action against each obstructing landowner following the route from west to east. There are also issues around the change in levels along the PRoW and an unstable retaining wall that will need to be resolved before the PRoW can reopen

Question 3:

What action, if any, is being taken to ensure other PROWs are not allowed to be obstructed by building(s) being built on the PROW.

Answer: The current PRoW team work closely with planning colleagues to ensure that no PRoW is obstructed by a new development unlawfully. Any other illegal obstructions are forwarded to the enforcement team and are then dealt with promptly so as to avoid the situation with multiple landowners obstructing a public right of way once the oversight of officers and the public is lost.

Question 4:

If the Council has no intention of restoring access to PROW BCC/381/10 what is the timetable for either extinguishing the PROW or diverting it?

Answer: BCC does not intend to extinguish or divert public right of way BCC/381.

STATEMENT NUMBER S1

Statement by Helen Powell: PROWG Committee meeting 20 June 2022

Firstly I'd like to express my thanks to the Chair and Vice-Chair that the PROWG committee is meeting on 20 June and has scheduled meeting dates going forward. As a supporter of the Stoke Lodge TVG and public right of way applications, your active oversight of matters relating to the handling and progress of these and other applications is really welcome.

I appreciate that officers are busy and that there have been special pressures on the system in the last couple of years. However, I note that the Outline Procedure and the BCC website both state that that an application to register a town or village green can take up to/about a year. The two ongoing applications in relation to Stoke Lodge are already well beyond that (the first was submitted on 14 September 2018). The public right of way applications were submitted by Professor Preece in May 2018. Again, there is an expectation that this type of application will be resolved within a year.

Does delay matter? In a previous application to register Stoke Lodge as a TVG, the inspector commented that there was no prejudice due to delays because the public had continuing informal use of the land. That is no longer the case.

As you may be aware, in early 2019 (and in the knowledge that TVG and PROW applications had been made) Cotham School erected a fence around the playing fields to restrict public access. Three gates in the 1.5km fence are remotely locked and unlocked at hours that are decided (and subject to variation without notice, or accidental locking) by the school. And since gates that are closed appear to be locked, they discourage people from coming anyway. And so with every summer that passes, family picnics don't happen; children miss chances to kick a ball around or fly kites; stargazers and bat watchers are locked out; neighbours miss opportunities to bump into one another and chat on this historic parkland. Safe green routes to the shops or to school have been cut off, even when the field is empty and not in use by the school. And outside the fence, the narrow and sometimes treacherous perimeter walkways are unusable for many during wet or cold weather. This has a particularly discriminatory impact on anyone with mobility issues or a visual impairment, or who for any reason cannot cope with (or dare not attempt) the overgrown paths and seasonal mudslide round the outside of the fence, where the school carries out no maintenance.

My point is simply that the public interest is very much prejudiced by the fence, and therefore by ongoing delay in processing these applications. Cotham School can use the land for PE lessons whether or not it is a registered green or has public rights of way across it, and informal use by the community is written into its lease - but it turns out that our ability to rely on actually being able to enjoy informal use as intended under the lease depends on these applications moving forward.

We welcome your oversight and hope it will have the effect, as stated in this committee's formal procedure, of ensuring that '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 objections have been required to be submitted'.

STATEMENT NUMBER S2

Statement by Alan Preece: PROWG Committee meeting 20 June 2022

I would like to take this opportunity to ask why PROWG meetings have not taken place for so long, the last one being in January 2020, given that working from home and meetings on Zoom have been so easily carried out by other important organisations and businesses. I am hopeful that a new dynamic approach can be instituted although belatedly, given that the Covid pandemic cannot for quite a while have been a reason for suspension of Council business.

I made application on behalf of residents of the Stoke Lodge area of Stoke Bishop for four historic and regularly used pathways across Stoke Lodge parkland, initiating the application in January 2018, and had a duly-made application on 1st May 2018. Some 60 sworn witness statements of use were hand delivered to the PROWG team in the person of Theo Brumhead, who had been immensely helpful with advice on format and content, and the required certificates were sent recorded delivery to Deborah Moreton of Legal Services. It was found that several of the postings to the advised P.O. Box No. were lost at the Bristol Council offices after delivery, but with Ms. Moreton's help the application was declared "Duly Made" on 15th May 2018.

I was advised that I was number eight in the queue so to expect consideration within a "couple of years", but Mr Brumhead did give assurance that he would be collecting the evidence from Stoke Lodge very soon after I informed him that the routes were all being closed by Cotham School's newly erected exclusion fences around the perimeter of the field.

Four clearly obvious and worn pathways were photographed and filmed and this forced closure, resulting from the erection of the fence, not only immediately impacted the safe route from the north side of Stoke Lodge to Stoke Bishop Primary School but also, for the last 2½ years during the pandemic, excluded those residents who desperately wanted to use the fields for the safe exercise we so badly needed and were advised by government to do. A narrow route outside the fence "provided" around the perimeter is often impassable as it is not only lethally slippery with deep soft mud during the whole of the winter or indeed after any heavy rain, but is very overgrown in places. The traditional pathway routes used for decades enabled us to go straight and safely away from busy roads to a destination such as the school or the shops. For 3 years or more we have been locked out erratically and some of the "gates" are never opened as they are not on Cotham School's automatic opening system anyway.

Therefore I am anxious that my application for footpaths to be rightly established is considered as soon as possible. **I see that the next scheduled Committee meeting is not until September 27th this year.**

STATEMENT NUMBER S3

Councillors, I am delighted to see that the PROWG Committee is meeting, it has been sorely missed over the last two years. On page 16 of your pack that the CRA advises they hold one current TVG application and has spent £7K.

In the summer of 2018, a Facebook group called We Love Stoke Lodge was set up and we asked our MP to help us meet with Cotham School to discuss how we could work together, improve and share a beautiful 22 acre important open space, Stoke Lodge. Sadly, at the meeting the school refused to hear our ideas – they told us to shut down our Facebook group or they would build a “bigger fence” (than they already had planned) and “lock us out for ever”. I submitted a TVG application in September 2018.

Since the application was submitted the CRA has taken a “discretionary” approach to the procedure published by BCC and approved by your committee on many occasions. At every stage of the process (3.5 yrs+) there have been errors, omissions and delays (6 + months to simply forward documents). All parties have made numerous submissions and the pockets of many lawyers and barristers are laden as a result.

Just to get the application ‘duly made’ which should be a simple case of checking my application as being correctly completed, took considerable time and great expense to all parties - just one of many deviations from the agreed procedure. The procedure is simple and clear - an inspector should be appointed and a public inquiry held in this instance. Over the last 3.5+ yrs residents, Cotham School, BCC (as landowner) and the CRA have engaged legal counsel on numerous occasions and at significant expense. Today we are no further forward, an Inspector is now considering how the application should proceed.

The CRA allowed a new ‘party’ to be included when all three other parties including Cotham School objected. The CRA took a call from the school who asked them to “kick it into the long grass” and this message was relayed by the CRA to the Inspector. I believe that we have been wading through the long grass for far too long and this hasn’t just prejudiced and cost residents, it has cost Cotham School and our city (BCC) considerable sums of money.

I am very surprised to read that the CRA have 1 application in progress at a cost of 7K, I would assume the charges from the Inspector appointed to be considerably higher since being appointed in 2020, including in this financial year.

Our community is determined to see this process through successfully, however long it takes and whatever it costs. My ask is that the committee consider how you can best support the CRA to ensure that no other resident/s (who may have less tenacity/agency) have to go through the same experience if they apply for a TVG in our city.

Yours Sincerely
Emma Burgess