

# HARRISON GRANT RING

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5 April 2023

Dear Sir,

**Applications by Ms Emma Burgess and Ms Katherine Welham to register Stoke Lodge Playing Field, Shirehampton Road, Bristol as a Town or Village Green**

We remain instructed by Cotham School.

We are in receipt of the Inspector's Report dated 14 March 2023. At IR,91, the Inspector recommends that the applications be rejected because the use was rendered contentious by signs and therefore all the qualifying criteria at s.15 Commons Act 2006 are not made out.

We endorse the Inspector's reasoning on the signs. Indeed, there is no other lawful conclusion which can be reached on this point. It follows that both applications are bound to be rejected.

We remain of the view that s.15 Commons Act 2006 is not available to either applicant because of the principle of statutory incompatibility. At IR,71, the Inspector accepted there was an analogy between this site and the land found by the Supreme Court not to be registerable in *R (NHS Property Services Ltd) v Surrey County Council* [2021] AC 194 (SC). Moreover, the Inspector recognised that "*a Court might hold statutory incompatibility to be applicable in the current circumstances*". The only basis on which the Inspector distinguished the *Surrey* case was that the School is not providing educational services by reference to a statutory function, rather by its constitution. That is a false distinction because NHS Property Services was under no positive statutory duty to do anything. Rather, the Secretary of State for Health performed his duty (at s.1 National Health Service Act 2006) through NHS Property Services Ltd. That is identical to the Secretary of State for Education performing her duty (at s.10 Education Act 1996) via academy schools such as Cotham School. The School therefore maintains that s.15 Commons Act 2006 is not available to either applicant here and any registration would be clearly unlawful.

We therefore respectfully invite the Registration Authority to reject the applications in line with the recommendations of the Inspector.

Yours faithfully,

*Harrison Grant Ring*

**HARRISON GRANT RING**