

# Public Forum - Public Rights of Way and Greens Committee - 15 April 2024



## **Members of the Public Rights of Way and Greens Committee**

Councillors: Tessa Fitzjohn (Chair), Jos Clark, John Goulandris (Vice-Chair), Jude English, Jonathan Hucker, Philippa Hulme, Christopher Jackson, Tim Rippington, Christine Townsend



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<b>Number</b>	<b>Name</b>	<b>Subject</b>
<b>Question 1</b>	Alan Preece	Stoke Lodge TVG
<b>Question 2</b>	Kathy Welham	“
<b>Question 3</b>	Emma Burgess	“
<b>Statement 1</b>	Helen Powell	Stoke Lodge TVG
2	Philippa Nason	“
3	Julie Wright	“
4	Stephanie French	“
5	Ken Pattison	“
6	Peter Weeks	Footpath beside Sea Mills Harbour
7	Andrew Hiles	Stoke Lodge TVG
8	Geoff Causton	“
9	Sheila Preece	“
10	S&R Parsons	“
11	David Mayer	“
12	Susan Mayer	“
13	Shirley brown	“
14	Ewan Macleod	“
15	Susan Hollyman	“
16	Dan Ackroyd	“
17	Sharon Lloyd	“
18	CLlr Steve Smith	Ridgehill TVG



To Democratic Services

Bristol City Council

Question for the Public Rights of Way and Greens Committee

15<sup>th</sup> April 2024

I would like to ask the committee whether they had been able to find out what had been the motive of the Officers when they decided to fight in court and side with Cotham, against the decision of the PROWG committee who applied TVG status to Stoke Lodge. Since this was a clear democratic decision of the Committee

Alan Preece

Reply

An update in relation to this will be provided under Agenda Item 9.

To the PROWG Committee:

At the Audit Committee meeting on 4 March, Cllr Jonathan Hucker asked a number of questions about the Council's use of public money to challenge the decision of this Committee to register Stoke Lodge as a Village Green. His questions included 'Whether any cap has been set on the potential cost of challenging this democratic decision'.

The answer provided was:

'The cost of the applications is funded by the legal services budget, including the defence of the claim by the CRA.

This could be at least £100K for counsel fees for a fully contested hearing. If the Applicant is successful the Council is likely to be ordered to pay a proportion of their costs (which could be in the region of £300K unless the other parties are able to get this reduced as part of the costs budgeting process).'

In other words, on Monday 4 March there was apparently no agreement in place to cap costs (unless the information provided to the Audit Committee was misleading/untrue). And yet on 28 March Nancy Rollason confirmed to me that 'An agreement as to costs has been entered in to by the CRA.'

An agreement as to costs benefits the losing party, but entering into one means that many tens of thousands of pounds would not be recovered by Bristol taxpayers if registration is successfully defended. The risk to the Council in the alternative is significantly less.

Please confirm the date on which this agreement was made, the terms of the agreement, the rationale for entering into it and on whose authority it was made.

Kathy Welham

Reply

The decision by CRA to be bound by the inter parties costs cap occurred after the Audit committee meeting on 4 March.

It was entered into under the authority of the Director: Legal and Democratic Services in accordance with the delegation to act in respect of legal proceedings.

Dear Sirs

Please pass the below question to the PROWG committee.

Throughout the TVG processes, the community had cause to express concern on various occasions about aspects of how the applications were handled by the CRA. Now that the CRA is actively defending the Committee's decision to register, its interests as First Defendant should be aligned with those of the community, represented by Kathy Welham as Second Defendant. However, actions by officers in recent months have provided further cause for concern. Please can you confirm what specific actions the CRA will take to reassure the community that as First Defendant it is working without any hidden agenda and with appropriate transparency towards the Second Defendant?

Kind regards

Emma Burgess

Reply

This meeting will deal with the formal ratification by PROWG to authorise one member to provide instructions to Legal Services in respect of the ongoing S14 litigation. Issues in relation to the live litigation will be dealt with between the authorising member and legal services.

**Public Forum statement to PROWG, 15 April 2024 from Helen Powell**

A number of us attended the PROWG Committee meeting on 22 January 2024 to ask you to ensure that the Commons Registration Authority actively defended your decision to register Stoke Lodge as a Village Green.

We want to thank you today for the strong and principled stand you took. Across all parties, and regardless of how individuals had personally voted in June 2023, you were determined that the lawfully-made democratic decision of this Committee must be defended as a matter of law and of principle. That's important way beyond Stoke Lodge Village Green.

Following the court hearing, at which the Judge told the Council it could not, amoeba-like, split itself in two, the Commons Registration Authority has filed a fresh Acknowledgement of Service and will be actively defending your decision to register the land. That means our interests in this litigation and those of the CRA should be aligned on the legal arguments.

However, two points of concern remain. One is that we understand that CRA officers have continued to correspond with representatives of Cotham School while excluding Ms Welham. That, together with a number of previous incidents during the course of the TVG process to date, gives the community grave concerns about the appropriateness of sharing our evidence and information with those same officers to support the CRA's effective defence of this claim. We would be grateful for any assurances you are able to provide about how the matter will be conducted going forward.

Secondly, we now know that the Chair of Governors of Cotham School wrote to Stephen Peacock in October 2023 seeking a meeting to discuss what was described as a 'strategy to seek to resolve this situation, in perpetuity'. John Smith, the Interim Executive Director of the Growth and Regeneration Directorate, held a meeting with the school on 5 December and it appears that the Council's plan to try to overturn this Committee's decision to register Stoke Lodge was settled following that meeting. In response to a question to the Growth and Regeneration Scrutiny Commission meeting in March, I was informed that in doing this, officers were acting on the instructions of the Executive. I asked which member or members of the Executive gave the instructions but no answer was forthcoming. I have written to the Mayor and his office asking the same question, but have received no acknowledgement or response despite follow-up emails. It appears that there is serious reluctance on the part of any member of the Executive to admit that they gave or signed off on those instructions. This might suggest that they have now reminded themselves of the ban on executive interference that is set out in the law and the constitution.

However, we now know that the following amounts of public money were spent on the effort to allow the Council to argue against registration:

- The Commons Registration Authority itself spent £2400 on making submissions to the court (despite in theory taking a neutral position at the time - obviously, it was not in fact neutral to argue for another party to be able to attack your decision).
- The Council in its capacity as landowner spent £12,700 fighting to be able to argue against your decision.
- Having lost at the hearing, the Council was ordered to pay £1,800 towards the community's costs.

We have not yet got to the bottom of who authorised Council officers to spend thousands of pounds on attempting to overturn your decision, and I hope that Committee members may be more successful in this, to ensure that it cannot happen again.

I want not only to wholeheartedly thank the members of the Committee once again for the decision reached at the meeting on 28 June 2023 regarding the Stoke Lodge TVG, but for then continuing to stand strong and uphold their position at the meeting on 22 January 2024, despite the attempt of Bristol City Council's officers to overthrow their robust decision, owing to BCCs dilemma relating to Cotham School's legal challenge.

As a result of His Honour Judge Paul Matthews' ruling (that BCC could not split itself in two in the court case) and the subsequent enforced change of stance of the Commons Registration Authority, I sincerely hope that any such similar squandering of public money can be avoided in the future, simply by the officers consulting with and working sensibly alongside, rather than seemingly seeking to undermine, the Councillors on the PROW Committee, and indeed the community which they represent.

Regards  
Dr Philippa Nason



For the attention of the PROWAG Committee 15th April 2024 re Stoke Lodge Playing Fields

At your previous meeting I asked the question why some Council Officers thought it possible to challenge your democratically arrived at decision to award TVG status to Stoke Lodge Playing Fields, at tax payers expense?

I attended that meeting but, we the public, were excluded from the part of the meeting that discussed this, so we still do not have any answers. Are you, the Councillors, in possession of any answers, such as who decided to challenge your decision and at what cost?

However, I was so pleased and very proud to hear the Councillors speak so forcefully against the Council Officers actions, and I want to thank you all.

It was particularly ironic as at that same meeting a Council Officer was suggesting that you, the Councillors, delayed your vote on a different TVG application as he wished to be very prudent with taxpayers money and didn't want to risk a possible Judicial Review! Such a pity that such prudence was and is not applied to the Stoke Lodge TVG application. What a costly mistake it has been for us, the tax payers.

Julie Wright

Dear Madam Chairman and Committee members,

I write this Statement with reference to Items 9 and 10 on your Agenda this afternoon.

“Stoke Lodge Village Green - verbal update from vice chair re CRA stance on S14 litigation” and

“Formal ratification by PROWG to authorise one member to provide instructions to Legal Services in respect of the ongoing S14 litigation”

I was present at the last meeting of the PROWG Committee on 22<sup>nd</sup> January 2024, and I made a verbal submission in support of my written statement on that day.

Many of us who know about this issue were truly appalled by the stance being taken by the Commons Registration Authority (CRA), following the decision taken by PROWG Committee in June 2023 to register Stoke Lodge Playing Fields as a Town and Village Green (TVG), in remaining neutral rather than being supportive of that decision. We were shocked that Bristol City Council Officers would seek to ignore, even overturn, a decision made by a delegated Committee with regulatory powers. We should still very much like to know who those Officers were/are, and in which tier of the Council Executive they function.

Be that as it may we came along to offer our support to the Committee in any efforts it may make to have its decisions respected. Many of us said that regardless of what that decision about the TVG might have been, we would expect that decision to be supported by the Council as the Commons Registration Authority (CRA).

I write today, to this next meeting of the PROWG Committee, to say thank you to its members for making the efforts it made at that meeting in January, and those efforts it has made since, to enforce its decision; and for adopting the robust stand it has taken against the bullying tactics of some BCC Officers; and to ask questions of the Council as the Commons Registration Authority as to why attempts had been made to follow such a legally questionable course of action.

Executive and political interference in Regulatory Committee decisions – what country are we living in?

It is right that you have stood up for yourselves, and we applaud you and thank you for doing it.

I have followed the debate that has gone on since in the BCC Audit Committee and in the Growth and Regeneration Scrutiny Commission meeting, where the costs we City Council tax payers have incurred have been described. Whilst it is inevitable that there are costs in carrying out the functions of the various regulatory committees, there should not fall upon the taxpayer extra costs when some Council Officers indulge themselves in contesting decisions they do not like.

Why should we have to pay for a decision and for arguments against the decision?

Why are those Officers not accountable?

Why are the answers to those last two questions being avoided?

I should add that I am pleased to note that the Council as CRA is now supportive of your decision to register the land as a TVG in the face of Cotham School’s Section 14 litigation. We have your endeavours as well as the public outcry to thank for that.

Thank you

I understand there is to be yet another consideration of this matter shortly . I have been a Bristol resident, and near neighbour of Stoke Lodge, for almost nine years, and I am very happy to be so. However, this business seems to have been going on for years and I find it difficult to understand. Like many people I thought the matter had been resolved when your committee agreed that the area should be designated a village green last year. To my amazement, but not total surprise given the intransigence of Cotham School over the use of Stoke Lodge, the matter has dragged on with further legal processes, and further costs to the public purse which would be far better spent on the education of children.

I was very surprised to hear that Bristol City Council was proposing, as it were, to be on both sides of the fence, ie supporting Cotham School in seeking to reverse your committee's decision while also acknowledging that your committee had made the decision they had on behalf of Bristol City Council? As I understand it that stance has been ruled out and the council have to be on one side or the other, not both. Your committee have confirmed their position, I am pleased to see. Again as I understand it the decision to side with Cotham School was a decision by officers, not members and this I find most difficult to understand. I am a retired public servant, having spent 8 years and one term as a teacher in secondary schools in two different Local Education Authorities and the remaining 31 years and two terms as a Local Government Education Officer in another three different Local Education Authorities, eventually re designated as Local Authorities. As officers we administered and advised, but members made decisions, not officers. Have the rules changed since my retirement in 2010?

Cotham School is, also, an academy, independent of the Local Authority although publicly funded as almost all secondary schools now are, and increasing numbers of primary schools. What locus does Bristol City Council have in this matter anyway, and why on earth should it be on the side of an independent school, effectively, against one of its own properly established committees? Also, The Downs, unfenced, appear to be used regularly for sports purposes on Wednesday afternoons, I presume by educational establishments, as well as at weekends.

Given my background, I should be on the side of the school. It is the school's intransigent attitude over the years that has upset me more and more, not to mention their appalling use of English grammar in some of their correspondence. (Pedantic? Guilty as charged, but these things matter.)

Finally I am horrified that the school should be contemplating further legal action and the horrendous costs that could ensue, apparently a risk to the viability of the school even they acknowledge?

I am grateful for your decision to declare the area a village green, and for your support of your decision subsequently. I am sure you like me will wonder why officers were ever proposing anything different. I can only hope Cotham School change their stance, accept your decision and work with the local community on future use of this much loved open space.

Ken Pattison

6

I am Peter Weeks living in Stoke Bishop. I write to thank you for the recent work done on the footpath beside Sea Mills Harbour. The new boardwalk and railings installed below the railway bridge are a welcome improvement. This is a popular route for walkers and birdwatchers (and litter collectors) to reach the bank of the river Avon and carry on down towards Shirehampton. It will be much used and much appreciated.

Regards

Peter Weeks

I watched online the Public Rights of Way and Greens Committee (PROWGC) meeting on 22 January 2024. I witnessed a legal officer of the Council treating the Committee in a manner that I can only describe as patronising and disdainful. It was clear from the officer's terse statement to the meeting, that the Committee was not deemed worthy of consultation before decisions made elsewhere in the Council were implemented.

All credit is due to PROWGC members for taking a stand against this perfidious attempt by senior officers (not publicly identified, but clearly real enough) to undermine the Committee's democratic authority, and I welcome the subsequent change of stance by the Commons Registration Authority.

In the current climate of Local Authority budgets placed under ever increasing strain, for BCC officers to waste public money on such a calculated and deceitful intervention as this, beggars belief. Evidently, senior officers believed that they could operate in this way with impunity.

I hope that the PROWGC will continue to exercise its delegated authority in the same spirit of honest debate and robust transparency that it has shown. Also, I request that officers of BCC remember that they are expected to act in good faith alongside the community they serve.

Andrew Hiles

I would like to put on record my appreciation of the forthright way the Public Rights of Way and Greens Committee defended its decision to grant Stoke Lodge Village Green status. However I'm once again shocked by the waste of time and money by the officers in the Council's legal department who tried to sue the Council itself in support of Cotham School's appeal against the Village Green decision. We live in democratic Britain for heavens sake not Venezuela. However I'm pleased that the Council have now reversed their decision and are now actively supporting the Commons Registration Authority and Kathy Wellam against the appeal by Cotham School. Stoke Lodge is a cherished green space enjoyed by thousands of Bristol residents and it's time this whole sorry and costly episode is brought to a conclusion once and for all.

Geoff Causton

Dear PROWG committee

I would like to state my strong support for your firm stance on your decision concerning the TVG at Stoke Lodge, despite the efforts you faced to overturn it from non-elected officers and executive. I hope that in future there will be no more waste of time and money by officers trying to alter the decision of a regulatory committee of elected councillors who were acting in line with the Council's constitution and with due care and scrutiny of the whole matter.

Yours sincerely

Sheila Preece

We would like to express our gratitude to the members of PROWG who supported the registration of TVG at Stoke Lodge in 2023. We appreciate how much time it would have taken to read all the submissions and inspect the site in person as many of you did.

Since that time, it has been astonishing to witness Cotham School attempting to coerce the Council to litigate against itself in an attempt to overturn this decision, and the underhand tactics of the Council Executive using taxpayer money in support of this.

Thank you for your continued support, it is much appreciated.

Sharon and Richard Parsons



**Public Statement by David Mayer**

**For the Public Rights of Way and Greens Committee Meeting**

**On Monday, 15<sup>th</sup> April 2024**

**Agenda item 5. Public Forum**

**Re: Stoke Lodge TVG**

I am compelled to write to express my grateful thanks to the PRoW&G Committee for the way in which it has resolutely stood firm in defending its decision to register Stoke Lodge as a Town or Village Green; and my gratitude for its fortitude in challenging the unwarranted attack on its authority by unauthorised officers seeking to break the rules governing the Council and act without authority in an unconstitutional manner.

With the aid of the Courts findings at the recent S14 hearing the resulting “about face” by Legal Services and the CRA is a massive win for democracy in the face of an anonymous few with a hidden agenda conspiring to undermine the decision of a Regulatory Committee for reasons not pertinent to the qualifying criteria contained within the Commons Act 2006.

At the time of writing this statement I have not yet seen the wording for the motion listed at Agenda item 10. But on the basis that this will enable the PRoW&GC to present to Legal Services, including but not limited to the CRA, an instruction that they must enact without fear or favour, and cannot engage in any activity that undermines it: then it gets my vote!

**David Mayer**

Please include the following statement at the upcoming meeting;

Public Rights of Way and Greens Committee Meeting - Monday 15th April 2024

Agenda item 5. Public Forum

Statement by Susan Mayer

Regarding Stoke Lodge TVG

I am so grateful to this Committee for their heroic response to recent events concerning their decision making powers and Cllr Jackson summed it up, in his public statement...

Quote "This is a precedent and I'm absolutely disgusted that we are actually talking about this. Someone up the chain of decision making decides to ignore what we've said? This cannot be the case, and that cannot ever happen on any regulatory committee that elected members are overturned because someone decides that what we said, they didn't like"

The Councils own constitution makes clear that the Executive may not interfere with matters relating to Village Green decisions or with planning decisions. Interestingly, question 2b; presented to the Growth Regeneration Scrutiny Commission, elicited this response - Quote "Officers who have objected to the TVG applications have done so on the instructions of the Executive"...

However, the term "Executive" used here is just a smoke screen to deflect unwelcome scrutiny but such a dismissive response cannot go unchallenged.

No doubt, new safeguards can be imposed to prevent further interference from unidentified individuals but a crucial question remains unanswered.

**Who requested and approved unprecedented expenditure for the High Court case because if that was deemed lawful, we are equally entitled to question the rationale?**

It has been announced that Bristol City Council will now be properly represented by the Commons Registration Authority alone and will actively defend the decision to register Stoke Lodge as a Village Green. However, it was actually a High Court Judgment that prompted this apparent change of heart so is it genuine?

Susan Mayer (Mrs)

Having attended the meeting of the Public Rights of Way and Greens Committee on January 24 2024, I would like to thank all the members of this Committee for taking such a principled and determined stand against recent undemocratic and unconstitutional attempts by some Bristol City Council staff to undermine the Committee's decisive vote to register Stoke Lodge as a TVG.

It is reassuring that, following the critical judgement by HHJ Paul Matthews in January, Bristol City Council's Commons Registration Committee has filed a new acknowledgement of service stating its intention to defend the litigation brought by Cotham School to try and overturn the TVG Registration.

However, my observation of past attitudes and actions of Bristol City Council staff - and my personal interaction with some of them - have been an eye-opening experience, revealing a disturbing level of secrecy, deceit and manipulation by and between Bristol City Council and Cotham School over several years.

I see no reason to trust those who have demonstrably acted against the interests of the Bristol citizens who wish to continue amicably sharing open access to Stoke Lodge, especially given the refusal to reveal which member(s) of the Executive authorised the Council's bizarre, indefensible - and expensive - approach in the High Court hearing on January 26th.

I am particularly disturbed by the official response to Q2b at the Growth and Regeneration Scrutiny Commission meeting on 7 March 2024, where the Officer asserted that the Council in its capacity as landowner "took a decision to seek to protect the site from being registered as a TVG because this could hamper the use of the land for educational purposes for all time".

This reply seems to be influenced by Cotham School's self-serving propaganda that would have us believe that "education" is synonymous with "school" in general, and Cotham School in particular, despite the fact that Stoke Lodge itself has for many years served as an Adult Education Centre, and that generations of local children have grown up there, learning both organised games and social skills on the playing fields, and having valuable opportunities to discover how the changing seasons affect the wealth of flora and fauna in the arboretum and on the borders.

The community has fought long and hard to defend the "existing rights and uses" of Stoke Lodge that were enshrined in the lease signed by Cotham School. We have already twice proved our case to the PROWG Committee that Stoke Lodge meets all the legal criteria to be registered as a TVG.

Insofar as it is in their power, I beg the PROWG Committee to ensure that in future council officers work in good faith to ensure that the litigation is brought to an end as swiftly as possible, and the wonderful opportunities for formal and informal education, exercise and

recreation provided by Stoke Lodge can be amicably shared by Bristol citizens of all ages “for all time”.

Finally, my sincere thanks to you for being a bright beacon of honesty and integrity in a distressingly murky situation.

Shirley Brown

14

Hello

I previously wrote a public statement in advance of the last PROWG Committee meeting on 22/1/2024. This time I would simply like to commend and thank the committee members for the principled stand they took against the unconscionable behaviour of BCC's own CRA legal staff in attempting to subvert the TVG29 decision that the committee made on 28/06/2023 in respect of Stoke Lodge Village Green.

Like a good many other people (I suspect), I dutifully read through the minutes of other subsequent BCC public hearings that followed, in which citizens asked questions that tried to establish exactly which members of the BCC Executive might have authorised [REDACTED], and quite what agenda the CRA legal staff were following, and on what authority they thought they were acting ?

None of the answers (or non-answers) offered by the people in question have left us any the wiser. [REDACTED]

yours faithfully

Ewen MacLeod

Dear Members of the PROWG Committee,

As a local resident since 1975, I am writing to give my sincere thanks for all that you have been doing to support the status of The Stoke Lodge grounds to be kept for future generations of Bristolians as Town Village Green.

I attended the meeting held in the Council House Chamber in September 2023 and also watched the video of your PROWG meeting on 22nd January 2024. It was so heartwarming to observe how informed the committee members were on both occasions. It was obvious how much work and research must have been undertaken by all.

As an aged individual, I have felt powerless, frustrated and in disbelief at the undemocratic interactions of Bristol City Council. I also object strongly to my council tax payments going to wasteful litigation.

It was such a relief to witness your Committee strongly challenging the representative of The Commons Registration Authority in order that the CRA should act within its legal remit of fully supporting, and acting for, the committee.

As the popular city of Bristol expands in the future these city pockets of natural undeveloped land will become more precious. They will be the future lungs of the city!

Thank you, thank you,

Susan Hollyman

16

Hi,

Please find below a statement for the PROWG committee meeting on Monday.

I intend to be there in person.

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Councillors,

I tried to ask both Cabinet and the Mayor exactly who it was who had instructed the lawyers in the 'Stoke Lodge' or 'amoeba brain' court case. I failed to get an answer.

[REDACTED]

[REDACTED]

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cheers

Dan

Ackroyd

Dear Members of the PROWG Committee

Finally I believe I can write a sincere letter of thanks and appreciation that the nonsensical behaviour of BCC to act, as Judge Matthews described as 'an amoeba', has been factually and legally resolved as impossible and so resoundingly supporting the Committee's very forthright response at your previous meeting.

As the 'Council as landowner' is no longer a party and The Commons Registration Authority has filed a new acknowledgement of service stating that it will actively defend the litigation, this is a very welcome change in CRA stance.

However, as an ex governor of two schools and having worked extensively in education, I am utterly appalled at the waste of public money by officers who failed to consult with the Committee before acting against their wishes, and given there is no factual evidence for the need for playing fields to be fenced off, the thousands of pounds of education money having been spent, and continued plans/threats to spend more, is an absolute travesty and at some point it will be realised this is another 'Post Office' debacle, and the people responsible for it should be fully held to account.

In light of the above, as members of the Committee I commend you in your behaviours and decisions and ask that you continue to ensure that, in future, officers work in good faith alongside the community to ensure that the litigation is brought to an end as swiftly as possible.

Yours sincerely  
Dr Sharon Lloyd



**Public Forum Statement on item 8 – Ridgehill TVG Application**

Members, first thank you for agreeing at your last meeting to consider this matter today. As before, I remain convinced that you can make the decision to grant this TVG today.

The report at paragraph 6 tells us that applications can be dealt with on the paperwork by either officers or the committee where there is no **significant** conflict or objection. In this case the report lists three objections, and I would argue that none are significant.

- The first (at appendix 4) from the landowner is described in the report itself (paragraph 10.2) as “baseless” because the claimed trigger event did not occur before the TVG application was made
- The second (at appendix 6) does not dispute the facts of the application, but questions how many residents were aware of it. This is countered by the applicants at appendix 12, saying that in fact 120 out of 127 houses on the estate are members of the Neighbourhood Watch group. Indeed, this objection actually confirms that the land in question has been used by the community for many years, satisfying the requirements for a TVG. The report tells you that the requirement is for a “significant” number of people to have used the land, and that this does not mean “considerable” or “substantial”.
- The third “objection” at appendix 7 is not actually an objection at all! It recites the history of the land but makes no objection at all to its registration as a TVG.

That leaves the four requirements that need to be satisfied in order for you to grant a TVG, which are set out at paragraph 11i of the report. In the application form on page 181 of your pack, the applicants make their case and say “see various documents attached”. I have previously seen this evidence that was submitted with the application, including photographs and numerous witness statements which demonstrate clearly that the four tests are met.

I am very concerned that this evidence does not appear to be included within the published reports for today’s meeting. I very much hope that this evidence has been provided to you, because it is crucial in enabling you to properly review the application and make a decision. If you are once again being asked to make a decision about this application without seeing all of the relevant information, I fear that this will cause more unnecessary delays to the process.

Cllr Steve Smith, member for Westbury-on-Trym and Henleaze.