

ADDITIONAL EVIDENCE BUNDLE

	DATE OF DOCUMENT	DESCRIPTION OF EVIDENCE	WHAT EVIDENCE SHOWS
1.	3 March 2019	The Application	See "Description of Evidence" column.
2.	3 and 4 November 2018	Applicant - Social Media Posts	<p>This document is a selection of social media posts, which were posted prior to the submission of the Application. Some of the social media posts are from individuals who have submitted evidence in support of the Application.</p> <p>We believe that these posts clearly show examples of the Applicant's motive for the Application, which is to stifle any development on the Site, rather than to present a valid claim to the Site as a town and village green on behalf of a locality.</p>
3.	13 July 2018	TR1 - Site - Hook and Quintin to Paul and Donna Ealey	Transfer of the Site from the previous owners (Susan Hook and Nicholas Anthony Quintin) to the current owners (Paul and Donna Ealey) on 13 July 2018.
4.	1999 to 2017	Aerial Photographs - Get Mapping	<p>Get Mapping is a company which provides a range of aerial photography services and surveys.</p> <p>The images provided here are aerial photographs of the Site in (i) 1999, (ii) 2004, (iii) 2009, (iv) 2014 and (v) 2017.</p> <p>These photographs show that the Site was maintained in the late 1990s and early 2000s. It is only in the more recent photographs (2014 and 2017), that the Site is no longer being maintained, and the previous owners of the Site were not asserting their rights to the Site. You can see clear evidence that the Site has been cleared in several of the photographs.</p> <p>Additionally, the photograph from 2004 clearly shows the concrete pad where the horse stables were located, at the bottom of the photograph.</p>

	DATE OF DOCUMENT	DESCRIPTION OF EVIDENCE	WHAT EVIDENCE SHOWS
5.	1999 to 2017	Aerial Photographs – Get Mapping – Confirmations	These documents provide confirmation from Get Mapping, confirming the dates on which the photographs outlined in Document 6 (<i>Aerial Photographs – Get Mapping</i>) were taken.
6.	19 November 2003	Footpath Order Diversion	<p>This document was provided to us by way of email from Bath and North East Somerset Council, by Graeme Stark, on 23 January 2020.</p> <p>This document sets out the diversion of the public footpath from its historic route, which ran along Osborne's Lane, through Lansdown Grange Farm and crossed over the West Brook to the west of the Site, to its present route, which crosses the West Brook at the western boundary of the Site.</p> <p>This is supportive of the Objector's witness statements, which note that the Site was not accessible prior to the construction of the footbridge and diversion of the footpath in 2002 / 2003.</p>
7.	21 March 2002	Bridge Report Inspection	<p>This document was provided to us by way of email from Bath and North East Somerset Council, by Graeme Stark, on 23 January 2020.</p> <p>It states that the footbridge was constructed on 21 March 2002.</p> <p>This is supportive of the Objector's witness statements, which note that the Site was not accessible prior to the construction of the footbridge and diversion of the footpath in 2002 / 2003.</p>
8.	4 July 2000	The Orchard, Weston – Inspector Report (the "Report")	<p>This document is a report on the town and village green application, which was lodged on 22 March 1999, in respect of The Orchard ("The Orchard TVG Application").</p> <p>We believe that this document touches on some important reasons why the Application should fail.</p> <p>Locality</p>

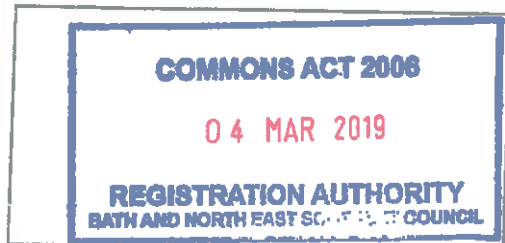
	DATE OF DOCUMENT	DESCRIPTION OF EVIDENCE	WHAT EVIDENCE SHOWS
			<p>In paragraph 8, the Inspector (W.D. Ainger) notes that the "locality" refers to the location of the claimed town and village green and not the locality of inhabitants who are claiming to have indulged in lawful sports and pastimes on the land, thereby justifying any town and village green application.</p> <p>We do not believe the Application can seriously claim the Site on behalf of the "neighbourhood of Weston electoral ward and Charlcombe parish within the locality of Bath and North East Somerset". From this description, it is difficult to determine what exactly the locality is. Additionally, Weston electoral ward and Charlcombe parish is far too large an area which could lay claim to the Site as its town and village green.</p> <p>We believe the Applicant has simply chosen the above area is the locality to provide more evidence, which is not the purpose of the legal test to establish a town and village green.</p> <p>Failure to include the West Brook in The Orchard TVG Application</p> <p>You will note that the Site was not included in The Orchard TVG Application. This is because, at the time of The Orchard TVG Application, the Site was not accessed in a way that The Orchard was.</p> <p>This is supported by the witness statement of Colin Barrett, who was actively involved in The Orchard TVG Application.</p> <p>Evidence of fencing on the border of The Orchard</p> <p>Paragraph 18(ix) of the Report refers to fencing being placed on The Orchard, the purpose of which. "it must be assumed, [was] to try to prevent people who were using The Orchard from trespassing on adjoining private land".</p>
9.	18 October 1998	Aerial Photograph - Historic England	This document is an aerial photograph, provided to us by Historic England and dated 18 October 1998.

	DATE OF DOCUMENT	DESCRIPTION OF EVIDENCE	WHAT EVIDENCE SHOWS
			In this photograph, you can see that the Site is not overgrown, and being maintained. You can also see evidence of a strong hedge along the southern boundary of the Site running parallel to Osborne's Lane.
10.	-	Timeline of Key Events Relating to the Site	See "Description of Evidence" column.
11.	-	Locality Diagrams	These diagrams illustrate the scale of the Site compared to the locality specified in the Application. From these diagrams, we believe that it is not possible to justify how the Site can be claimed as a town and village green for the locality. Weston electoral ward and Charlcombe parish are two distinct localities, and we do not believe they satisfy the legal requirements for a "locality" in connection with a town and village green application.
12.	-	Somerset "Campaigners Live, win for protection 'ecological gem' woodland in Bath	This document is a news article which references the Applicant's involvement in the tree preservation order granted over the Site.
13.	-	Gerald Hook Letter	This is a letter from Gerald Hook, a previous owner of the Site, refuting claims made by Andy Stewart (an individual who has submitted evidence in support of the Application). This is further evidence of the inaccuracy of some of the claims which the Applicant has made in the Application.

DOCUMENT 1
THE APPLICATION

Application for the registration of land as a Town or Village Green

Official stamp of registration authority indicating valid date of receipt:



Application number:

TVG19/1

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

Note 1
Insert name of
registration
authority.

Bath & North East Somerset Council
Guildhall,
High Street, Bath BA1 5AW

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name:

FRIENDS OF THE ORCHARD

Full postal address:

c/o RACHEL JARAI, SECRETARY
59 BROADMOOR LANE
BATH

Postcode BAI 4JZ

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

FRIENDSOFTHEORCHARD BATH @
GMAIL.COM**3. Name and address of solicitor, if any**

Name:

Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under section 15(8): ☐

If the application is made under section 15(1) of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies: ☐

Section 15(3) applies: ☒

Section 15(4) applies: ☐

If section 15(3) or (4) applies please indicate the date on which you consider that use as of right ended.

02/11/2018

If section 15(6)* applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

* Only complete if the land is already registered as common land.

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

WESTBROOK WOODLAND

Location:

Land lying to the South West of Broadmoor Lane, Bath and immediately to the West of Weston All Saints Primary School and east of Osborne's Lane, Bath.

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

The neighbourhood of Weston electoral ward and Charlcombe Parish within the locality of Bath & North East Somerset.

Tick here if map attached: ☐

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Indulgence by a significant number of inhabitants of Weston electoral ward and Charlcombe Parish as of right in lawful sports and pastimes for a period of at least 20 years under Section 15(3) of the Commons Act 2006, as witnessed by the enclosed signed statements showing use for activities including walking, dogwalking, bird watching, conkering and various forms of play by over a hundred people who have completed the enclosed signed statements showing use from over 60 years ago to 2 November 2018.

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

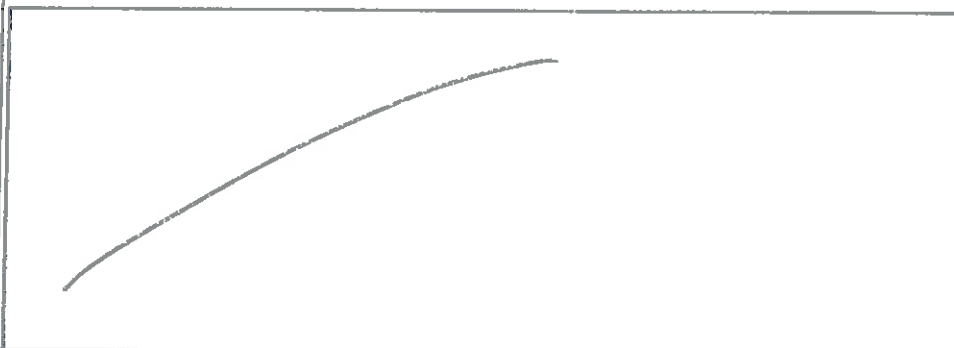
If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green



9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

**Note 9**

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

10. Supporting documentation

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

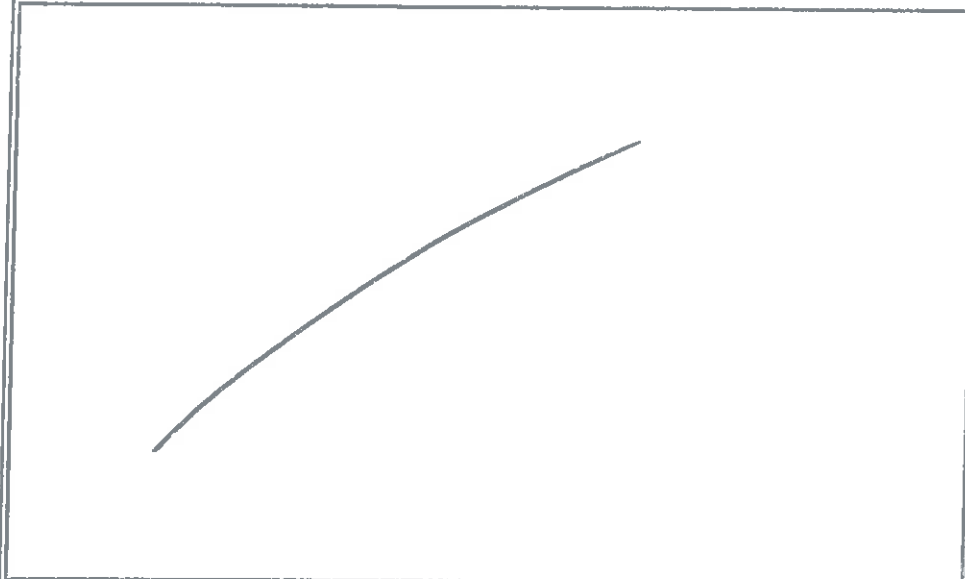
See separate sheet

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

11. Any other information relating to the application**Date:****3/3/2019****Signatures:****REMINDER TO APPLICANT**

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name
(and address if not
given in the
application form).

I... RACHEL JARAI ¹ solemnly and sincerely declare as follows:—

² Delete and adapt
as necessary.

1.² I am ((the person (~~one of the persons~~) who (has) (~~have~~) signed the foregoing application)) ((~~the solicitor to (the applicant)~~) (~~one of the applicants~~)).

³ Insert name if
Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in
the case of
voluntary
registration (strike
through if this is not
relevant)

4.⁴ I hereby apply under section 15(8) of the ~~Commons~~ Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

Cont/

DOCUMENT 2
APPLICANT SOCIAL MEDIA POSTS



Julia Waterhouse Pain

Yesterday at 11:58

Osborne lane development (by the orchard) This is the man who has bought the land and plans to build on it. He is there at the minute putting a fence around the whole site. Humph had a chat with him and let him know that lots of people from the local community will object to building. He wasn't very jolly!!



28 Comments



Like



Comment



8

28 Comments

Like

Comment



Emma Mox Is he the owner or the person doing the work?

Like · Reply · 1d



Julia Waterhouse Pain He's the owner Emma. Didn't say what his plans were

Like · Reply · 1d



Write a reply...



Ally Messer Sad day!!!!

Like · Reply · 1d



Sue Skinner I think there may be some mileage in investigating the possibility of a Village Green application but may be better to concentrate on Tree Preservation Orders. I think someone has said some of the trees have preservation orders on already but the danger... [See more](#)

Like · Reply · 1d



Emma Mox Sue Skinner hasn't the horse already bolted so to speak?

Like · Reply · 1d



Emma Mox Sue Skinner hasn't the horse already bolted so to speak?

Like · Reply · 1d



Dave Vernalls Town/village green would be challenging. The law changed just after we did the purlewent field so that if building is already proposed by the time you submit the town green application it is automatically rejected. You'd need to complete the process be... [See more](#)

Like · Reply · 1d



Write a reply...



Sam Gbel Looks like they are the company to demolish it not the buyers

Like · Reply · 1d



Sue Skinner Sorry should have said The Weal not Macies.

Like · Reply · 1d



Emma Veasey The word demolition fills me with dread and thinking of all the wildlife that will have no homes 😞

Like · Reply · 1d



Bradley Wynn You can have a go at him all you like he's a demolition man be surprised if he's doing the development and if he is let him more housing in this city cannot be a bad thing


Like · Reply · 1d





Emma Veasey What housing that no one can afford 😞 you can imagine the price of a location like this!

Like · Reply · 1d




 **Emma Veasey** What housing that no one can afford 😊
you can imagine the price of a location like this!

Like · Reply · 1d  1

 **Bradley Wynn** **Emma Veasey** nobody knows till plans are released I live very close to it and the houses round the park would be around the same price range

Like · Reply · 1d


 **Emma Veasey** Unaffordable unfortunately if you are not already on the property ladder. 😊 be interesting to find out if it will be a group of houses or just one.


Like · Reply · 1d


 **Bradley Wynn** **Emma Veasey** be very surprised if it's one and to live anywhere in bath is unaffordable

Like · Reply · 1d

 Write a reply...    

 **Michael Jones** 🤔 It's all about somebody making money, they don't care about anything else, if it goes ahead the lane will certainly be Dug up for all the services to go in, and we will be left with whatever is left, mess, noise and an unnecessary destruction of a natural habitat and all just about Money!!

Like · Reply · 1d  63

 **Leanna Biggs** It's devastating that somebody wants to destroy that area, just for money. Is Weston/Bath really lacking in housing? I don't think so somehow...

Like · Reply · 1d

Like · Reply · 1d



Leanna Biggs It's devastating that somebody wants to destroy that area, just for money. Is Weston/Bath really lacking in housing? I don't think so somehow...

Like · Reply · 1d



Sam Gbel Not the best with words ... Any help with this would be appreciated please x

Like · Reply · 1d



Julia Bridgen This is making me really sad. I've got a horrible feeling that all those beautiful trees are going to be chainsawed down before we have a chance to do anything.

Like · Reply · 1d



Sharon Gray It's such a shame the kids love walking into the woods with the dog but I suppose we've really all been trespassing as it's always been private land.

Like · Reply · 1d



Sam Gbel Anna Hawker - can your dad help at all? Maybe know who to contact? And how to approach Colin Barat?

Like · Reply · 1d



Anna Hawker



Like · Reply · 1d



Anna Hawker



Like · Reply · 1d



Anna Hawker Sam Gbel

Like · Reply · 1d



Write a reply...



Sam Gbel So email these guys?

Like · Reply · 1d



Anna Hawker Sam Gbel they are our local councillors so a good start

Like · Reply · 1d



Write a reply...



Richard Bradbury Winter Colin Barrett holds a monthly surgery in Weston Village but told me he will not be standing for re-election next year, he's been a councillor for over 40 years after all. There is another local councillor but when we tried to get him to help with the M... [See more](#)

Like · Reply · 1d



2



Richard Bradbury Winter Collin Barrett holds a monthly surgery in Weston Village but told me he will not be standing for re-election next year, he's been a councillor for over 40 years after all. There is another local councillor but when we tried to get him to help with the Manor Road planning application he was actually worse than useless as he didn't even acknowledge any communications. Apparently he sits on the Planning Committee so cannot get involved. It seems that planning in Bath is handled by officials from the Planning Department and rarely goes before the Planning Committee. As soon as an application is made you need to get councillors to refer it to the committee which has to be in writing within a set period; if it goes before the committee you can then apply to speak at the hearing. Keep a close eye on the applications pages of the BANES website so that you are aware the instant any planning application is made. It may also be worth speaking with the BANES Tree Officer who will be able to advise you of any protected trees and may be able to make sure that no action is taken by the developer before any application is approved. I seem to remember from a few years ago that there is some regulation that requires that ANY tree with a trunk greater than a certain diameter must have permission before it can be taken down. Learn as much as you can, knowledge is power and will prevent a developer bullsh*tting you. Good Luck.

Like · Reply · 1d



Elaine Robinson you can register for planning alerts here <https://www.planningfinder.co.uk/> you will get a weekly email showing new planning applications near the post code you have selected.

PLANNINGFINDER.CO.UK

Planning Finder

Save

Like · Reply · 1d



Marilynn Osment Personally I would not bother with trying to contact Cllr Matthew Davies.....I've yet to receive a response to an e-mail sent to him a few weeks ago...not even an acknowledgement....I think that we are stuck until we have some new names representing Weston next year.....hopefully.. 😊 ...



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Like · Reply · 1d



2



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PLANNINGFINDER.CO.UK

Planning Finder

Save

Like · Reply · 1d



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Like · Reply · 1d



1



Karen Wilcox Richard Bradbury Winter You're right it's any tree which is More than 7cm in diameter

Like · Reply · 1d



Anna Hawker Marilyn Osment I too didn't get a response from an email I sent him too!

Like · Reply · 1d



Richard Bradbury Winter Apparently he doesn't do Saturday Surgeries either. Local elections next year, you know what to do.

Like · Reply · 1d



2



Anna Hawker Richard Bradbury Winter he could of helped, it doesn't make a difference that's he's on the planning committee, just an excuse!!

Like · Reply · 1d



Anna Hawker Yes get them both out!!

Like · Reply · 1d



Richard Bradbury Winter Anna Hawker Colin is stepping down after over forty years. At least he has done good work for the community over the years.

Like · Reply · 1d



Anna Hawker From a recent suggestion of his, he didn't go down well on r street so he's not my favourite person!

Like · Reply · 1d

Like · Reply · 1d



Anna Hawker From a recent suggestion of his, he didn't go down well on the street so he's not my favourite person!

Like · Reply · 1d



Marilynn Osment Anna Hawker Matthew Davies could have at least acknowledged the e-mails.....it does not give a good impression quite apart from it being rather rude..

Like · Reply · 1d



1



Anna Hawker Marilyn Osment indeed! So much for going to your local councillor to help!

Like · Reply · 1d



1



Sam Gbel The local councils won't help the Southlands parking either Anna Hawker x

Like · Reply · 23h



1



Sam Gbel Awesome just read about BANES tree officers and protecting trees - this was great



Like · Reply · 23h

Like · Reply · 23h



Sam Gbel There are trees on there map



Like · Reply · 23h



Sam Gbel And will help if visible to the public...



Like · Reply · 23h

Write a reply...



Sam Gbel I will definitely be emailing these guys. Again found nothing about any trees other then the one that fell down..

Like · Reply · 23h



Sam Gbel Looks like the green dots on the map maybe the protected trees (although need to check on desktop not mobile to make sure)
I found nothing on the planning register for anything new



Like · Reply · 23h



Richard Bradbury Winter Remember, any professional developer will be aware of any restrictions and will have a strategy to deal with this. Good Luck.

Like · Reply · 22h



Write a reply...



Emma Mox Surely Osborne Farm owners no the plans and what's intended as they would have had to grant access via the lane?

Like · Reply · 1d



Emma Mox Surely Osborne Farm owners no the plans and what's intended as they would have had to grant access via the lane?

Like · Reply · 1d



Sam Gbel Emma Mox I may go up and speak to them on monday

Like · Reply · 1d



Write a reply...



Sam Gbel Julia Waterhouse Pain - what did the demolition Man say? Did his company buy the land or was it himself, as I dont want to email him if he is just a demolition company

Like · Reply · 1d



Lauren Wood Ann Wood x

Like · Reply · 1d



Michael Jones Doesn't live here.. Doesn't Want to.. Just wants to make some money and clear off having wrecked a nice well loved spot!

Like · Reply · 1d



Julie Linda Cook The whole of Bath is becoming a builders dream at the moment. Things popping up all over the place. I expect when they built the "new" houses in Broadmoor Lane the landscape changed dramatically and people may have been against that then. It Still went ahead though. Money talks and money = power in all things unfortunately. What a shame for that lovely little area.

Like · Reply · 1d



Laura Fearn Baker Funny isn't it because we can't for the life of us get permission to build a dormer on the back of our 1960's bungalow that won't be seen from anywhere...because Bath is a world heritage site. It's not as if it's a beautiful Georgian town house or a Roman Villa!

Like · Reply · 1d · Edited



Laura Fearn Baker Funny isn't it because we can't for the life of us get permission to build a dormer on the back of our 1960's bungalow that won't be seen from anywhere...because Bath is a world heritage site. It's not as if it's a beautiful Georgian town house or a Roman Villa!

Like · Reply · 1d · Edited



Marie John Sammie

Like · Reply · 1d



Sam Gbel Marie John haha how have you managed to tag me as Sammie haha, that's great x

Like · Reply · 23h



Marie John Sam Gbel I don't know haha x

Like · Reply · 13h



Write a reply...



Ann Wood Just discovered this lovely, magical little place last time I was down. What a shame if it was to go! What about a petition to start things off until someone can figure out the next move?

Like · Reply · 22h



Kelly Couzens Can I ask was this private property before? And for use of general public or a public footpath before it was sold??

Like · Reply · 10h · Edited



Rachel Jeral It's private land, though gauging from the comments here, any planning application would attract considerable public interest. If you value the land, I'd encourage folks to get organised as we need someone locally to lead on this.

From the planning a... See more

Like · Reply · 15h



Emma Mox replied · 13 Replies · 7 hrs

sold??

Like · Reply · 10h · Edited



Rachel Jarai It's private land, though gauging from the comments here, any planning application would attract considerable public interest. If you value the land, I'd encourage folks to get organised as we need someone locally to lead on this.

From the planning angle, we do know already that the land is outside of Green Belt and within the development boundary of Bath. There are some individual Tree Protection Orders on the site, and a tree officer has already come by to look at the site some months ago, but the primary protective planning policy that will come into play will be impact on Ecological Networks (with perhaps some consideration to the Landscape Setting of Bath).

From a planning point of view, I've checked with experts who feel that the land would carry a very high risk, due to the ecological sensitivities of the site (stream, woodland and wildlife value). Significantly, our community group (Friends of the Orchard at Broadmoor Lane) has documented evidence of the use of the space as a key commuting and foraging corridor for bats, which are a protected species.

This could well be a show-stopper in terms of development, but if it goes to application, community response will have a big political sway. So I'd encourage folks to get involved, get organising, and get noisy. Would anyone like to lead on this?

Like · Reply · 15h



^ Hide 13 Replies



Sam Gbel Rachel Jarai I want to help - not sure if I'm leader material but can do my best with the community behind me. You sound like you know your stuff. That's where I'm not so good at. I'm determined and won't say no? But don't know if that's good enough?

Like · Reply · 12h



Rachel Jarai I think that's fantastic Sam Gbel ! Determination goes a long way 😊 I don't think we have anything to protest at the moment, but how about a community display of how much our 'Wild Westbrook' means to all of us? If we could gather 100+ people (that's



Sam Gbel Rachel Jarai I want to help - not sure if I'm leader material but can do my best with the community behind me. You sound like you know your stuff. That's where I'm not so good at. I'm determined and won't say no? But don't know if that's good enough?

Like · Reply · 12h



Rachel Jarai I think that's fantastic Sam Gbel !
Determination goes a long way 😊 I don't think we have anything to protest at the moment, but how about a community display of how much our 'Wild Westbrook' means to all of us? If we could gather 100+ people (that's 1... [See more](#)

Like · Reply · 12h



Rachel Jarai Btw it's not Weston Ward - the Westbrook is the ward boundary, so the land is actually in Bathavon North. So it'd be really good if we could have some Bathavon North ward residents who'd be happy to get involved in communicating with their ward councillors.

Like · Reply · 11h



Sam Gbel Rachel Jarai ... If we need a bat person who studies bats to officially say there are bats my husband has just said he knows someone - very random but could be handy

Like · Reply · 8h



Sam Gbel Rachel Jarai are you about on Friday - as I'm going to meet someone else who's happy to help . We are meeting at the love cafe after drop off to meet and have a chat

Like · Reply · 8h



Sam Gbel Rachel Jarai so is the bathavon the other side of the river? Westbrook ward this side (the side we play) and bathavon the other side?

Like · Reply · 8h



Sam Gbel Rachel Jarai so is the bathavon the other side of the river? Westbrook ward this side (the side we play) and bathavon the other side?

Like · Reply · 8h



Rachel Jarai Hi Sam Gbel I have a pretty good guess which 'bat guy' your husband knows - yes, we've got him on board already, as he's a huge community asset.

Most of us on this site live in Weston ward, but the Bathavon North ward includes the small housing estates on the other side of Osborne's Lane, like Westbrook Park. Ward boundaries matter, in terms of decisions made by the Council Planning committee, if it comes to that.

Like · Reply · 8h



Marilynn Osment Well, there was a big community response to the Dean Hill Lane developments back in the 1980's and 1990's....and also to the Symes Park development.....these developments were not wanted as they did not include 'affordable' housing and encroached upon ... See more

Like · Reply · 8h



Rachel Jarai That's great you're meeting up on Friday - perhaps others would be free to join you? I'll be at work, but am happy to keep in touch by email at broadmoorlaneresidents@gmail.com it would be great if you could build up community awareness at this stage.

Like · Reply · 8h



Rachel Jarai Marilyn This is a very small piece of land, with very high ecological value. It's worth a fight!

Like · Reply · 8h



Sam Gbel Rachel Jarai I think it's a bat girl 😊

Like · Reply · 8h



Like · Reply · 0h



Sam Gbel Rachel Jarai I think it's a bat girl 😊



Like · Reply · 8h



Rachel Jarai what a neighbourhood!

Like · Reply · 7h



Emma Mox Sam Gbel There is a man in Brookfield park who is a Bat ecologist



Like · Reply · 7h



Write a reply...



Sam Gbel Cool, that's a shame you won't be able to make it Friday. I'll put up an event and see who can make it x

Like · Reply · 7h



Lewis Wood Don't see what he's actually doing wrong? He's bought the land, so if he wants too build on it, then why not let him be?

Most of the bigger trees will be protected.

He's just doing what we all do, by trying too make a living.

Like · Reply · 1m



Write a comment...



Press Enter to post.



Lisa Loveridge

1 November at 19:07



A friend has just emailed Friends of The Orchard to say that the strip of land between Osborne Lane and the West Brook has been fenced off and a Keep Out sign erected.



12

43 Comments



Like



Comment

View 41 more comments



Rachel Jaral From the comments here, it's clear how much the local community values this green space, and any planning application would attract considerable public interest. If you value the land, I'd encourage folks to get organised as we need someone locally to lead on this.

From the planning angle, we do know already that the land is outside of Green Belt and within the development boundary of Bath. There are some individual Tree Protection Orders on the site, and a tree officer has already come by to look at the site some months ago, but the primary protective planning policy that will come into play will be impact on Ecological Networks (with perhaps some consideration to the Landscape Setting of Bath).

From a planning point of view, I've checked with experts who feel that the land would carry a very high risk, due to the ecological sensitivities of the site (stream, woodland and wildlife value). Significantly, our community group (Friends of the Orchard at Broadmoor Lane) has documented evidence of the use of the space as a key commuting and foraging corridor for bats, which are a protected species.

This could well be a show-stopper in terms of development, but if it goes to application, community response will have a big political sway. So I'd encourage folks to get involved, get organising, and get noisy. Would anyone like to lead on this?

Like · Reply · 15h



3



Suzanne Donaghy I remember supporting the fight against the planning proposals against the building on what was the orchard and happy to try to help. I wouldn't like to lose any more memories of what Broadmoor Lane is like - this was our view 😊



2

Like · Reply · 3h · Edited

^ Hide 18 Replies



Suzanne Donaghy Memories x



1

Like · Reply · 3h



Suzanne Donaghy Memories x



Like · Reply · 3h



Rachel Jarai Thanks, Suzanne Donaghy . It would be really valuable if you could share with us what the use of the Westbrook Woodland was like 20 years ago.

Like · Reply · 2h



Rachel Jarai Do you remember what access was like 20 years ago?

Like · Reply · 2h



Suzanne Donaghy As far as I can remember it was exactly the same as it is now and I remember going in at the bottom of the orchard except the footbridge wasn't there, nothing to say there was no access and I think the owner just let people use it

Like · Reply · 2h · Edited



Suzanne Donaghy I was about 10 when I used to go there (a few years ago now lol)

Like · Reply · 2h



Rachel Jarai That's really helpful, Suzanne. Could you help us find a dozen or more local people who could attest to the same?

Like · Reply · 2h



Rachel Jarai That's really helpful, Suzanne. Could you help us find a dozen or more local people who could attest to the same?

Like · Reply · 2h



Rachel Jarai Suzanne Donaghy can you please tell us more what activities took place on the land 15-25 years ago? I imagine dog-walking and playing in the stream, but what else? (These days we get den-building, dam-building, climbing trees, picnicking etc)

Like · Reply · 2h



Julia Brigden Dog walking.

Communing with nature

Relaxing by listening to the sounds of the water flowing and babbling across the stones. ... [See more](#)

Like · Reply · 2h



Suzanne Donaghy Plus tree climbing to get the apples - watching the barn lit up from our house by Christmas was amazing as it was like an activity scene. The stream has an amazing feature which would be sad if we lost it the pictures I have taken in there are amazing and it is home to alot of animals would be a shame to lost it

Like · Reply · 2h



Suzanne Donaghy The original Broadmoor vale group people may also be able to add more than I can ?

Like · Reply · 2h



Julia Brigden Oh. And play pooh sticks.

I was looking forward to my baby grand daughter being able to go there when she's older and stamp around with her wellies on. Lots of kids play there and actually get some outdoor fun and fresh air. A real childhood. The gove... [See more](#)

Like · Reply · 2h



Rachel Jarai That's great **Suzanne Donaghy** and **Julie Brigden**. We need to make sure the activities are specific to the Woodland adjacent to WASPS, so I assume there were no Apple trees there? If you have any photos of that lower part of the stream (between the lower bridge and the Symes Park estate) that would be hugely important. Everyone, please upload any photos you have - greatly appreciated:)

Like · Reply · 2h



Julia Brigden **Rachel Jarai** · **Elaine Gilbert**. You have quite a few don't you ?

Like · Reply · 2h



Rachel Jarai I understand the land was sold for £200,000+, so there's no way we could have crowdfunded it. Raising £2000 for the play area was hard enough, believe me...

Like · Reply · 1h



Julia Brigden **Rachel Jarai** oh. That's a shame. I see what you are saying.

Like · Reply · 1h · Edited



Marie John **Lynda Cole** **lee pitman** are you on this group. ?

Like · Reply · 1h



Marie John **Julia** yes private and give the chap chance to state clearly what he plans to do without speculation

Like · Reply · 1h



Marie John **Rachel** well that was the market value of it

Like · Reply · 1h



Sam Gbel

Yesterday at 14:17

...

So, we have been over to the woodland area. Yes there are metal fences up all round which is very concerning. We have looked into who owns the land, it maybe the farm at the top - but they have not put in any plans for anything. We have also searched to find any eveidece of any plans for demolishing or planning for anything and found nothing. (although we dont have a postcode which could have made it eaiser. The fencing is up but no notices or anything on it. So no demilision or planning?. Could it just be that they are up for safety while they sort out some trees or do something with the brook? we dont know.

Some thing we can do though is make some banners to put up on the gates saying that residents are concerned about this woodland area being taken away from the community, take photos and send in to the chronical. Something as a community we can do.

In the meantime, if anyone sees and notices go up or find any evidence of anything then to just keep us informed, we can then do things like petitions.

Hope this helps our frustrations for the time being.

If anyone fancys helping me make some banners please message below and we can start some up.

Fingers crossed the rummers of building houses are just rummers

Cheers Guys

Sam Gbel





Karen Acton Has anyone done an index map search at the Land Registry? This would establish whether the land is registered and, if so, provide a title number from which you could obtain office copy entries of the Land Register. This would give information of the registered owner of the Land.

Like · Reply · 13h



Sam Gbel **Karen Acton** oh I'm not sure, can we do this on line?

Like · Reply · 12h



Karen Acton I could do it at work if you can't, as a member of the public, apply online. An index map search requires the applicant to download a plan of plan of the Land edged in red. This can be taken from an Ordnance Survey map. I don't believe there is a ch... [See more](#)

Like · Reply · 9h



Karen Acton Sorry, just realised typos! Trying to multi task!

Like · Reply · 9h



Karen Acton

<https://www.googleadservices.com/pagead/aclk?sa=L...>



LANDSEARCHES.CO.UK

Land Searches & Documents

Like · Reply · 9h



Karen Acton Whoops sorry, wrong site,

Like · Reply · 9h



Karen Acton Whoops sorry, wrong site,

Like · Reply · 9h



Karen Acton <https://www.gov.uk/get-information.../search-the-index-map>



GOV.UK

Get information about property and land

Save

Like · Reply · 9h



Write a reply...



Laura Fearn Baker Try getting in touch with Sam Petherick at Bath Live and Somerset live. He's a reporter. I think he may even live in Weston. Sorry, I would do it but I'm in hospital.

Like · Reply · 12h



Kelly Couzens It's not being taken away from the community though?? I don't understand why everyone thinks it's their right, when it was private property before and everyone has been trespassing!! Just stating a fact!!

Like · Reply · 10h



Suzanne Donaghy replied · 3 Replies · 4 hrs



Sam Gbel Oh great! Cheers for the tip. Will will definitely keep him in mind - hope you ok x

Like · Reply · 7h



Write a comment...



Press Enter to post.



Lisa Loveridge

1 November at 19:07

...

A friend has just emailed Friends of **The Orchard** to say that the strip of land between Osborne Lane and the West Brook has been fenced off and a Keep Out sign erected.

👍👍👍 12

43 Comments

👍 Like

💬 Comment



Suzanne Donaghy End of an era so gutting 😞

Like · Reply · 3d



Sam Gbel Wheres that? Not the stream area?

Like · Reply · 3d



Lisa Loveridge Yes

Like · Reply · 3d



Sam Gbel No way?? I heard something - but really?? They can't take it it was beautiful!?

Like · Reply · 3d



Sam Gbel Heart broken! It was one of Weston's best features (for kids and dogs) a real sense of escape. Aaaahhhhhh gutted

😞😞😞😞😞😞😞😞

Like · Reply · 3d

👍 7



Siân Perry Joanne Beale...

Like · Reply · 3d

Like · Reply · 3d



Siân Perry Joanne Beale...

Like · Reply · 3d



Lisa Loveridge Two things that could be done (not by me as I'm hobbling around on crutches awaiting surgery)

Like · Reply · 3d



Sam Gbel Tell me tell me????

Like · Reply · 3d



Lisa Loveridge 1) Check old maps at Trimbridge House in town to see if there is a historical right of way

Like · Reply · 3d



Suzanne Donaghy Trimbridge House is no longer there you will need to contact Council Connect to speak to planning as I think they are now at Lewis House

Like · Reply · 3d



Lisa Loveridge Thank you!

Like · Reply · 3d

↩ View more replies



Write a reply...



Sam Gbel Sorry to hear your on crutches, hope your ok x

Like · Reply · 3d





Sam Gbel Sorry to hear your on crutches, hope your ok x

Like · Reply · 3d



Lisa Loveridge 2) Find 20 people who've walked there for 20 years and get their names and addresses to work towards proving a right of way.

Like · Reply · 3d



Suzanne Donaghy Pretty sure that would be easy to do ???

Like · Reply · 3d



Lisa Loveridge Some of the older people on Kimber Close and Broadmoor Lane might be up for giving their details

Like · Reply · 3d



Suzanne Donaghy We have 3 in ours already 😊

Like · Reply · 3d



Sam Gbel So basically people that have lived here for 20 years plus? How will this help though?

Like · Reply · 3d



DI Marsh Lisa - I'm there 17 years if that helps!

Like · Reply · 3d



Write a reply...



Lisa Loveridge thanks Sam!

Like · Reply · 3d



Lisa Loveridge thanks Sam!

Like · Reply · 3d



Emma Mox We can add our names to 20 years Karen Acton

Like · Reply · 3d



Emma Veasey Does this mean we can't walk over the bridge anymore going over the stream? Me and my son always walk down that lane and then across the bridge and over to the orchard. I remember seeing a sign on/by the bridge saying public footpath?

Like · Reply · 3d



Suzanne Donaghy The bridge will still be there 😊

Like · Reply · 3d



Emma Veasey Oh that's good at least, pooh sticks are always a winner!
So sad though when a beautiful, peaceful place gets replaced with housing. We love that a short walk and you feel like you are in the countryside.

Like · Reply · 3d



Write a reply...



Leanna Biggs Michael Jones @ Jacci Jones - didn't you say you knew some people who've lived here for that long?

Like · Reply · 2d



Leanna Biggs Marilyn Osment can you help?

Like · Reply · 2d

Like · Reply · 2d



Leanna Biggs Marilyn Osment can you help?

Like · Reply · 2d



Marilynn Osment We would certainly sign a petition, but, as Michael Jones has said, let's see the detail of any plans available....then make our move....however, going on past experience in Weston, a lot of these things are 'cut and dried' before word gets out 😊then it becomes more difficult to stop. Such a pity that folk cannot leave this area alone for the enjoyment of us all 😊 ..

Like · Reply · 2d



Write a reply...



Ally Messer That is so so sad all the kids play there!

Like · Reply · 2d



Lauren Wood What??? So which bit will No longer be accesible?
x

Like · Reply · 2d



Lauren Wood could you please make your post so I am able to share? I really hope this is not going to mean we can't walk by the stream my children absolutely adore being down there (actually asked if we could go today!) I hope there's a possibility of stopping this if so and would like as many residents to know about this as possible..it's such a beautiful part of our village 😊
x

Like · Reply · 2d



Sam Gbel Lauren Wood shall I screen shot you a copy
xx

Like · Reply · 2d



Like · Reply · 2d



Sam Gbel Lauren Wood shell I screen shot you a copy
xx

Like · Reply · 2d



Write a reply...



Leanne Biggs I know something's been going on for ages and that the land had been bought/sold so I'm not sure if it's too far down the line to stop it now? My parents walk the dog through there most days and the kids love it too. It's criminal that somebody wants to build on it 😞

Like · Reply · 2d



Chris Nicholson



Like · Reply · 2d



Emma Veasey Oh nooo! That's so gutting. We loved walking through there! Sons favourite place to go! 😞

Like · Reply · 2d



Lisa Pritchard Well that looks bloody awful!

Like · Reply · 2d



Write a reply...



Like · Reply · 2d



Lisa Pritchard Well that looks bloody awful!

Like · Reply · 2d



Write a reply...



Michael Jones 🐻 The Battle Starts now to retain an Area of Natural Beauty which will be lost for ever by a needless possible development which will totally ruin a lovely piece of Weston. 😞



Like · Reply · 2d



Leanna Biggs Start a petition, dad, you've got more time than most!

Like · Reply · 2d



Sam Gbol Michael Jones please help - Leanna Biggs do you reckon it will help?

Like · Reply · 2d

👉 View more replies



Write a reply...



Lisa Pritchard Phil Browne Lee Browne

Like · Reply · 2d



Sam Gbol If we can do a petition we could then add "how long have you been using the area for walking/playing?" So then we could get our 20 people that have used it for 20 years?? Anyone know if you need an official petition or can we do one ourselves?

Like · Reply · 2d

Like · Reply · 2d



Sam Gbel Leanna Biggs -- we could start with one of these maybe??

https://www.change.org/start-a-petition?utm_source=sem...|b&utm_content=2018_11_02&gclid=CjwKCAjw6-_eBRBXEiWA-5zHaT2SNpPvuF5alqXyPrcWg9MDIJkz1N-6nOnRa_ruzgitL58IYzHDphoCB10QAvD_BwE



Like · Reply · 2d



Leanna Biggs **Sam Gbel** it's worth a go. Then if we all tag friends who live in the village who might not see this group we can spread the reach

Like · Reply · 2d



Sam Gbel Leanna Biggs cool I'll look into setting it up then x

Like · Reply · 2d



Write a reply...





Sam Gbel Leanna Biggs cool I'll look into setting it up then x

Like · Reply · 2d



Write a reply...



Sam Gbel And so a written on to go round the village?

Like · Reply · 2d



Rosina Partridge Put my name on the petition, my late husband and I have lived and walked this route since we brought our house in 1967 with our dogs or just going to the village. This way cuts off a lot of the hill !!

Like · Reply · 2d



Anna Hawker So you can't do a circular walk round now then?!

Like · Reply · 2d



Sam Gbel Any idea who this would be?

Leanne Leanna Biggs

Michael Jones ?... See more

Post a petition · Change
How many people are...

Choose a decision maker

This is the person, organisation, or group that can make a decision about your petition. Change.org will send them updates on your petition and encourage a response.

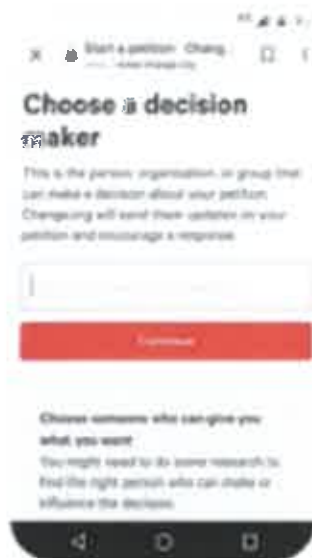
Continue

Choose someone who can give you what you want

You might need to do some research to find the right person who can make or influence the decision.

Back Home

Like · Reply · 2d



Like · Reply · 2d



Leanna Biggs Ooh I don't know, but would assume it would be the council?

Like · Reply · 2d



Suzanne Donaghy I would have thought it would be B&NES as they would be the ones that we should petition this to ?

Like · Reply · 2d



Marie John My understanding is that someone has bought this land and he has place fence around his boundary . Also I have heard there is planning going in for one house to be built

Like · Reply · 2d



Michael Jones 🤔 **Marie John** where did you find that out?

Like · Reply · 1d



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Like · Reply · 2d



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Like · Reply · 2d



Michael Jones @ Marie John where did you find that out?

Like · Reply · 1d



Sam Gbol Yeah I cant find any information on planning anywhere

Like · Reply · 1d



Marie John You won't it's been on and off for years I know who sold it and I know who owns it. But I'm very interested as why everyone has guessed what the plan is and didn't wait to see what was going on before doing a petition The last works done there was a chestnut tree that was dangerous and needed sorting.

Like · Reply · 1d



Write a reply...



Lisa Loveridge Thanks Marie! I'm guessing that we best focus on proving the right of way for now and that we do the petition when planning has been applied for?

Like · Reply · 1d



Julia Bridgen Unfortunately I don't think it's a public right of way. When I first starting walking my dog through the little wooded area about 12 years ago , the only way through was to jump over the stream using the big stones. You couldn't get through the fir trees near the bridge by the farm. As the years went by and more people used it a path started to form there. There was also a fence there at one time with barbed wire on it.



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Like · Reply · 1d



1



Julie Brigden Unfortunately I don't think it's a public right of way. When I first starting walking my dog through the little wooded area about 12 years ago , the only way through was to jump over the stream using the big stones. You couldn't get through the fir trees near the bridge by the farm. As the years went by and more people used it a path started to form there. There was also a fence there at one time with barbed wire on it. I never used to go that way. I used to jump over the stream and come out behind the houses near the culvert. I always used to wonder who owned the land but I was never questioned. As the years have gone by it's become a popular route. I think the road along Osbournes Lane is the footpath. We will be able to continue to walk along there hopefully. It's such a pretty little wood which is habitat for wildlife and the stream is so relaxing to walk past. Yet another place is being destroyed and I'm sad about it. A few years back we challenged the building of the houses in the orchard and in the end , fewer houses were built than originally planned. The area was sympathetically developed and actually it is now an asset to our community. Such a lovely place to walk. This new proposal may be able to be stopped although I guess if it's private land than the person can do whatever they like.

Like · Reply · 1d



1



Julia Brigden I just looked at my ordnance survey map and you can see the green dots along Osbournes Lane which is the footpath. You can just about see black dots through the wooded area as well. According to the key on the map this looks like a " parish boundary ". I'm not sure what the rules are , about buying land from someone and deciding to build a house there. . Have they applied for planning permission as I haven't seen any signs. The community needs to oppose the plans if the house/ houses are to be stopped.

Like · Reply · 1d



2



Dave Vernalls There's no planning application in at present - you can do a map search on the B&NES website and the only even recent application was to

take a house about 200m from the stream in the area of



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Like · Reply · 1d



Dave Vernalls There's no planning application in at present - you can do a map search on the B&NES website and the only even recent application was to trim a horse chestnut tree that was in danger of splitting.

Like · Reply · 1d



Write a reply...



Julia Brigden



Like · Reply · 1d



Julia Brigden Zoom in.

Like · Reply · 1d



Julia Brigden



Like · Reply · 1d



Julia Brigden Zoom in.

Like · Reply · 1d



Write a reply...



Sam Gbel Looking into a petition off the council website x hopefully have it up and going in a bit x

Like · Reply · 1d



Sam Gbel Is it actually called Osborne Lane or road?? As it doesn't say on Google?

Like · Reply · 1d



Heather Lowe I think Friends of the Orchard have recently done a tree survey of the area. Not sure if it takes in this area but it may have flagged up trees that need to be protected?

Like · Reply · 1d



Julia Brigden Lane.

Like · Reply · 1d



Mario John Sammie

Like · Reply · 1d

Like · Reply · 1d



Marie John Sammie

Like · Reply · 1d



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Like · Reply · 15h



2



Suzanne Donaghy I remember supporting the fight against the planning proposals against the building on what was the orchard and happy to try to help. I wouldn't like to lose any more memories of what Broadmoor Lane is like - this was our view 🥰



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Like · Reply · 3h · Edited

👤 Hide 18 Replies



Suzanne Donaghy Memories x



Like · Reply · 3h



Friends of the Orchard at Broadmoor Lane

Yesterday at 08:04 · 0

We all know Bath is in many ways a small town (and who doesn't love a game of rugby?!) but our democracy depends on transparency in government and on limits in gift-giving to those in positions of authority. We are concerned to hear that Bath Demolition (whose signs were up at the fence on the Westbrook Woodland) is in the news in relation to questionable gift-giving involving the leader of the Council. As a community, we trust that decisions on planning matters will be made fairly and we welcome new guidance on gift-giving which advises that "[the reputation of the] council can be seriously jeopardised by the in appropriate acceptance by you of a gift or hospitality." Feel free to share this post to raise awareness.

<https://www.somersetlive.co.uk/.../council-leader-accepted-23...>



👤 Sara Santos and 2 others · 1 Comment · 10 shares

👍 Like

💬 Comment

➦ Share



Most relevant ▾



Write a comment...



Michael Jones A bit of palm greasing going on maybe?

Like · Reply · 18h

DOCUMENT 3

TR1

HM Land Registry

Transfer of whole of registered title(s)

TR1

For information on how HM Land Registry processes your personal information, see our [Personal Information Charter](#).

1	Title number(s) of the property: AV55770
2	Property: Land to the Southwest of Broadmoor Lane Weston Bath
3	Date: 13th July 2018
4	Transferor: Susan Hook and Nicholas Anthony Quintin <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
5	Transferee for entry in the register: Paul John Ealey and Donna Louise Ealey <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: <u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in the United Kingdom including any prefix:
6	Transferee's intended address(es) for service for entry in the register: 6A Redwoods Kelston Road Bath BA1 3QN
7	The transferor transfers the property to the transferee
8	Consideration <input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): Two Hundred Thousand Pounds £200,000.00 <input type="checkbox"/> The transfer is not for money or anything that has a monetary value <input type="checkbox"/> Insert other receipt as appropriate:

9 The transferor transfers with

- ☒ full title guarantee
☐ limited title guarantee

10 Declaration of trust. The transferee is more than one person and

- ☐ they are to hold the property on trust for themselves as joint tenants
☒ they are to hold the property on trust for themselves as tenants in common in equal shares
☐ they are to hold the property on trust:

11 Additional provisions

The Transferee covenants with the Transferor on an indemnity basis only that the Transferee will observe and perform the covenants referred to in the charges register of the registered title of the Property in so far as they remain enforceable and the Transferee will indemnify the Transferor and their estates in respect of any losses arising from any breach (save those already breached as at the date hereof) and where the Transferee and the Transferor shall comprise more than one person the obligations and benefits shall apply on a joint and several basis.

For the purpose of Section 6(2)(a) of the Act all matters now recorded in registers open to public inspection are to be considered within the actual knowledge of the Transferee.

12 Execution

Signed as a deed by Susan Hook
In the presence of

Sign here:

Signature of witness:

Name (In block capitals):

Address:

Signed as a deed by Nicholas Anthony Quintin
In the presence of

Sign here:

Signature of witness:

Name (In block capitals):

Address:

Signed as a deed by Paul John Ealey
In the presence of

Sign here:

Signature of witness:

Name (In block capitals): RACHEL ASHLEY

Address: 14 CASSEY BOTTOM LAKE ST

GEORGE, BRISTOL, BS5 8BX

Signed as a deed by Donna Louise Ealey
In the presence of

Sign here:

Signature of witness:

Name (In block capitals): RACHEL ASHLEY

Address: 14 CASSEY BOTTOM LAKE, ST GEORGE, BRISTOL, BS5 8BX

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 68 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 138 of the Land Registration Rules 2003.

DOCUMENT 4

AERIAL PHOTOGRAPHS – GET MAPPING











DOCUMENT 5

AERIAL PHOTOGRAPH CONFIRMATIONS – GET MAPPING



Commercial-In-Confidence

Getmapping
Fleet 27
Rye Close, Fleet
Hampshire, GU51 2UH
Tel +44 (0)1252 849465
Fax +44 (0)1252 849444
Email rebecca.grainger@getmapping.com
Web www.getmapping.com

17th March 2020.

Order No: 417695

Dear Joss Easley,

Getmapping can confirm that the imagery in question for the location below was captured on **19/06/2000**.

Easting: **372295.50**

Northing: **166862.00**

If you need any other information, we would be more than happy to help.

Yours sincerely,

Rebecca Grainger
Telephone Account Manager.
Getmapping Plc
01252 849465
rebecca.grainger@getmapping.com

Getmapping
Fleet 27
Rye Close, Fleet
Hampshire, GU51 2UH
Tel +44 (0)1252 849465
Fax +44 (0)1252 849444
Email rebecca.grainger@getmapping.com
Web www.getmapping.com

17th March 2020.

Order No: 417695

Dear Joss Easley,

Getmapping can confirm that the imagery in question for the location below was captured on **08/06/2006**.

Easting: **372300.50**

Northing: **166862.00**

If you need any other information, we would be more than happy to help.

Yours sincerely,

Rebecca Grainger
Telephone Account Manager.
Getmapping Plc
01252 849465
rebecca.grainger@getmapping.com

Getmapping
Fleet 27
Rye Close, Fleet
Hampshire, GU51 2UH
Tel +44 (0)1252 849465
Fax +44 (0)1252 849444
Email rebecca.grainger@getmapping.com
Web www.getmapping.com

17th March 2020.

Order No: 417695

Dear Joss Easley,

Getmapping can confirm that the imagery in question for the location below was captured on **01/06/2009**.

Easting: **372298.50**

Northing: **166860.50**

If you need any other information, we would be more than happy to help.

Yours sincerely,

Rebecca Grainger
Telephone Account Manager.
Getmapping Plc
01252 849465
rebecca.grainger@getmapping.com



Commercial-In-Confidence

Getmapping
Fleet 27
Rye Close, Fleet
Hampshire, GU51 2UH
Tel +44 (0)1252 849465
Fax +44 (0)1252 849444
Email rebecca.grainger@getmapping.com
Web www.getmapping.com

17th March 2020.

Order No: 417695

Dear Joss Easley,

Getmapping can confirm that the imagery in question for the location below was captured on **09/09/2014**.

Easting: **372302.50**

Northing: **166858.00**

If you need any other information, we would be more than happy to help.

Yours sincerely,

Rebecca Grainger
Telephone Account Manager.
Getmapping Plc
01252 849465
rebecca.grainger@getmapping.com

Getmapping
Fleet 27
Rye Close, Fleet
Hampshire, GU51 2UH
Tel +44 (0)1252 849465
Fax +44 (0)1252 849444
Email rebecca.grainger@getmapping.com
Web www.getmapping.com

17th March 2020.

Order No: 417695

Dear Joss Easley,

Getmapping can confirm that the imagery in question for the location below was captured on **19/06/2017**.

Easting: **372299.00**

Northing: **166862.50**

If you need any other information, we would be more than happy to help.

Yours sincerely,

Rebecca Grainger
Telephone Account Manager.
Getmapping Plc
01252 849465
rebecca.grainger@getmapping.com

DOCUMENT 6
FOOTPATH DIVERSION ORDER

PUBLIC PATH DIVERSION ORDER

HIGHWAYS ACT 1980

BATH AND NORTH EAST SOMERSET COUNCIL

**Bath and North East Somerset Council (Footpath AO46, Bath (Part) and Unrecorded
Footpath, Charlcombe) Public Path Diversion Order 2002**

This Order is made by Bath and North East Somerset Council ('the authority') under section 119 of the Highways Act 1980 ('the 1980 Act') because it appears to the authority that in the interests of the owner of the land crossed by the footpaths described in paragraph 1 of this order it is expedient that the line of the paths should be diverted.

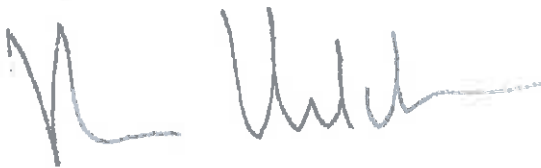
The owner has agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

BY THIS ORDER:

1. The public right of way over the land situated at Bath and at Charlcombe and shown by a bold continuous line on the maps contained in this order and described in Part 1 of the Schedule to this order shall be stopped up from the date of confirmation of this order.
2. There shall from the date of confirmation of this order be a public footpath over the land situate at Lansdown Grange Farm, Bath described in Part 2 of the Schedule and shown by a bold broken line on the map attached to this order.
3. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

Given under the Common Seal of the Bath and North East Somerset Council the 13th day of November 2002.

The COMMON SEAL of the
BATH AND NORTH EAST SOMERSET
COUNCIL
was hereunto affixed
in the presence of:-



Authorised signatory



AUTHORITY FOR SEALING	
Full Council Meeting	
Council resolution	
Committee minute	9/5/02
Initials	KE

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

That part of the footpaths AQ46 in Bath and an unrecorded footpath in the Parish of Charlcombe in Bath & North East Somerset running from point A at Grid Reference ST 7225 6695 on the map annexed to this Order in a generally north westerly direction for a distance of approximately 245 metres to point B at Grid Reference ST 7215 6717 on the said map and shown by a bold continuous line.

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

From point A at Grid Reference ST 7225 6695 on the map annexed to this Order in a generally north easterly direction for a distance of approximately 45 metres to point C at Grid Reference ST 7228 6698 and thence in a generally north westerly direction for a distance of approximately 235 metres to point D at Grid Reference ST 7218 6718 and thence in a generally south westerly direction for a distance of approximately 30 metres to point B at Grid Reference ST 7215 6717 and shown by a bold broken line. The path to be a width of 2.0m.

PART 3

LIMITATIONS AND CONDITIONS

Footbridges at Grid References ST 7227 6697 and ST 7217 6718.

Section 119 Highways Act 1980

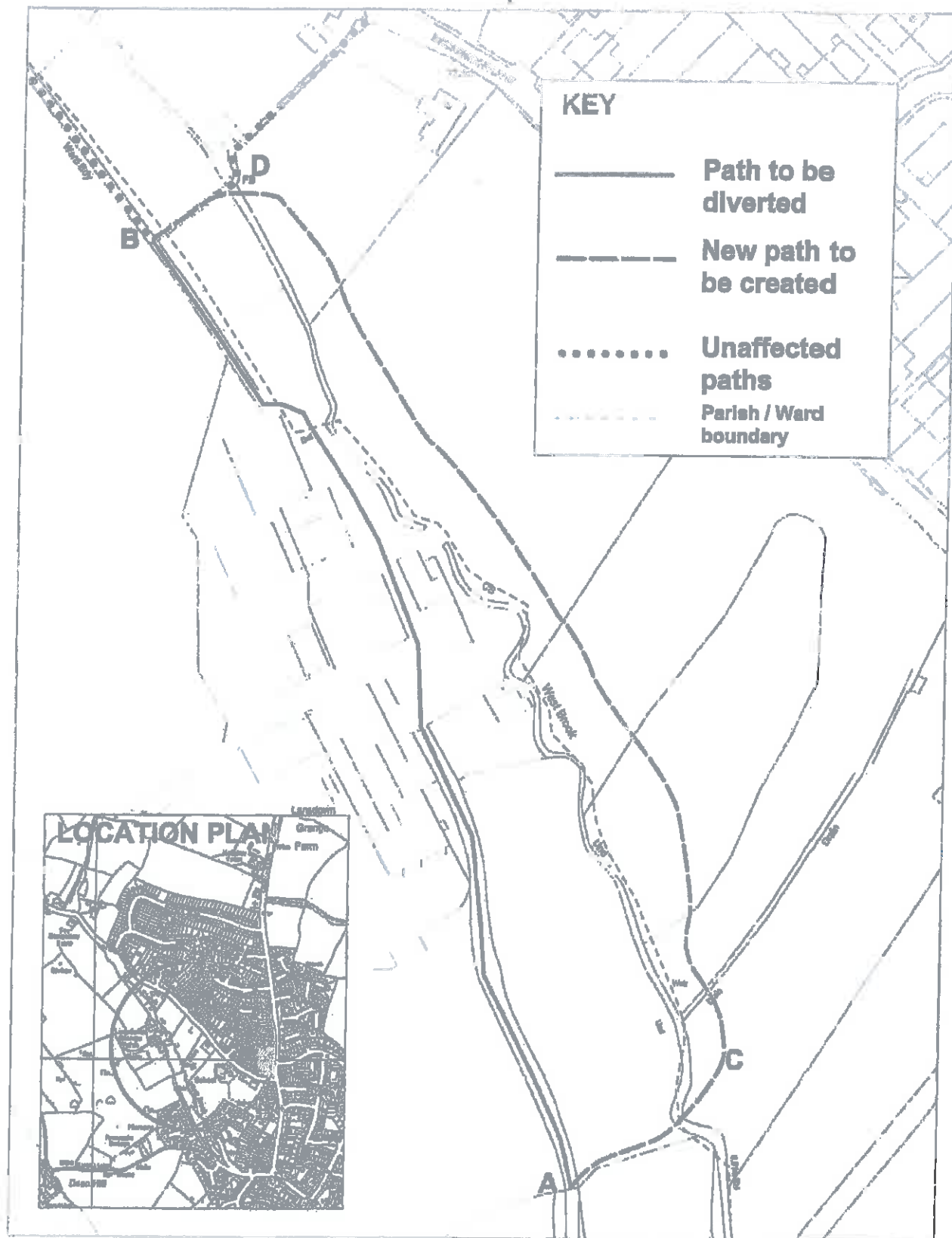
**Bath & North East Somerset Council (Footpaths
Bath AQ46 (Part) and Charlcombe Unrecorded
Path) Public Path Diversion Order 2002**

TAWM
Riverside
Temple Street
Keynsham
Bristol BS31 1LA
Tel 01225 477000



Scale 1:1250 Date: 25 September 2002

Grid Reference: ST 7225 6702



In pursuance of the powers in that behalf conferred by Schedule 6 of the Highways Act 1980, the Council hereby confirms the foregoing Order.

The COMMON SEAL of
BATH AND NORTH EAST SOMERSET
COUNCIL

was hereunto affixed
this 19th day of November 2003
in the presence of:-



AK Brookes

Authorised signatory

AUTHORITY FOR SEALING	
Full Council Meeting	
Council resolution	
Committee minute	of 9/5/02
Initials	KE

NOTICE OF MAKING AN ORDER

HIGHWAYS ACT 1980

BATH AND NORTH EAST SOMERSET COUNCIL

Bath and North East Somerset Council (Footpath AQ46, Bath (Part) and Unrecorded Footpath, Charlcombe) Public Path Diversion Order 2002

The above order, made on 13th November 2002, under section 119 of the Highways Act 1980, will divert that part of footpath AQ46 in Bath and an unrecorded footpath in the Parish on Charlcombe running from point A at Grid Reference ST 7225 6695 in a generally north westerly direction for a distance of approximately 245 metres to point B at Grid Reference ST 7215 6717 to a line running from point A at Grid Reference ST 7225 6695 in a generally north easterly direction for a distance of approximately 45 metres to point C at Grid Reference ST 7228 6698 and thence in a generally north westerly direction for a distance of approximately 235 metres to point D at Grid Reference ST 7218 6718 and thence in a generally south westerly direction for a distance of approximately 30 metres to point B at Grid Reference ST 7215 6717, as shown on the order map.

A copy of the order and the order map have been placed and may be seen free of charge at the offices below (please telephone the Public Rights of Way Team for an appointment on 01225 477650) and at Trimbridge House, Trim Street, Bath during normal office hours. A copy of the order and the order map is available for inspection at Bath Central Library. Copies of the order and map may be bought from the offices below at the price of £3.50.

Any representations about or objections to the order may be sent in writing to the Public Rights of Way team at the address below not later than 8th January 2003. Please state the grounds on which they are made. Please note that all representations received will be considered in public by the Council and that the substance of any representation together with the name and address of the person making it will become available for public inspection.

If no such representations or objections are duly made, or if any so made are withdrawn, the Bath and North East Somerset Council may confirm the order as an unopposed order. If the order is sent to the Secretary of State for Environment, Food & Rural Affairs, for confirmation any representations or objections which have not been withdrawn will be sent with the order.

This does not form part of the statutory notice: This is a re-advertisement of the Order, first advertised on 20 November 2002, to correct a minor error in the documents served at that stage.

Floor 2, Riverside,
Temple Street,
Keynsham,
Bristol
BS31 1LA
Fax. No. (01225) 394335
Dated: 11th December 2002


S. Howell
Head of Transportation, Access and
Waste Management

NOTICE OF CONFIRMATION OF AN ORDER

HIGHWAYS ACT 1980

BATH AND NORTH EAST SOMERSET COUNCIL

Bath and North East Somerset Council (Footpath AO46, Bath (Part) and Unrecorded Footpath, Charlcombe) Public Path Diversion Order 2002

On 19th November 2003, Bath and North East Somerset Council confirmed the above order made under section 119 of the Highways Act 1980.

The effect of the order as confirmed is to divert that part of footpath AQ46 in Bath and an unrecorded footpath in the Parish on Charlcombe running from point A at Grid Reference ST 7225 6695 in a generally north westerly direction for a distance of approximately 245 metres to point B at Grid Reference ST 7215 6717 to a line running from point A at Grid Reference ST 7225 6695 in a generally north easterly direction for a distance of approximately 45 metres to point C at Grid Reference ST 7228 6698 and thence in a generally north westerly direction for a distance of approximately 235 metres to point D at Grid Reference ST 7218 6718 and thence in a generally south westerly direction for a distance of approximately 30 metres to point B at Grid Reference ST 7215 6717, as shown on the order map.

A copy of the order as confirmed and the order map have been placed and may be seen free of charge at the offices below (please telephone the Public Rights of Way Team for an appointment on 01225 477650) and at Trimbridge House, Trim Street, Bath during normal office hours. A copy of the order and the order map is available for inspection at Bath Central Library. Copies of the order and map may be bought from the offices below at the price of £3.50.

The order came into force as from 19th November 2003, but if any person aggrieved by the order wants to question its validity, or that of any provision contained in it, on the ground that it is not within the powers of the Highways Act 1980, as amended, or on the ground that any requirement of the Act, as amended, or of any regulation made under the Act has not been complied with in relation to the order, he or she may, under paragraph 2 of Schedule 2 to the Act as applied by paragraph 5 of Schedule 6 to the Act, within 6 weeks from 26th November 2003, make an application to the High Court.

Floor 2, Riverside,
Temple Street,
Keynsham,
Bristol
BS31 1LA
Dated: 26th November 2003



S. Howell
Head of Transportation, Access and
Waste Management

DOCUMENT 7
BRIDGE INSPECTION REPORT

BOSS BRIDGE DATA BASE

BRIDGE NUMBER	76 209 209	ROAD WIDTHS	
BRIDGE NAME	West Brook Bridge AB.	FOOTPATH WIDTHS	
EASTINGS		HEADROOM	
NORTHINGS	7227	WEIGHT LIMIT	
ROUTE NUMBER	6636	ASSESSMENT DETAILS	
ROUTE DESIGNATION	AQ 46	PARAPET DESCRIPTION	
DISTRICT COUNCIL	Public Footpath	P.U.S.W.A DETAILS	
PARISH COUNCIL			
BRIDGE OWNER	Barl. NE Somerset County		
INSPECTION ALLOCATION		HISTORICAL DETAILS	
BRIDGE DESCRIPTION	Wooden kit bridge	CONSTRUCTION DATE	21 March 2002
BRIDGE CARRIES	Pedestrians	MAIN RIVER	
BRIDGE CROSSES	S'Veam	CALCULATIONS	
NUMBER OF SPANS	1	DRAWINGS	
SPAN DIMENSIONS	5m	AVON FILE REFERENCE	
WIDTH BETWEEN PARAPETS	4m	THESE DETAILS INPUT BY	
		THESE DETAILS CHECKED BY	

BOSS



DOCUMENT 8

THE ORCHARD – INSPECTOR’S REPORT

"THE ORCHARD", BROADMOOR LANE,

UPPER WESTON, BATH

re: Application dated the 22nd March 1999 under Section 13
of the Commons Registration Act 1965 by Broadmoor Lane
Residents Association ("the Association") to register
"The Orchard" as a Town or Village Green ("TVG")

REPORT

A. INTRODUCTION

1. I was instructed between March and May this year by Bath & North East Somerset District Council ("the Council"), which is the registration authority for its area under Section 2 of the Commons Registration Act 1965 ("the 1965 Act"), to hold a non-statutory Inquiry in connection with the above Application and thereafter to report in writing to the Council.
2. The Application was made by the Association, a voluntary body, using the form ("Form 30") prescribed by (and to be found at pp.14 to 20 of) the Commons Registration (New Land) Regulations 1969 (SI No. 21843; "the 1969 Regulations") signed by the Association's then Secretary, Mr J.D. Ferguson, who also swore the prescribed supporting Statutory Declaration on the same date. The Council gave public Notice of the Application by a Form 33 Notice dated the 6th August 1999 requiring any person wishing to object to

lodge a written and signed statement of the facts on which the objection was based with the Council no later than Friday the 8th October 1999.

3. The Council, in whom The Orchard is vested, objected to the Application.

4. I held the non-statutory Inquiry at All Saints Church Hall, Weston, Bath on the 15th, 16th and 17th May 2000. I also held a view at the conclusion of the lunch-time adjournment on the first day. Details of the Witnesses called are listed in the Appendix to this Report. The Appendix also refers to subsequent written submissions for which I gave leave during the hearing and to subsequent "comments" by Major Crombie.

5. Before commencing hearing submissions I informed the parties and those present that I had for many years been a member of the Commons Footpaths and Open Spaces Preservation Society (now commonly called "The Open Spaces Society" ["OSS"]) and indeed had in one case appeared for it in a case concerning the fencing of common land (against the National Trust). I had also spoken at a Seminar on new TVGs in November 1994 and commented upon a draft of OSS's publication "Getting Greens Registered" ("GGR"; published 1995) before it was published. I asked if anyone objected to my sitting as a non-statutory Inspector. No-one objected.

6. The Association was represented by its Secretary, Mr A.J. Stewart, a Civil Servant. The Council was represented by Mr Vivian Chapman of

Counsel. Major A.J.W. Crombie, Vice Chairman of the Bath Society, represented that Society in support of the Application. He also, with my permission, subsequently lodged written submissions upon which Mr Chapman made written submissions. I am grateful to all 3 for enabling the Inquiry to proceed constructively and without ill humour. A large number of members of the public attended on all 3 days and I attach the Attendance List hereto.

B. THE APPLICATION

7. Form 30 is divided into nine numbered Parts. In the first section (immediately before Part 1) there appears the following :-

"IMPORTANT NOTE: Before filling in this form read carefully the notes at the end. An incorrectly completed form may have to be rejected".

The Notes (of which there are 11) are to be found at pages 18 to 20 of the 1969 Regulations. Note 10 makes it clear that rejection may occur at two

(a) on a "preliminary consideration" (because the form is "incorrectly completed" (no example of incorrect completion is given but the expression could comprise the leaving of one or more blanks or omission of a plan or the specification in Part 4 of a date before the 3rd January 1970 (see Note 7)); and

(b) after objections have been invited and, if lodged, considered.

In addition, if the Registration Authority thinks that the Application lacks requisite supporting documentation (see Note 8) or sufficient evidence (see

Note 7) it may "call for such further evidence in support of the application as it may reasonably require" (see Notes 7 & 8).

In fact the wording of parts of the Application, even with the assistance of the Notes, means that it is by no means easy for someone inexperienced in this area of law to complete. Parts 3, 4 & 5 (uncompleted) read as follows :-

- "Part 3. Particulars of the land to be registered, i.e. the land claimed to have become a town or village green.
Name by which usually known
Locality
Colour on plan herewith
- Part 4. Particulars of the land to be registered, i.e. the land claimed to have become a town or village green?
- Part 5. How did the land become a town or village green?"

The Notes (Notes 6 & 7) relevant to those Parts read in part as follows :-

"6. Land descriptions

In addition to the particulars asked for at part 3 of the form, a plan of the land claimed to have become a town or village green must accompany the application. The particulars in part 3 are necessary to enable the registration authority to identify the land concerned, but the main description of the land will be by means of the plan. This must be drawn to scale, in ink or other permanent medium, and be on a scale of not less, or not substantially less, than six inches to one mile. It must show the land by means of distinctive colouring (a coloured edging inside the boundary will usually suffice) and it must be marked as an exhibit to the statutory declaration (see Note 9 below).
.....

7. Grounds of application : evidence

In part 5 should be set out, as concisely as possible, a statement of the facts relied on to show that the land became a town or village green on the date stated in part 4; this date must be after

2nd January 1970, otherwise the application cannot be entertained. The registration authority has power to call for such further evidence in support of the application as it may reasonably require." (emphasis added).

8. It is in my view clear from Part 3 (read in the light of Note 6 and the use of "Locality" in Part 7 (which is confined to the registration of a substituted TVG)) that the word "Locality" refers to the location of the claimed TVG and not the "locality" the inhabitants of which are claiming that they have indulged in "lawful sports and pastimes" ("LSP") on the land "as of right for not less than 20 years" thereby justifying the Application. This can be confusing (as can the passage in Note 7 dealing with the date in Part 4 on which the land became a TVG which does not give any indication that in the case of a *class c* Application (as is this) selecting just any date after the 2nd January 1971 could be disastrous) and it seems likely that the Association was confused here.

9. The Association completed Parts 3, 4, 5 & 8 as follows :-

"Part 3. Particulars of the land to be registered, i.e. the land claimed to have become a town or village green.

Name by which usually known "THE ORCHARD"

Locality "UPPER WESTON"

Colour on plan herewith "RED"

Part 4. Particulars of the land to be registered, i.e. the land claimed to have become a town or village green?

"1st January 1991"

Part 5. How did the land become a town or village green?

"THROUGH ACTUAL USE BY LOCAL INHABITANTS FOR LAWFUL SPORTS AND PASTIMES, AS OF RIGHT FOR TWENTY YEARS, FULL STATEMENT ATTACHED"

Part 8. List of supporting documents sent herewith ...

**"MAP OF AREA IN QUESTION – (sic) [Map] 'B'
MAP OF LAND CLAIMED – [Map] 'A'
EVIDENCE QUESTIONNAIRES
STATEMENT ELABORATING ON PART 5".**

Maps A & B were copies of two reproductions of OS maps reproduced by the Council and dated the 22nd February 1999 (i.e. one month before the Application). "Map A" copied part of the OS 1/2500 Map and purported to show "The Orchard" edged red and hatched. As it transpired "Map A" showed too large an area within the red verge line but nothing turned on this (the western boundary was not shown as the line of the western boundary feature to The Orchard but a drain running roughly parallel to it and slightly to the west; see Appendix 1 to the evidence of Mr Scott (a Senior Valuer with the Council)) since all the evidence of user related to The Orchard and the Council did not own the additional land. "Map B" copied part of the OS 1/10000 Map. It bears the manuscript legend "UPPER WESTON outlined in blue". The Map as printed shows the north-western built up area of Bath part of which, a peninsula-shaped area, bears the printed name "UPPER WESTON" and another part, just to the south is named "WESTON". The blue outlining is partly solid and partly dotted. The solid outline starts at the base of the peninsula and runs (north-west and then north and then east along the County and Constituency boundary starting at a weir on the West Brook in Lansdown

6

Vale and finishing north of Upper Weston Farm. The dotted outline runs south including the buildings of Upper Weston Farm, a Riding School, Weston Farm and Rohannon Farm. It then follows the north eastern boundary of the built up area before turning south west so as to pass to the west of All Saints Church (but east of the Vicarage) and hitting (Weston) High Street. It then runs along the southern side of the High Street and Deanhill Lane rejoining the solid line at the Lansdown Vale Weir.

10. The accompanying "STATEMENT OF FACTS" (referred to in the answer to Part 5) reads in part as follows :-

"The purpose of this statement is to set out the facts relied upon to show that the land in question has become a village green.

1. Location

1.1 The land known as 'The Orchard' is located in Broadmoor Lane, Upper Weston ... Map A ... showing the land in its immediate context and Map B ... showing its location.

1.2 The land is described more fully below.

2. Background

2.1 In a report to the Council Property Board dated 23 June 1993, the City of Bath Solicitor stated that: the land was purchased by the former Bath City Council ["BCC"] in January 1970 on the open market. It was then occupied by a property, 'Broadmoor Cottage' (53 Broadmoor Lane) which was subsequently demolished. The conveyance to [BCC] was not expressed to be subject to any covenants contained in earlier deeds, nor did it contain any restrictive covenants on the part of [BCC] or create any charitable trusts.

2.2 The report explains that the land was purchased with the intention that the frontage to Broadmoor Lane would be appropriated in due course for road widening purposes, for which a scheme had been approved (although this was

subsequently abandoned). The remainder of the land was to be maintained as an open space amenity area.

3. Context and Description

3.1 The land is an open semi-improved grassland field of 1.9 acres (0.76 ha.). It contains the remnants of an orchard (giving rise to the name by which it is known), also a weeping ash, a mature oak and a willow. These and other trees on adjacent land are covered by a Tree Preservation Order: B&NES Broadmoor Lane Weston Bath No.109.

3.2 The frontage onto Broadmoor Lane is formed by a two-rail iron fence with a gate for pedestrian use as well as a wide access gate. The remainder of the Broadmoor Lane boundary is formed by a 1.5 metre high stone wall and a well maintained hedgerow. A concrete hardstanding extends 2 to 3 metres from the pedestrian and vehicular accesses into the site. The site is separated from the adjoining fields by mature hedgerows and slopes in a southerly direction toward the West Brook which provides the other natural and informal boundary, itself being a recognised important wildlife corridor.

4. How the land became a 'Village Green' -- submission and summary of evidence

4.1 The land is deemed to have become a 'village green', under the Commons Registration Act 1965, s.22(1) ('the Act') in that inhabitants of the locality have indulged in [LSP] on the land, as of right, for a continuous period of not less than 20 years, beginning before the 1st January 1971 and continuing up to the present day.

4.2 The Land and Its Name

4.3 The Locality

4.3.1 As detailed above and in Part 3 ... the claimed locality is 'Upper Weston', the main users of the land being inhabitants of this locality.

4.3.2 'Upper Weston' is a particular and recognisable community. The recognised administrative boundary with Charlcombe Parish forms the boundary to the north and the west. The boundaries to the east and the south are less easy to describe prescriptively, as can be seen from minor differences of opinion in the evidence questionnaires referred to below. However, in general terms, the High Street can be seen to serve

as the southern boundary and the limits of the built up area as the eastern boundary.

4.6 Additional Evidence

4.6.1 In addition to the above, to support this application and in particular so as to show what activities have taken place, statements have been obtained ... from local inhabitants who claim to have used the land.

4.6.2 These inhabitants ... represent a small but representative sample of the users of the land, many other local inhabitants having used the land for similar and shorter periods on an equally regular basis throughout the claimed period.

4.6.3 The statements have been obtained in the form of an evidence questionnaire based upon that produced by the 'Open Spaces Society' ["OSS"]

4.6.4 Twenty questionnaires have been obtained, fourteen of these showing use for more than 20 years" (*emphasis added*).

11. Paragraph 4.3.1 of the Statement of Facts indicates that the Association (or its then Secretary) was confused as to the meaning of "Locality" in Part 3. In fact the meaning of "locality" in the definition of TVG in Section 22(1) of the 1965 Act (set out in §15 below) and in particular how it is to be construed or applied in relation to an urban or suburban area turned out to be one of the issues to be considered at the Inquiry (see §14 below). It may well be that the wording of the various Parts of Form 30 and/or the Notes to Form 30 could be usefully reconsidered in the light of the experience of Registration Authorities so as to :-

(a) draw to the attention of Applicants the importance of the expression "inhabitants of a locality" in the statutory definition of TVG;

- (b) require Applicants to specify and define in Form 30 the locality the inhabitants of which are claimed to have the right to indulge in LSP on the claimed TVG; and
- (c) draw to the attention of Applicants the authorities relating to the date to be inserted in answer to the question in Part 4.

C. THE FORM OF THE 20 QUESTIONNAIRES

12. (1) The Questionnaires were not in the form set out in Appendix 3 to GGR but appear to be a variation of the form (possibly revised by OSS following the decision of the Court of Appeal in *R v Suffolk County Council ex p Steed* (1995) 70 P&CR 487 (CA)). Paragraph 2 of the Questionnaire in my view has the practical effect of precluding any Respondent from considering, and then stating, what he or she thinks is the dominant locality for the claimed TVG. With footnotes Paragraph 2 read :-

"2. Please refer to the map attached, 'Map A²'.

This map shows the land and the locality³ which used the land.

Please SIGN THE REVERSE of this map to confirm that it relates to this evidence provided by you which it will then accompany.

Please MARK THE LOCATION OF YOUR ADDRESS when you used the land on Map A with a *X*" (*italics added as emphasis*).

Footnotes 2 & 3 read :

"2. "Map A" is the map showing the claimed land and the claimed locality which uses the land. This map will accompany any subsequent application (Form 30 part 3 and note 6).

3. The "Locality" referred to in this form means. "the claimed locality which uses the land" " (*emphasis added*).

It is not clear where the words quoted in Note 3 are from (other than Note 2).

(2) In fact, confusingly, the Map forming part of the Questionnaire was not "Map A" attached to the Application but a copy of Map B without the outlining of the locality but with "The Orchard" as shown on Map A verged in black. The Respondents thus without questioning their interviewer (on what is a highly technical subject) would have had little idea as to what they were being told "the locality" was or its significance with regard to the Application.

13. In fact the Association at the outset of the Inquiry abandoned "the locality" shown on Map B to the Application and claimed "the locality" accommodated by The Orchard was the present Polling District 36W ("PD36W") being part of the present local government ward of "Weston". PD36W included the area shown marked "Upper Weston" on "Map B" and other land but not all the built up area shown within the outlining on Map B. The Ward of Weston at present comprises PD36W and PD37WN.

D. THE ISSUES

14. (A) After the formal opening of the Inquiry, Mr Malarby, a Senior Legal Adviser with the Legal Services Division of the Council, read a statement relating to the history of the Application once lodged and the steps taken by the Council, having a conflict of interest (being both the Registration Authority and the owner of the claimed TVG) to create and preserve "Chinese Walls" and the role of the Committee of the Council which will receive the Report and decide what action to take. Mr Chapman at the conclusion of his

submissions also dealt with the conflict of interest situation. He submitted that if I were to Report that the Application should succeed on an undecided or doubtful issue of law I should advise the Council (as Registration Authority) to seek the directions of the Court as to that issue. In my view that submission operates in either direction. As will be seen I do not think some of the authorities are entirely satisfactory. Nonetheless, in view of my conclusions as to the "as of right issue" mentioned in sub-paragraph (B)(1) below, I see no reason for the Council to seek the directions of the Court.

(B) Mr Chapman helpfully indicated at the outset, with a view to saving time, that the Council, acting as owner of the claimed TVG, would be taking 4 points on the Application, namely :-

(1) the Association had failed to prove that recreational use of The Orchard had been "as of right" because use has been by permission of the Council in that the Council has at all material times maintained the land as POS ("the as of right issue");

(2) the Association had failed to prove that recreational use of The Orchard had been predominantly by the inhabitants of any locality because :

(i) the land has been held by the Council at all material times as public open space ("POS"), and

(ii) the Association failed to identify a locality known to the law ("the locality issue");

(3) the Association had selected a 20 year period which is incorrect in law ("the 20 year period issue"); and

(4) s.13 of the 1965 Act is contrary to Article 1 of the First Protocol to the European convention on Human Rights insofar as it allows registration of a new *class (c)* TVG ("the EHR issue"; as to *class c* see §15 below).

(C) In my view the manner in which the Council and its predecessors have held The Orchard (referred to in §(2)(i) above) is more relevant to the "as of right issue" and I will consider it in connection with that issue.

(D) There was no issue as to whether the activities which had occurred on The Orchard were LSP (the nature of qualifying activities having been decided in *R v Oxfordshire County Council ex p Sunningwell Parish Council* [2000] 1 AC 335 (HL) at 356F/7D and the activities on The Orchard being within that class) nor whether the duration of such activities was long enough. They had in fact gone on since shortly after Bath City Council ("BCC") acquired the land in February 1970 and then demolished such buildings as were standing on it.

E. STATUTORY DEFINITION OF "TOWN OR VILLAGE GREEN"

15. TVG is defined in Section 22(1) (the definition Section) of the 1965 Act as follows :-

" 'Town or village green' means land –
 class a which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality; or
 class b on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes; or
 class c on which the inhabitants of any locality have indulged in such sports and pastimes, as of right, for not

less than 20 years" (italics indicate added material as in *New Windsor Corporation v Mellor* [1975] Ch 380 (CA) at 387F/G and adopted in *Steed's Case* (sup) (CA) at 106 and the *Sunningwell Case* at 347D/G.

As mentioned in §8 above *class c* is the relevant class relating to this Application.

F. THE AS OF RIGHT ISSUE

(a) Introduction

16. The principal issue before the House of Lords in the *Sunningwell Case* (sup) was the meaning of the words "as of right" in *class c* of the statutory definition of TVG (see p.349C). Lord Hoffmann held (p.354A) that "there is no reason to believe that "as of right" [in *class c*] was intended to mean anything different from what those words meant in the [Prescription] Act of 1832 and [Rights of Way Act] 1932" (p.354A). Those words reflected "the common law concept of *nec vi, nec clam nec precario*" (p.356A) which meant enjoyment "openly and in the manner that a person rightfully entitled would have used it [and thus not by force] and not by stealth or by licence" (p.351F/G). "The unifying element in these three vitiating circumstances [is] that each constitute[s] a reason why it would not have been reasonable to expect the owner to resist the" user (pp.350H/1A). There was no evidence of use of The Orchard by force at any time during its ownership by BCC or the Council (there appears to have always been an unlocked wicket or kissing gate enabling pedestrian entrance). Nor was there evidence of use by stealth. User was always open. The principal question with regard to this issue is whether the user was precarious (i.e. permission express or implied). In this connection

in my view the purpose for which a local authority acquires and then holds and manages or uses land is relevant

17. (1) It was common ground between the Association and the Council that all but the frontage of "The Orchard" to Broadmoor Lane was acquired by the Council as "open space" (see e.g. §2.2 of the Statement of the Facts attached to the Application and quoted in §[14] above).

(2) The Council's evidence as to the acquisition of "The Orchard" was given by Mr Reed, the Council's Property Law Manager since the 1st April 1996 when the Council came into existence (on local government re-organisation) and succeeded to (amongst other things) the assets and liabilities of BCC. Mr Reed had been employed by BCC since September 1982. By then Bath had been a City for many years (it was amongst the Boroughs to have a Commission of the Peace whose Charters were repealed insofar as they were inconsistent with the Municipal Corporations Act 1835 (5 & 6 Will.IV c.76) by Section 1 of that Act. Bath was listed under the name "Mayor Aldermen and Citizens of the City of Bath" in Section I of Schedule (A) to that Act). Section 18 of the Bath Corporation Act 1925 (15 & 16 Geo.V c.xciii) gave power to the Corporation to acquire land by agreement notwithstanding that it was not immediately required. Like many cities Bath has grown over the years. Mr Hitchman (who is a solicitor who had been employed by BCC since 1989 and had become City Solicitor or prior to 1996 and is now Solicitor to the Council) said in evidence on Day 2 that the Parish of Weston was incorporated into the City area in 1951 and that the City was further enlarged in 1967.

(b) Contemporary documents relating to the acquisition by BCC of The Orchard and its subsequent management or use

18. Amongst the copy BCC documents produced by Mr Reed were :-

(i) a File Note dated the 10th April 1969 recording that at a Meeting of the Public Works Committee ("PWC") on the 10th March 1969 it was reported that 53 Broadmoor Lane with, at the rear, 2 acres of land (then used as a market garden; see e.g. p.216) was for sale and that it was decided to ask the Development Committee to consider its purchase so as to enable Broadmoor Lane to be widened at that point on the south side (rather than on the north where widening would involve the taking of front gardens) the remaining part of 53 being "ideal as a [POS] and in particular as a children's play area ... advocated in the Weston District Plan" (p.2);

(ii) a Minute of the Parks and Recreation Committee ("the P&RC") also for the 10th April 1969 deciding to inform the PWC that the P&RC would be prepared to take over any land at Broadmoor Lane surplus to highway requirements for laying out as POS (p.3);

(iii) a Plan by the City Engineer & Surveyor dated April 1969 (but with a boundary division dated October 1969) showing :-

(a) coloured blue the small part of 53 Broadmoor Lane proposed to be used for "road widening" (divided by a red line into carriageway and pavement); and

(b) the remainder (coloured pink) "designated as open space" (p.9);

- (iv) a Memorandum dated the 14th November 1969 by the City Treasurer setting out the consequences of buying or not buying the property. Not buying would mean that the City Council "would have lost that particular land for open space purposes" (p.12);
- (v) a further Memorandum dated the 2nd December 1969 by the City Treasurer stating, *inter alia*, that the "main justification for ... purchase would ... seem to be for open space purposes" (p.13);
- (vi) a page of, in effect, the Agenda for a meeting of the Council to be held on the 6th January 1970 recording a resolution of the PWC that the Council be recommended to acquire the property for £7,000 plus surveyor's fees and costs. A note recorded that the frontage would "be appropriated to the [PWC] in due course for future road widening purposes. The remainder will be maintained as an open space amenity area" (p.16);
- (vii) the Conveyance dated the 13th February 1970 to the City for £7,000 of "ALL THAT plot of land situate in the Parish of Weston in the City of Bath ... together with the dwellinghouse and other buildings ... thereon known as ... 53 Broadmoor Lane ... shown for the purpose of identification on the plan ... coloured pink and edged red". The only Recital indicated that the City was purchasing the land in exercise of the powers conferred on it by the Highways Act 1959 (pp.17 & 18);
- (viii) a Minute of a Meeting of the P&RC held on the 9th April 1970 recording that the Chief Public Health Inspector had inspected the dwellinghouse on the property and considered it "unfit for human

habitation". The Committee therefore requested for arrangements to be made for the demolition of all the buildings (the cost of demolition to be shared between the P&RC and the PWC) (p.20). There was no document fixing the date of demolition but all parties assumed (and I accept) that demolition most probably occurred shortly thereafter;

(ix) a "Report on Broadmoor Lane Open Space" dated the 14th June 1973 by the Parks Director to the Recreation Committee reporting complaints by 2 adjoining owners of children entering their land from "The Orchard" and causing damage. He therefore sought permission to spend £2,000 (part of £5,000 earmarked for 1974/5) on immediate fencing (p.21). The appropriate recommendation was made (p.22) and a quotation of £719.40 was accepted (p.23). It was assumed (and I accept) that the proposed works were carried out shortly thereafter (the purpose was, it must be assumed, to try to prevent people who were using The Orchard from trespassing on adjoining private land);

(x) an undated Property Record Card (cross referencing to a Terrier) showing that the "purpose for which [The Orchard] now held" was POS. It also recorded that the road widening "has not been carried out [and] the whole land is now open space" (p.24);

(xi) a Report (relating to Housing Land Review) of the Director of Estate Management for the meeting on the 21st May 1985 of the City's "Spa and Recreation Committee" ("S&RC"). It shows that the City had in October 1981 authorised the Director "to undertake a review of all Council owned housing land ... with a view to identifying sites which could be developed for housing ... [or] sold to achieve a capital

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recorded that the land had been inspected when not only was such use confirmed but that there was :-

- (a) "permanent access to the land via a kissing gate"; and
- (b) "a notice prohibiting motor cycles".

The Form recorded a decision or recommendation :-

"Not to grant exclusive use of the land to anyone on the basis that it is [POS]" (p.48);

- (xiv) a Minute dated the 31st March 1993 of the Property Board ("PB") of BCC referring to the need to advertise (pursuant to s.123 of the Local Government Act 1972) the proposed disposal for housing of The Orchard. Section 123(3) prohibits disposals of more than 250 square yards of land appropriated as "open space" and requires the prior advertisement of a proposal to dispose of a lesser area (p.103);
- (xv) a Petition dated, I think, about the same time by 26 local residents calling on BCC "Not to sell The Orchard ... but to designate it [POS] for recreation of residents". The wording does not suggest that the organizer or signers considered The Orchard to be, at that date, TVG (pp.105/6);
- (xvi) the Report of the City Solicitor and Secretary of PB dated 23rd June 1993 on objections received as a result of advertising the proposed disposal by BCC of The Orchard. No objection appears to have claimed that The Orchard was TVG but rather that it was POS (and thus available not just to inhabitants but to the public at large) (pp.108/112). Over 200 objections, the vast majority of which were on

a form the outline of which (see e.g. p.121) was prepared by the Association, are at pages 113/214. None suggest that The Orchard was then a TVG; and

(xvii) a Memorandum dated the 11th May 2000 from Mr Carr (the Lead Officer of the Council responsible for Schools & Sports Grounds) to Mr Reed relating to the periodic maintenance (by way of mowing grass and cutting hedges) of The Orchard. This showed that during the period 1989 to 1999 the grass was cut monthly between April and October and the hedges trimmed each June and September (p.222). My view indicated that the grass had been regularly cut (but not to playing field standard) and the hedges were not overgrown. No witness claimed that BCC had never carried out similar work between 1970 and 1989.

19. On the 15th May 2000 there were three Notices at the entrance to The Orchard (two "permanent" and one temporary). The temporary Notice related to this Inquiry. The permanent notices were local authority notices prohibiting activities such as motorcycle and horse riding, playing golf and dumping. A possible implication (since access for other activities was not prohibited and indeed there was an unlocked kissing or wicket gate (see §10 above)) is that access for other activities was if not positively encouraged by the Council at least permitted or assumed by it. At least 5 of the Association's witnesses (e.g. Mrs Snell, Mrs Slee, Mr Campbell, Mr Bennett and Mrs Webb) construed the Notices as permitting them to enter and enjoy The Orchard because none of them prohibited their particular activity or activities.

(c) Was the user of The Orchard precarious (i.e. by permission express or implied)?

20. There was no dispute that The Orchard had been used since the demolition of the buildings in about April/June 1970 (see §18(viii) above) for LSP. The question here is whether the users had implied permission from BCC or the Council (there being no evidence of express permission). In this connection it is important to remember that the test is whether it would be "reasonable to expect the [Council as] owner to resist" the user (see §16 sup).

21. (1) There is no doubt that The Orchard was acquired in 1970 with the intention that the bulk of it would be POS or just "open space". I do not think that there was (or is) any practical distinction between POS and "open space" for the purposes of this Inquiry. The other purpose, user of a narrow frontage strip for widening Broadmoor Lane, was never implemented so that the strip was also used as POS. There are decisions by both the Courts and the Commons Commissioners and Reports by non-statutory Inspectors to the effect that local authority land used as POS is not registrable as TVG (either because user is obviously permissive or because that (permissive) user is by definition by members of the public at large and not by inhabitants of a locality (even if the using public come exclusively or predominantly from a locality). This is not to say that a local authority may not own land (usually as a charitable trustee) for recreational purposes where the permitted users are confined to local inhabitants; see e.g. *Oldham Borough Council v A-G* [1993] Ch 210 (CA). Even then the land is not necessarily a TVG (e.g. because in the

Oldham Case (sup) the land was held on charitable trusts the usage would have been either permissive or referable to the trust and not as of right).

(2) Mr Chapman, in response to §6 of Major Crombie's written submissions, contended :-

"The council has held the land as public open space since purchase and it is accepted that the public have used the application land for lawful sports and pastimes for not less than 20 years. User by local people has been as members of the public. It is conceptually impossible to say that there has been both public use and some separate and distinct use by the inhabitants of a locality".

In my view the legal distinction between user by the public at large and by the inhabitants of a locality has been well entrenched in the law for many years and was recognized by the definition of TVG in the 1965 Act. The problems (if there are any) are practical, namely that the distinction is one which is unfamiliar or not obvious to the average person using any open space and it is a distinction which it is not worth policing or enforcing (save possibly in a case where the general public is resorting to a local facility in such large numbers as to deprive the inhabitants of the full enjoyment of their "private" facility).

22. (1) The earliest decision based on implied permission appears to be *The Rye, High Wycombe* (Ref No 3/D/4). This was a claimed TVG under all 3 classes. The land had from at least 1472 been a common pasture and may have become amalgamated with a charity founded by Elizabeth I in 1572. In 1874 it was the subject of a Scheme by the Charity Commissioners which authorised recreational use as well as grazing. The Rye was conveyed to the Corporation

in 1923 and the grazing rights were extinguished by the Chepping Wycombe Corporation Act 1927 (17 & 18 Geo.V c.lxxxiii). By 1970 The Rye had football pitches, a swimming bath and car park on it. The Commons Commissioner (C.A. Settle QC) held, inter alia, that user for recreation since 1927 was permissive. His decision is dated the 10th November 1975. A decision of C.A. Settle QC relating to The Rye apparently dated the 4th August 1976 (i.e. almost 9 months later) was the subject of an appeal to Brightman J [1977 1 WLR 1316 (see pp.1317D and 1318B)]. The part of the decision relating to the user being permissive (not as of right) was appealed (if at all) under the second part of ground (iv) (see pp.1317H/8A) namely "that the Commissioner was incorrect in inferring ... that the inhabitants had not indulged in [LSP] as of right for not less than 20 years before the passing of the ... 1965 [Act]". Brightman J said (p.1320F) :-

"The third limb [of the definition of TVG in Section 22(1) of the 1965 Act; see p.1318C/D] ... was quite rightly abandoned by the Appellants' Counsel".

It appears therefore that Brightman J was of the view that land held by a local authority as POS was permissively used by the public (albeit that in that case The Rye was a "public park or pleasure ground ... for the purpose of ... games and recreations" by reason of a Local Act).

(2) Decisions by Commons Commissioners on the same point include :-

(a) *re Harwich Green, Harwich, Essex* (Ref No 12/D/43) in which G.D. Squibb QC, in his Decision dated the 7th February 1974 refusing the registration as TVG of land leased by the Borough since 1912 and

conveyed to it in 1930 and maintained by it as public walks and pleasure ground, said, inter alia :-

"It thus follows that any use of the land by the inhabitants of Harwich for [LSP] since 1912 is explicable by the fact that it has been open to the public under the Public Health Act 1875 since that year. The question for determination is, therefore, whether the land was subject to a right for the inhabitants of the locality to indulge in [LSP] on it at the time when it came to be used by the Corporation for public walks and pleasure grounds" (my emphasis).

There is no suggestion here that "The Orchard" was used for LSP at any time prior to 1970.

(b) *re "The Sands", Durham City, Co Durham (No.1)* (Ref No 211/D/79-80). The claimed TVG had been conveyed to Durham Corporation in 1860.

"By Articles of Agreement made 3 November 1897 the Trustees and Wardens of the Freeman agreed to take the herbage growing on the land so that the land might be used as a public recreation ground, excepting and reserving for the use of the Freeman of the City the power for the Freeman to use and occupy the land for one full week prior to and one full week after Easter Sunday in each year for the purpose of carrying on Sports and Pastimes as the same had been carried on for several years then past and excepting and reserving on behalf of the Freeman the power to occupy and let sufficient space for the purpose of erecting a show, theatre, menagerie, circus, or place of similar entertainment. There was reserved a rent of £5 a year payable to the Trustees and Wardens to be in addition to the sum of £1 a year paid by the Council to the Freeman in respect of the fairs held on the land" (my emphasis).

G.D. Squibb QC said :-

"Since this Agreement the land has been maintained as public walks or pleasure grounds under Section 164 of the Public Health Act 1875.

There is nothing in the Agreement of 1897 to indicate that the land was then subject to any right of the inhabitants of the locality to indulge in sports and pastimes on it. It appears that the Freeman had used and enjoyed it for the purpose of carrying on sports and pastimes during the weeks before and after Easter Sunday, but not every inhabitant of the city was a freeman or entitled to be a freeman" (*my emphasis*).

It was argued that the land fell within *class c* as the inhabitants of the locality had indulged in LSP for not less than 20 years. Mr Squibb said :-

"There was evidence that the land had in fact been used for [LSP] for many years, but there was nothing to show that any of the persons who had used it for that purpose were doing other than using a public walk or pleasure ground provided under section 164 of the Public Health Act 1875. [It was] argued that since a local authority can only act for the benefit of the inhabitants of its area, the public referred to in the Act of 1875 must be equated with the inhabitants of the area of the local authority.

I find myself unable to accept this argument. There is a clear and well-recognised distinction between members of the public and the inhabitants of a locality: see *Hammerton v Honey* (1876) 24 WR 603. There is nothing in the context of Section 164. of the Public Health Act 1875 to justify the construction of the phrase "Public Walks or Pleasure Grounds" as meaning "Walks or Pleasure Grounds for the exclusive use of the inhabitants of the area of the Urban Authority".

For these reasons I refuse to confirm the registration".

(c) *re "The Downs", Herne Bay, Kent* (Ref No 219/D/2). There land adjoining the Esplanade had been conveyed to the local authority on 3 occasions as follows :-

(i) in 1881 subject to a covenant to keep it as a public promenade and recreation ground for the use of the residents in and visitors to Herne Bay; and

(ii) in March and April 1901 both to the intent that it should be kept and maintained as an open space for the use and enjoyment of the public for ever.

G.D. Squibb QC said that "any use of [The Downs] by the inhabitants of Herne Bay for [LSP] is explicable by the fact that it has been open to the public under the Public Health Act 1875".

(3) *Re Gleaston Green, Aldingham, Lancs* (Ref No 20/D/3 reprinted at #16 (p.60) of Campbell's: Decisions of the Commons Commissioners), cited by Major Crombie in his "comments" on Mr Chapman's Response, concerned land used "as or right" for LSP from 1936 to 1967. Prior to a Conveyance upon Sale in January 1960 by the Crown to an ad hoc Green Committee the land had belonged to the Crown. The Committee raised funds to purchase the land and improve it. The Conveyance was expressed to be "subject to all rights of common". The Committee covenanted, inter alia, that :-

"Neither the property nor any part thereof shall be used except as at present or for the purposes of a public recreation ground or for the erection of a village hall for the inhabitants of the village of Gleaston" (*my emphasis*).

The Parish Council registered the land as a TVG "because it had not been used as a playing field ...". The Committee objected. The Commons Commissioner, Mr Baden Fuller, thought the money raised by the Committee to purchase the land and improve it was held on an inferred charitable trust but this did not prevent him confirming the registration on the basis of continuing user, after the purchase, by the inhabitants for LSP. Mr Baden Fuller said, *inter alia* :-

"For the Objectors it was said that the recreational activities were from 1945 regulated by a Committee and that from 1960 (the date of the conveyance) such activities were under the control of the Objectors as owners; I take this to be an argument that the indulgence in sports and pastimes which I have found was not "as of right" within the definition in the Act.

In my view more (sic "*mere*"?) regulation of sports and pastimes by a Committee does not prevent the participants from indulging in them "as of right" if, as I find from the evidence of Mr Smith happened in this case, such regulation was merely to secure an orderly use of the land for the purpose".

In my view the mere fact that the 1960 Conveyance authorised (but did not require) user as "a public recreation ground" did not derogate from the previous proved user as of right by inhabitants of the village which continued unchanged (apart from disruption by the works of improvement and an improper grazing licence in 1967) from 1960 to 1967.

(4) In *Steed's Case* at first instance (1995) 70 P&CR 487 Carnwath, J said (p.501) :-

"[T]he purpose of the [1965] Act ... was to record "town or village greens". The concept is a familiar one - indeed so familiar that specific definition has not been thought necessary in other legislation dealing with the subject (see, for example, Inclosure Act 1857, s.12; Acquisition of Land Act 1981 s.19(4)). As the Jennings Commission recognised, most

villagers would know what they meant by "their green", even without precise knowledge of its origins or legal status.

To state the obvious, a [TVG], as generally understood, is an adjunct of a town or village or something similar. As such it may be contrasted with open spaces of various kinds, for example recreation grounds maintained by local authorities for the public generally (e.g. under the Open spaces Act 1906); school playing fields; or areas of a more private nature, such as London garden squares, or land set aside under a building scheme for the occupants of a particular private development. None of these categories would naturally be regarded as "town or village greens" .

23. In my view the usage of The Orchard for LSP since its acquisition by BCC in 1970 was referable to the purpose for which it was acquired and then retained, namely use as POS and thus was never "as of right" within the statutory definition of TVG. Local residents who used The Orchard for LSP did so as members of the public and not as inhabitants.

G. THE LOCALITY ISSUE

24. As indicated above (particularly §13) the Association abandoned as its (dominant) "locality" the area shown on Map B and argued that the locality was PD36W (part of the present local government ward) which included the area shown marked "Upper Weston" on Map B and other land. The Association gave as its reason for this last minute change of tack dicta in *Ministry of Defence v Wiltshire County* [1995] 4 All ER 931 (see pp.937a/d).

25. The only expression which is common to all 3 classes of TVG in the statutory definition is "the inhabitants of any locality". The origin of the definition of TVG in Section 22(1) of the 1965 Act is unknown. The Royal

Commission on Common land 1955/58 in its Report (Cmnd 462) recommended (§403) that TVG be defined as :

“(i) Any place which has been allotted for the exercise or recreation of *the inhabitants of a parish or defined locality* under the terms of *any local Act or inclosure award*,

(ii) any place in which such inhabitants have a customary right to indulge in lawful sports and pastimes and

(iii) in a rural parish any uninclosed open space which is wholly or mainly surrounded by houses or their curtilages and which has been continuously and openly used by the inhabitants for all or any such purposes during a period of at least twenty years without protest or permission from the owner of the fee simple or the lord of the manor” (*numeration and emphasis added*); see *Steed* (sup at first instance p.490).

Parliament instead adopted the definition set out in §15 above but little (if any) assistance as to the intended construction of the definition is to be found in the “Parliamentary Material” (see *Steed* (sup) at 491 where the material was concerned with the reason for the 20 year period in *class c*).

26. (1) Just as different language in an Act is presumed to be used deliberately (*R v Secretary of State for the Environment ex p Stewart* (1979) 39 P&CR 534 at 537/8) so it is presumed not only that “words are used in an Act ... correctly and exactly and not loosely or inexactly” (see *Spillers Ltd v Cardiff (Borough) Assessment Committee* [1931] 2 KB 21 at 43 (approved *New Plymouth Borough Council v Taranaki Electric Power Board* [1933] AC 680 (PC) at 682)) but also when used more than once in an Act that words have the same meaning (*Courtauld v Legh* (1869) LR 4 Ex 126 (concerning

the Prescription Act 1832) at 130. On this footing "locality" in all 3 classes would mean the same.

(2) It is easy to guess why the Parliamentary draftsman did not use the recommended words "or defined locality" in the definition of *class a*. The principal Public Act making provision as part of an inclosure scheme for the allotment of land for exercise and recreation ("E&R") was the Inclosure Act 1845. That Act in, inter alia, Sections 27, 30 (where the words were "the appropriation of an allotment for the purposes of [E&R] for the inhabitants of the neighbourhood (sic)") and 73 (where the words "said Parish and" were inserted after "inhabitants of the" and before "neighbourhood") authorised E&R allotments and it is thought that most, if not all, inclosures under the 1845 Act did include such an allotment. Though "Parish" obviously refers to a precise area "Neighbourhood" would seem to describe an area which does not necessarily fall into the Royal Commission's "defined locality"; indeed "neighbourhood" might be thought to be an essentially imprecise concept even when added to "the Parish". The Inclosure (Consolidation) Act 1801 contained no similar provision. Nonetheless Local Inclosure Acts between 1801 and 1845 frequently made provision for E&R allotments. In 1837 (5 Will.IV) I found two such acts early in the Statute Book :-

- (i) Chesterfield (c.5). Section 24 required that not less than 2 acres "be for ever left open for the purposes of [E&R] of the inhabitants of the Township of Newbold and the neighbouring Population"; and
- (ii) Mensergh and other Townships (c.6). Section 40 was *mutatis mutandis* identical.

In 1843 (6 Vict) I found 5 such Acts early in the Statute Book :

- (a) Littleton (c.1). Section 52 required one or more allotments to the Churchwardens and Overseers of the Parish of land not exceeding 3 acres in total "as a Place of E&R for the Inhabitants of the said Parish and Neighbourhood".
- (b) Hamlet of Grafton in the parish of Langford (c.3). Section 52 was mutatis mutandis identical to that in the Littleton Act.
- (c) Great Gransden (c.4). Section 53 was mutatis mutandis identical.
- (d) Manor and parish of Charlwood (c.5). Section 50 provided for the allotment of "not less than 4 acres as a Place of [E&R] of (sic) the neighbouring Population"; and
- (e) Township of Cliffe-cum-Lund (c.6). Section 53 required an allotment not exceeding 2 acres "as a Place of [E&R] for the Inhabitants of the said Township and Neighbourhood".

A Parliamentary draftsman who assumed (as was likely) that any Awards made under those Acts would have followed the respective wordings of the authorising Act might have concluded that a definition Section in the form recommended by the Royal Commission would exclude many if not most pre and post 1845 Act Awards from the proposed definition of TVG. For that reason he may well have adopted (for his definition) general words not found in the 1845 Act (or such a sample of earlier Local Acts), such as "any locality", capable of including and intended to include all or at least most allotments.

27. Mr Chapman contended that notwithstanding that *class a* had been drafted so as to catch allotments under the 1845 Act and earlier Local Acts the words "any locality" in *class c* took their colour from *class b* (not *class a*) since they both concerned LSPs, not E&R, and *class c* was a statutory recognition of customary prescription as recognized in e.g. *Brocklebank v Thompson* [1903] 2 Ch 344 at 350. He contended that the distinction, if any, between E&R and "greens" was small (see the *Sunningwell Case* (sup) at 341G/2A). He called *class b* TVGs "customary greens" and relied on §§406, 415 and 416 of Volume 12 (1975) of Halsbury's Laws (4th Ed) for his contention that the dominant locality for such a green must not only be certain but defined by reference to the limits of some recognised division of land, e.g. a town, hundred, parish, manor, borough, vill, city, liberty or honour. He said the same certainty would be required for a "prescriptive (*class c*) green".

28. (1) It was not argued by the Association that customary greens need not accommodate a recognized division of land but bearing in mind the philosophy behind the 1965 Act (expressed with respect to common land in, inter alia, *Hampshire County Council v Milburn* [1991] 1 AC 325, e.g. at pp.340A/C and 341A/B) it might, in the absence of authority, be tempting to conclude that "locality" in *class c* (being "a new thing ... not known to the common law"; see the *New Windsor Case* (sup) p.387H) was not limited to existing divisions of land but could extend to *class a* "neighbouring population" or "neighbourhood" of the land and/or, for instance, a housing estate (which can for other purposes have its own "local law", see e.g. *Reid v Bickerstaff* [1909] 2 Ch 305 (CA) at 319, *re Dolphin's Conveyance* [1970] Ch

654 at 662/3 (and the same expression in the TVG case of *Hammerton v Honey* (1876) 24 WR 603) and *Preston & Newsom: Restrictive Covenants* (9th Ed; 1998) pp.43 and 46.

(2) There are however authorities to the contrary (albeit it does not seem to have been argued that since "locality" in *class a* was unlikely to be limited to existing land divisions for the reasons set out in §26(2) above the same was true for §26(1) reasons of *class c*). Those authorities are :-

- (a) *Steed's Case* (sup at first instance) at 501/2; and
- (b) the *MoD Case* (sup) at 937a/c.

In *Steed* (sup) Carnwath, J continued after the passage quoted in §22(3) above) :-

"To state the obvious, a [TVG], as generally understood, is an adjunct of a town or village or something similar. As such it may be contrasted with ... areas of a more private nature, such as London garden squares, or land set aside under a building scheme for the occupants of a particular private development. None of these categories would naturally be regarded as "town or village greens". The statutory word "locality" should be read with this in mind. Whatever its precise limits, it should connote something more than a place or geographical area – rather, a distinct and identifiable community, such as might reasonably lay claim to a town or village green as of right. In the present case, the "locality" on which the application for judicial review and the supporting affidavit rely is Sudbury itself, I agree that this is the only realistic basis on which to proceed.

In argument, there was some suggestion that a smaller unit could be taken, perhaps the streets adjoining the land. I do not think that a piece of land used only by the inhabitants of two or three streets would naturally be regarded as a "town or village green". The word "locality" in the definition of village green should be interpreted with regard to its context.

Such an approach is also consistent with that of Kekewich J in *Edwards v Jenkins*, where the issue was whether a green could exist for the benefit of three parishes. He held that it could not.

He referred to the authorities which showed that the use must be that of the inhabitants of a "district", and continued:

I take it that the judges have used the word "district" as meaning some division of the county defined and known to the law, as a parish is; and that I should be extending their meaning if I were to say that a custom of this kind could be claimed as regards several parishes [emphasis added].

Although the actual decision has been doubted (see *New Windsor* case), the words underlined fairly reflect the earlier cases there cited, and indeed the concept of a "local law" as explained in *Hammerton v Honey*. The word "locality" in the Act seems intended to bear the same connotation as the word "district" as used in such cases (my emphasis).

Steed (sup) does not appear to have been cited to Harman, J in the *MoD Case* (sup). He however said (p.937a/d) :-

"Other points were argued. In particular, [it was] argued that it was impossible for a village green to be created by the exercise of rights save on behalf of some recognisable unit of this country – and when I say recognisable I mean recognisable by the law. Such units have in the past been occasionally boroughs, frequently parishes, both ecclesiastical and civil, and occasionally manors; all of which are entities known to the law, and where there is a defined body of persons capable of exercising the rights or granting the rights.

The idea that one can have the creation of a village green for the benefit of an unknown area – and when I say unknown I mean unknown to the law, not undefined by a boundary upon a plan, but unknown in the sense of unrecognised by the law – then one has, says Mr Drabble, no precedent for any such claim and no proper basis in theory for making any such assertion. In my belief that also is a correct analysis. I shall not go through the detail of it, but as a secondary reason for my judgment I would assert that it is impossible for the residents of Cadnam Crescent, alternatively of Cadnam Crescent and Milton Road, to be the persons in whose favour there could be created a right for the inhabitants of those two roads in perpetuity, and it seems to me that it would be a total departure from any of the authorities that have been cited".

29. As mentioned above (§§9 & 10) both the Application and Question 2 of the Questionnaire were prepared on the footing that the ("dominant") locality was known as "Upper Weston" and shown on Map B. Questions 6 to 13 were headed "About the Locality". Of these Questions 8, 9 & 10 provided the Respondents with an opportunity to contradict the Question 2 assumption (see §12(1) above). They asked :-

"8. Whom do you consider to be *local inhabitants* in respect of this land?

9. By what *name* is the locality known (if any)?

10. What do you consider to be the *boundaries* of the locality?"

The answers given by the 20 Respondents were by no means uniform. None stated that they considered the boundaries shown on Map B were the boundaries of the locality (or that the locality was PD36W). Some thought the locality Boundary was that of "Old Weston Parish" or "Weston Village". The boundaries of the ecclesiastical Parish of Weston All Saints were shown on the plan forming Appendix 3 to Mr Scott's evidence. The Parish is enormous, several times larger than the Map B Locality. My clear impression was that most viewed the locality as being to the north of the High Street but there was no agreement as to the eastern boundary.

30. Major Crombie at the Inquiry said "I would regard Upper Weston a distinct community. Historic Weston is still with us. Upper Weston has been added on. It is distinct architecturally". But in my view Major Crombie's "architectural test" was too broad brush. There was no clear line where

"historic Weston" ended architecturally and "modern (Upper) Weston" began. Thus the High Street, which many Respondents said was the southern boundary of Upper Weston, is even at its western end fronted on the north side by many old (e.g. Victorian) properties but with modern infilling.

31. Mr Scott showed that the boundary of the Ward which included Weston had varied over the years. In 1970 Weston (including Upper Weston) had been part of Lansdown Ward the eastern boundary of which included Sion Hill (where Major Crombie lives) and almost reached Beacon Hill (and St Stephens Church). Weston became a distinct Ward in 1976 but its eastern boundaries were much further east than those shown on Map B. Appendices 6a to h were Mr Scott's attempt to depict the boundaries described on the various Questionnaires. The differences were considerable. Mr Scott produced 3 new Appendixes (9, 10 & 11) when giving evidence. They showed the north western boundary of Bath in its 3 most recent guises, namely pre 1974, 1974/96 and 1996. If there was any change in the boundary (and I could see none) it was immaterial. Appendix 10 also showed in full the 2 Polling Districts (36W & 37WN) into which Weston Ward is divided.

32. (1) Mr Hitchman, who is a solicitor and the Council's Electoral Registration Officer, also gave evidence on Day 2. The Local Government Commission ("LGC") was established by Section 12 of the Local Government Act 1992 ("LGA. 1992") to replace the 1972 Local Government Boundary Commission. Broadly the functions of the LGC under Section 13 are to make :-

- (i) periodic reviews of areas of England; and
- (ii) recommendations as to changes to the Secretary of State.

Section 13(5) specifies the criteria. Section 14 specifies the changes that can be made and includes ward changes (s.14(1)(c) and (4)(a)(ii)). The last review involving the Council's area occurred in 1997/8 and the recommendations were implemented by Statutory Instrument (which I was not shown).

(2) Mr Hitchman said that Polling Districts are decided upon by each individual council. Parliament requires such Districts for Parliamentary elections and it is the invariable practice to use the same Districts for local government elections. The criteria for selecting polling places and districts are prescribed by Section 11(2)(b) of the Representation of the People Act 1949 and are concerned solely with electoral considerations. Though a hamlet is likely to be small in population and area it is likely to have its own Polling Place and be a Polling District. In a built up area there might well be 2 or 3 Polling Places for each District. Size of electorate and distance to travel are important considerations in selecting Polling Places and Districts. Communal considerations are not taken into account in selecting either. Mr Hitchman answered questions from me to the effect that though ease of identifying boundaries, natural boundaries, local ties and the like would all be relevant in fixing ward boundaries and that those boundaries are used as the building blocks for local government and constituency boundaries no such considerations apply to polling district boundaries.

(3) The view I have formed is that a Polling District is a completely artificial and potentially very ephemeral area having no

significance for any purpose other than enabling the practical organization of polling at all types of election.

33. I am of the view that the Council, acting as Registration Authority, has no option other than to accept and apply the views expressed in *Steed* at first instance and in the *MoD Case*. Accordingly no definition of "the locality" put forward by or on behalf of the Association, whether in the Application or in the answers to the Questionnaires (taken as a broad whole) or in evidence or in the submissions at the Inquiry (including PD36W), constitutes a "locality" within *class c*. There was no evidence that it was the "Weston Villagers" (as such) (Mr Cairns' answer to Question 8) who had in fact used The Orchard as of right for LSP.

34. It is thus my view that the Association did not establish user by the "inhabitants of any locality" within the definition of Section 22(1) of the 1965 Act.

H. THE 20-YEAR PERIOD ISSUE

35. (1) The significance of the 1st January 1991", the date entered in Part 4 of the Association's Application was never explained by the Association. It could be that it is unarguably more than 20 years after either :-

- (i) "2nd January 1970" (the date mentioned in Note 5); or
- (ii) whenever BCC demolished the buildings standing on 53 Broadmoor Lane (following the Conveyance to BCC on the 13th February 1970 and the decision of the Chief Public Health Inspector on

the 9th April 1970 that those buildings were unfit for human habitation) and made The Orchard available as POS.

(2) The 20-year period was said in Parliament to have been selected by the draftsman for *class c* by reference to the equivalent period in Section 34(1) of the Highways Act 1959 which had replaced Section 1(1) of the Rights of Way Act 1932 (see *Steed* (sup) at first instance p.491). That legislation had in turn been modelled on the Prescription Act 1832 (see *AG ex rel Yorkshire Derwent Trust Ltd v Brotherton* [1992] 1 AC 425 at 436G, 438A/D, 441G, 442D, 446B/D and 447B and the *Sunningwell Case* (sup) at pp.353B/4A). However the 1832 Act required (by Section 4) that the period be calculated backwards from “some suit or action wherein the claim shall be brought into question”. Until the claim is “brought into question” the right remains inchoate: *Colls v Home & Colonial Stores* [1904] AC 179 at 189. The result is that the 20-year period is not any 20-year period in gross. The same is true of the presumption introduced by the Rights of Way Act 1932 (see Section 1(6) and Section 34(2) of the Highways Act 1959 and Section 31(2) of the Highways Act 1980).

(3) The absence of any provision in the 1965 Act specifying the date from which the 20-year period in *class c* should be calculated might, it could be thought, have led the courts to treat the 20-year period as any period in gross (at least for 20-year periods after the passing of the 1965 Act on the 5th August 1965). However in the *New Windsor Case* (sup) it was held with respect to initial registrations that the period was “20 years [immediately] before the passing of the Act”; see pp.391G/H, 395F/G and 396B/C. For new TVG’s there is judicial authority that it is 20 years immediately prior to the

Application; see the *MoD Case* (sup) pp.937e/8h (where Harman, J accepted that his view was obiter) and *R v Norfolk CC ex p Perry* (1997) 74 P&CR 1 at 5 (and see also *R v Hereford & Worcestershire County Council ex p Ind Coope* [1994] CLY 380. However, in none of those cases was the possible relevance of the 1832 and 1932 Acts (and the absence of a "counting back" provision) argued.

36. Mr Chapman expressly asked Mr Stewart whether the Association "was pinning its colours to the 1971/1991 period so that if it failed the Association must fail". Mr Stewart answered "No". In the end Mr Chapman expressed the hope that the decision would not turn solely on the 20-year period selected by the Association being "bad" (because if it did the Council accepted that the Association could probably re-apply using the 20-year period ending with the new Application) but be "on the merits".

37. In my view an attempt to distinguish both the *MoD Case* (sup) and *Perry's Case* (sup) could be made in a court for the reasons given in §35(2) & (3) above. Nonetheless it is my view that it would be quite inappropriate for a Registration Authority to decide an Application contrary to dicta of a Puisne Judge with the result that the date stated in Part 4 of the Application (the 1st January 1991) was not a date upon which the Association was entitled to rely and being over 8 years before the date of the Application (the 22nd March 1999) was hopelessly bad.

L. THE EHR ISSUE

38. (1) Mr Chapman submitted that Section 13 of the 1965 Act (providing for the amendment of Registers) is clearly contrary to Article 1 of the First Protocol of the European Convention insofar as it authorises registration of *class (c)* TVGs. There were, he said, two alternatives with respect to such new TVGs :-

(a) registration confers no rights on inhabitants (as was suggested in the *New Windsor Case* (sup) pp.391H & 395G and *Sunningwell* (sup) p.347B);

(b) registration does or will in fact confer rights on the inhabitants of a locality (the public is not mentioned in the definition).

Alternative (a) has the effect of blighting the owner's land with no benefit to the public, alternative (b) is a deprivation of the landowner's "possessions" (and the owner receives no compensation). The deprivation in alternative (b) is not in the public interest, because the rights conferred are only on the "inhabitants of a locality" and not the general public, and, in any event, the scheme of registration is wholly defective as it does not contain any provision for the identification and then registration of

(i) the accommodated locality (so as to enable the owner to "police" user) or

(ii) the LSP in which the local inhabitants are entitled to indulge.

This can be contrasted with the registration of new common land when

(A) the common rights; and

(B) the owners thereof

will be registered.

(2) Mr Chapman accordingly submitted that if The Orchard were to be registered as a TVG the Council should, on the Human Rights Act 1998 ("the HRA 1998") coming into force, apply to the court for a declaration of incompatibility.

39. Article 1 of the First Protocol Provides as follows :-

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties"

40. The HRA 1998, which brings the Convention into domestic law, will not come into force until October this year and thus in my view this issue is not live. Even if the HRA 1998 were now in force, I am not convinced that the statutory recognition of customary law, which is in effect what *class c* is (see *Brocklebank's Case* (sup) p.350), is not in the public interest.

J. RECOMMENDATION

41. In view of the foregoing I recommend that the Application be rejected. Under Regulation 8 of the 1969 Regulations the Registration Authority must give its reasons for rejecting an Application. I recommend that the Notices of Rejection under Regulation 8 are expressed to be :-

"for the reasons set out in the Inspectors Report of the 4th July 2000".

APPENDIX

A. The following witnesses gave evidence on behalf of the Applicant (those who also answered a Questionnaire have a (Q) after their name) :- Mr A.J. Stewart, Mrs Snell, Mr Cairns (Q), Mrs Slee, Mr Campbell (Q), Mrs Stagg (Q), Mr Bennett, Mrs Webb (Q), Mr Tucker, Mr Burden, Ms Aldridge, Mrs Cairns, Mr Bullamore, Mr Wilkins (Q), Mrs Lewis (Q) and Mr Fortune (Q).

B. Mr Chapman called the following witnesses :-

- (1) Mr Hitchman (Solicitor to Council and Electoral Registration Officer);
- (2) Mr Reed (Property Law Manager);
- (3) Mr Scott, B.Sc, FRICS (Senior Valuer).

C. Major A.J.W. Crombie made an oral statement on Day 2 and handed in submissions. He was also given leave to put in written submissions on the cases cited by Mr Chapman by 4 pm on Monday 5th June 2000 (with liberty to either or both of Mr Chapman and the Association to respond prior to 4 pm on Tuesday the 20th June 2000). Major Crombie did submit written submissions timeously to which Mr Chapman responded timeously. Major Crombie then (on the 22nd June), without leave from me, submitted "comments on the Council's response". I looked at those comments once this Report was in draft to see whether they contained any material authority or argument which I

should consider. For that reason I have commented (in §22(3)) on *re Gleaston Green*. The "comments" have not affected my conclusions or my recommendation



W.D. AINGER
10 Old Square
Lincoln's Inn
4th July 2000

"THE ORCHARD", BROADMOOR

LANE, UPPER WESTON, BATH

re: Application dated the 22nd March 1999 under
Section 13 of the Commons Registration Act 1965
by Broadmoor Lane Residents Association
("the Association") to register "The Orchard"
as a Town or Village Green ("TVG")

REPORT

Bath & North East Somerset
Property & Legal Services
Legal Services Division
Riverside,
Temple Street,
Keynsham,
Bristol BS31 1LA

DOCUMENT 9

AERIAL PHOTOGRAPH – HISTORIC ENGLAND



DOCUMENT 10

TIMELINE OF KEY EVENTS RELATING TO THE SITE

TIMELINE FOR THE APPLICATION

DATE	FACTS
1988	B E Quintin purchased the Site
24 August 1994	The Site was purchased by Sue Hook, Tyrone, Morley & Nick Quintin
24 April 1998	The Orchard, Broadmoor Lane was sold to Redcliffe Homes Limited
18 October 2000	Redcliffe Homes gained planning permission on The Orchard, Broadmoor Lane
2001 to 2004	Construction phase of housing estate on The Orchard, Broadmoor Lane
21 March 2002	Footbridge located on the north-eastern corner of the Site constructed
19 November 2003	Public footpath running along Osbornes Lane and through Osbornes Farm to the north of the Site was diverted to run along Osbornes Lane and along the northern boundary of the Site
13 July 2018	The Site was purchased by Paul Ealey and Donna Ealey
2 November 2018	The Site was fenced off due to persistent vandalism and trespassing from the Site to Weston All Saints Primary School

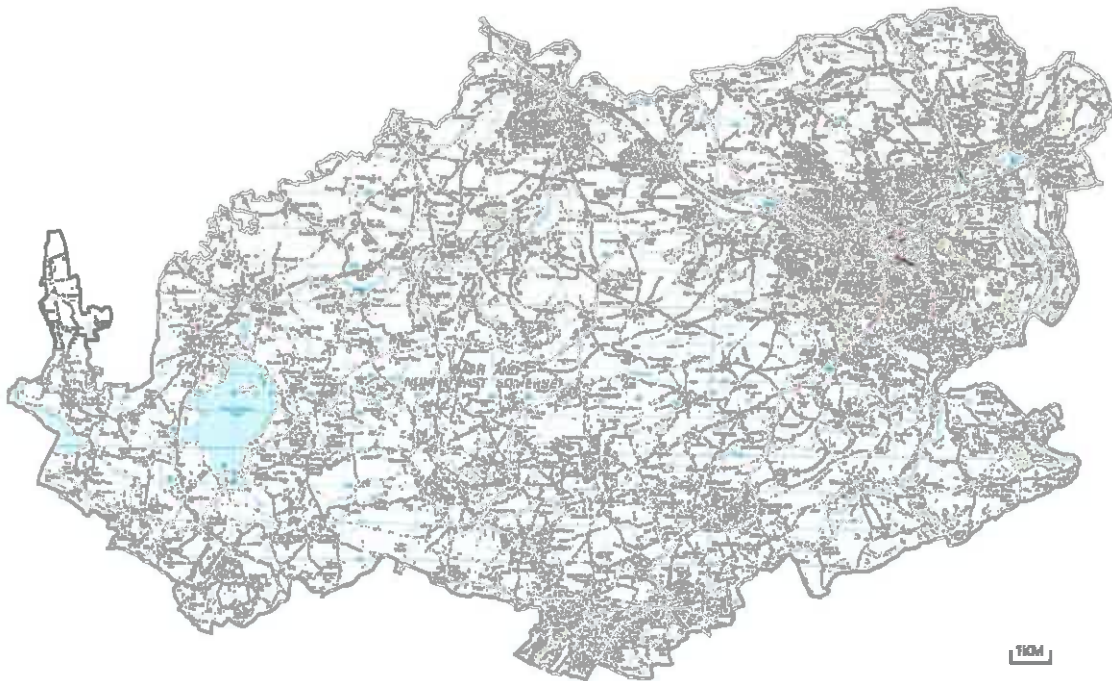
DOCUMENT 11
LOCALITY DIAGRAMS

LOCALITY MAPS

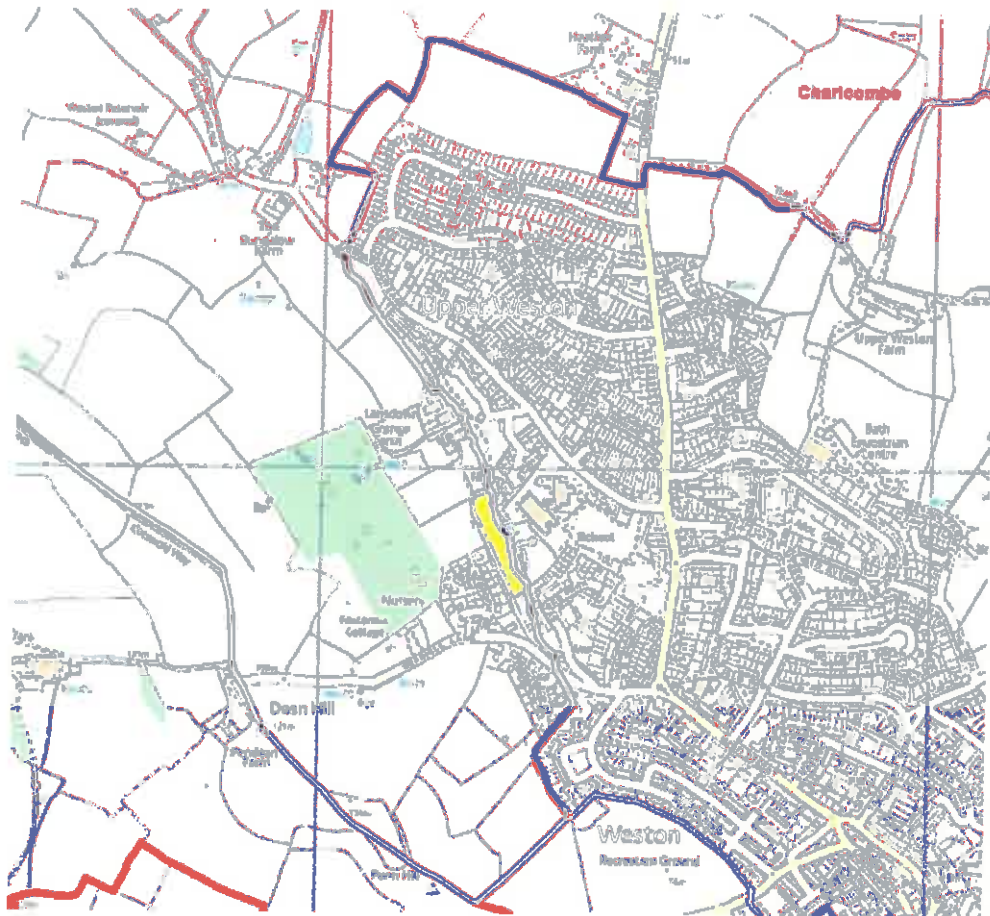
The Applicant claims the locality for the Site to be "the neighbourhood of Weston electoral ward and Charlcombe Parish within the locality of Bath and North East Somerset".

At the pre-hearing inquiry on 21 January, Rowena Meager put significant emphasis on the extent of a locality which attempts a town and village green application. We believe that the Applicant has failed to establish a suitable locality for the Site.

The first two maps below set out the "locality of Bath and North East Somerset" which the Applicant references



In the plan below, the Site can be seen shaded yellow.



DOCUMENT 12
SOMERSET LIVE ARTICLE



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Campaigners win protection for 'ecological gem' woodland in Bath

ner urged council 'not be influenced by the hysteria'



hen Sumner Local Democracy Reporter & [Anna Gladwin](#) Digital Journalist
19/07/2019

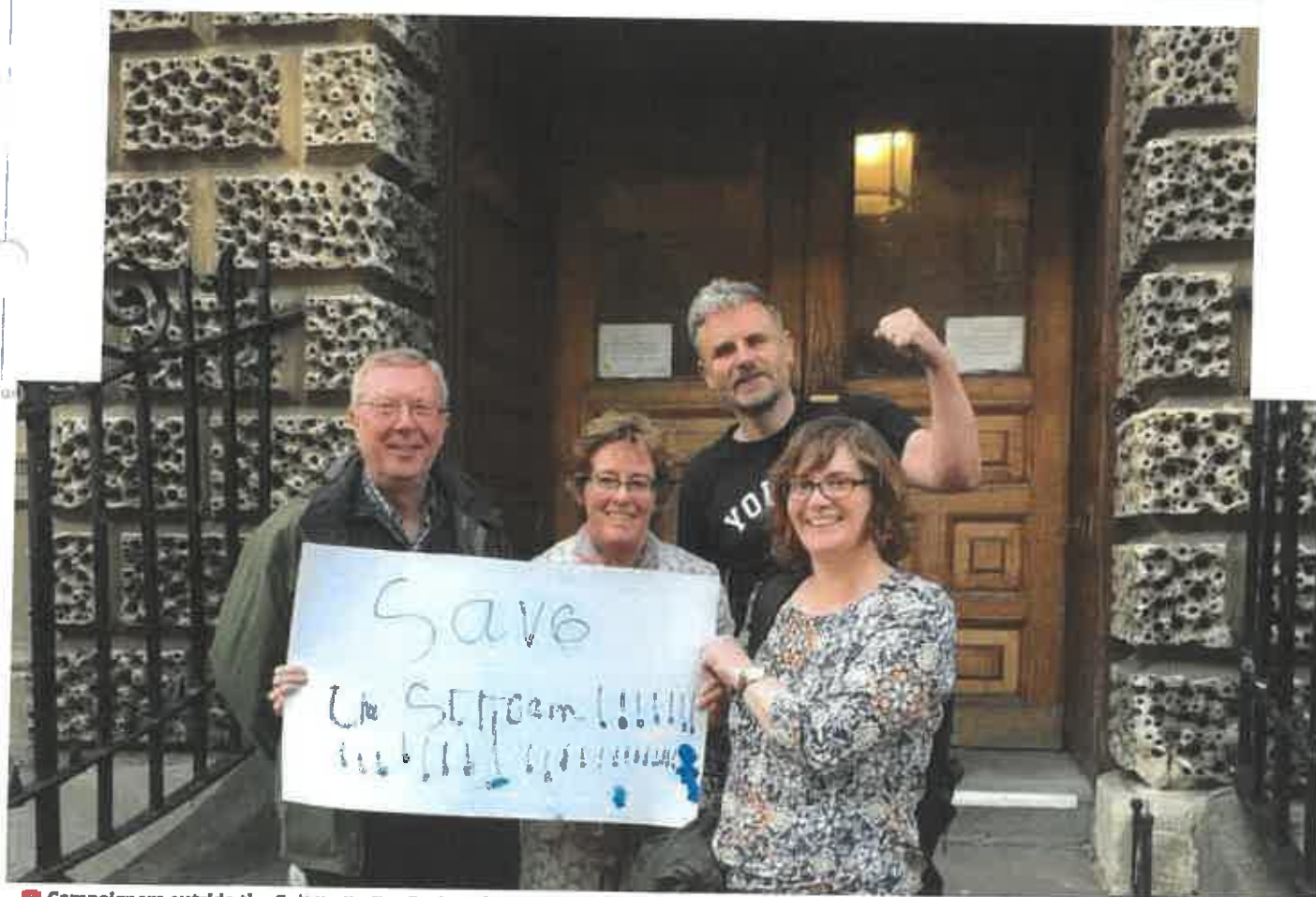
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Campaigners outside the Guildhall after Bath and North East Somerset Council granted a protection order for Westbrook Woodland (Image: [Gordon Sumner / BBC LDRS](#))

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19/07



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An "ecological gem" in Weston could be protected for future generations after controls on the site were made permanent.

Paul Ealey, who bought Westbrook Woodland last year for £200,000, claimed a blanket tree protection order (TPO) would "sterilise" the site and render it unusable.

He has plans to develop part of the land and locals were alarmed when he erected fencing around it, claiming it was necessary to prevent drug abuse, fly tipping and criminal damage.



The owner of Westbrook Woodland has restricted public access to it (Image: paulgillisphoto.com)

1982120912

Bath and North East Somerset Council imposed a provisional TPO in November and on Wednesday made it permanent.

Representing Mr Ealey, agent John White told Wednesday's development management committee meeting: "The blanket TPO is a disproportionate response to an unsubstantiated threat. It would sterilise this piece of land."

Mr White argued that the woodland would be safeguarded by protecting individual high-value trees, which is why there are already numerous TPOs in place.

In a written statement, Mr Ealey said: "Whilst I have inspirations to develop part of the site, potentially to allow for local housing, I would be happy to work with the local authority to safeguard much of the existing woodland."

He said proper management of the site will allow the trees to flourish.



Barbed wire along the perimeter of the woodland (image: paulgillphoto.com)

Mr Ealey said the fencing was erected at the request of caretaker Paul Jones to prevent people using the woodland to access Weston All Saints Primary School after it was vandalised, adding that the land is private and anyone accessing it is trespassing.

In a written objection, the owner of Lansdown Grange Farm said the blanket TPO was "grossly unfair" as it would restrict what Mr Ealey can do with his land.

He called on the council to make a "sensible decision" and "not be influenced by the hysteria".

Councillor Rob Appleyard questioned if the TPO was going too far: "Is this a sledgehammer to crack a nut, that would stifle maintenance of the site? Are we going over the top because someone has a fear some sort of development is going to go on?"

Cllr Les Kew said: "We're debating something we don't know what we're talking about. We need a site visit."

More than 100 residents wrote in support of the TPO, saying the woodland was one of the few wild spaces left in Weston, is one of Bath's "green lungs" and would be sorely missed.

Rachel Jaral, the secretary of the Friends of the Orchard, told the meeting concerns were valid.

She said the woodland is an "ecological gem" and claimed there were numerous constraints - including flooding and its importance to the World Heritage Site - that would prevent it being developed. She feared the trees could be felled regardless.

Ward member Councillor Geoff Ward waxed lyrical about the "idyllic" woodland and the "beautiful" stream that runs through it and its "pristine" water.

"It brings life into the village of Wellow," he added. "It would be a travesty to develop it."

Cllr Eleanor Jackson said the woodland was an ideal learning location, especially for those children who had taken part in the recent climate change protests.

Last year, children expressed their love of the woodland as a home for wildlife in a collaborative art project featuring drawings of bats, foxes, tadpoles and robins.

Nicola Harvey, who led the creative project, said: "Wild places like this are important beyond words for children.

"The Westbrook Woodland artwork the children have created gives a sense of how much this space means to them."



Mothers and their children with artwork showing their love for the woodland in Weston (Image: paulgillisphoto.com)

Cllr Paul Crossley said the council should impose the TPO and encourage the owner to produce a management plan.

The committee voted to make the blanket TPO permanent.

Reacting to the decision, Ms Jaral said: "We are very pleased with the decision, which will ensure that the essential features of the Westbrook Woodland are retained for future generations.

"The tree officer argued clearly that the pre-existing individual tree protection orders from 1987 did not sufficiently reflect the current appearance of the site, or the contribution of regeneration of the trees.

"Confirmation of this blanket woodland TPO ensures a strong level of protection, which will apply even to saplings - this ensures the succession of trees, and natural regeneration of the woodland.



 **Westbrook Woodland, Broadmoor Lane, Weston, Bath** (Image: Artur Lesniak/Reach)

"This does not rule out possible development of the site, but it does restrict it. Any tree felling will have to be done with prior approval of B&NES council.

"The issue of public access to the woodland has not yet been addressed by the council.

"This will come up soon after the election when our village green application will be assessed.

"Stay tuned for next steps, but for now, we can celebrate that Upper Weston has an ecological gem to pass on to future generations."

DOCUMENT 13
GERALD HOOK LETTER

ANDERMEAD
BROADMOOR LANE
WESTON (CHARLCOMBE)
BATH. BA1 4LL.
21st AUGUST 2019.

DEAR MR KEALEY,

I WOULD JUST LIKE TO PUT THIS STRAIGHT, AT
NO TIME DID I SAY TO MR JOHN OSBORNE THAT
IT WAS FINE FOR "PEOPLE" TO USE THE LAND
KNOWN AS WESTBROOK AT OSBORNE LANE, IT
WAS PRIVATE LAND. WHERE MR ANDREW STUART
SAYS HE GOT HIS INFORMATION Baffles ME, I
THINK TO USE SOMEONE WHO IS DECEASED AND
UNABLE TO CLARIFY HIS STATEMENT IS DISPICABLE
AND A COMPLETE LIE. I HAVE KNOWN JOHN A
NUMBER OF YEARS THE PIECE OF LAND IN
QUESTION WAS NEVER DISCUSSED.

Yours Sincerely
G W L.