

6th May 2021

Rights of Way & Countryside Team
Communities and Neighbourhoods Services
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Mr Norman Swanney
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Your ref:

Our ref: JG/TVG/171 & 208 2020/02TVG

Dear Mr Swanney,

Commons Act 2006 – Sections 15(1) and (2)
Application to Register Land at Southwick and North Bradley as a Town or Village
Green – Southwick Court Fields
Application no.2020/02TVG

Further to the re-submission of your application to register land known as Southwick Court Fields, (Southwick and North Bradley parishes), as a Town or Village Green (TVG), Wiltshire Council, as the Commons Registration Authority (CRA), has now received replies from the relevant Planning Authorities following consultation regarding planning “trigger” and “terminating” events in relation to the land. It appears that there are planning trigger events in place over part, but not all of the application land, which have the effect of extinguishing the right to apply to register part of the land as a TVG without relevant terminating events which would revive the right to apply.

DEFRA Guidance “*Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 – Section 15C: exclusion of the right to apply under section 15(1) to register new town or village greens*” - December 2016, advises that where the exclusion applies to only part of the land, for the portion of the land not subject to the exclusion, the application should proceed as usual. Therefore, the application has been accepted in part and has been allotted application no. 2020/02TVG, received by Wiltshire Council on 29th November 2020. Please find enclosed notice of this in the form of “Form 6”, with attached map showing the extent of land over which the application is accepted. The reference number 2020/02TVG should be quoted on all correspondence.

I note the representations in your e-mail dated 29th November 2020 and I have attached a full reply regarding the issues raised as an additional document appended here.

I would be very grateful if you could now forward the paper copy of the application and I will then proceed to check that the application is in order and advise you if any further information is required.

Yours sincerely,



Janice Green
Senior Definitive Map Officer
Direct line: 01225 713345
Email: janice.green@wiltshire.gov.uk

Enc.

Please note that any responses to this letter will be available for public inspection in full. Information relating to the way Wiltshire Council will manage your data can be found at: <http://www.wiltshire.gov.uk/recreation-rights-of-way>

Schedule 1 - Form 6

WILTSHIRE COUNCIL

COMMONS ACT 2006

To: Mr N Swanney, 

Your application dated 13th January 2020 relating to land at Southwick Court Fields in the parishes of Southwick and North Bradley, has been received and has been allotted the number **2020/02TVG**, which should be quoted in any correspondence, (please note: where the right to apply is extinguished over part of the application land, that part of the land is excluded from the application).

Case Officer:

Janice Green – Senior Definitive Map Officer

Communities & Neighbourhoods Services

Wiltshire Council

County Hall

Bythesea Road

Trowbridge

Wiltshire, BA14 8JN

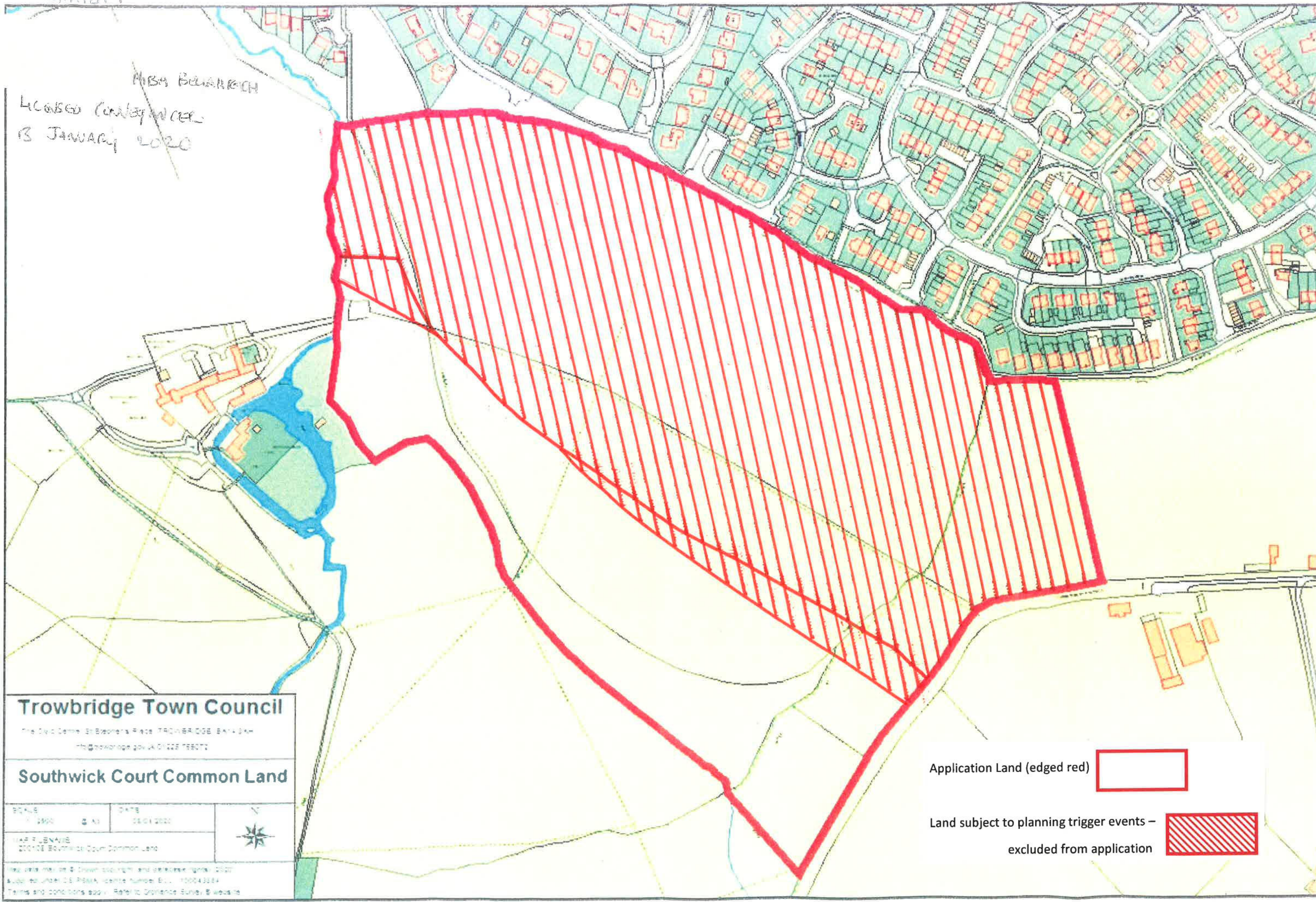
Tel: 01225 713345

E-mail: janice.green@wiltshire.gov.uk

EXHIBIT

MISA BELMORICH

LOCALS CONSULTANCE
13 JANUARY 2020



Trowbridge Town Council

The Civic Centre, St. Stephen's Place, TROWBRIDGE, BA14 5AH
info@trowbridge.gov.uk 01246 766072

Southwick Court Common Land

SCALE	DATE
1:2500	28.01.2020



MAP REFERENCE
200106 Southwick Court Common Land

Map data may be © Crown copyright and geodata © 2020
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Terms and conditions apply. Refer to Ordnance Survey's website

Application Land (edged red)



Land subject to planning trigger events –



excluded from application

Commons Act 2006 – Sections 15(1) and (2)
Application to Register Land at Southwick and North Bradley as a Town or Village Green – Southwick Court Fields
Application no. 2020/02TVG

A full list of the trigger and terminating events set out at Schedule 1A to the Commons Act 2006 (as amended), may be viewed here:
<https://www.legislation.gov.uk/ukpga/2006/26/schedule/1A>

Part of the application land is affected by planning trigger events which extinguish the right to apply over that part of the land. The Planning Authority replies regarding the re-submission of the application are as follows:

Development Control – Wiltshire Council (14/12/2020)

“The planning application referred to was submitted in January and is still with us as negotiations continue. It is a legal and valid application. As such, it is a trigger event and no corresponding terminating event has taken place.

Similarly with the Wiltshire Housing Sites Allocation Plan. As you say, this was adopted by the Council in February 2020, and no corresponding terminating event has taken place since then. It has not been ‘dis-established, laid aside or invalidated’. The five year land supply situation is not a relevant consideration in terms of trigger events and terminating events.”

Spatial Planning – Wiltshire Council 11/03/2021

“I refer to your letter and enclosures dated 7 December 2020 in connection with the above-matter.

Having considered the application and supporting documentation I am writing to confirm that trigger point 4, as defined in Schedule 1A to the Commons Act 2006 has been engaged.

The land the subject of the application, forms part of an allocation for development (Site H2.6) as set out in the now adopted Wiltshire Housing Site Allocations Plan (WHSAP) (February 2020). As this Plan and the allocations therein have not been revoked, or superseded by any new proposals, no termination event has been invoked.

For the reasons set out above, the application should be dismissed.”

Planning Inspectorate – 24/02/2021

“Firstly, my sincere apologies for the extreme delay to your request in the attached letter. We have been experiencing backlogs and as a result delays.

*Our casework teams have confirmed that **PINS holds no casework of any kind that could affect [that] this address**. Your own records should also reflect this, although please let me know if they don’t.*

Although I am happy to provide you with the information above, I do not feel able to select the correct option from those listed below:

- *I confirm that no trigger or terminating event has occurred on the land*
- *I confirm that a trigger event has occurred, but no corresponding terminating event has also occurred on the land*
- *I confirm that a trigger event has occurred but a corresponding terminating event has also occurred on the land*

If we hold no casework that could affect the site, my assumption is that option 1 is correct, however I will need to be guided by you on this.”

The Planning Inspectorate response was put to Spatial Planning at Wiltshire Council who confirmed that the Planning Inspectorate should be aware of the WHSAP which was examined by the Planning Inspectorate in April 2019. The Planning Inspectorate clarified their position as follows:

Planning Inspectorate – 16/03/2021

“Although I note your point, our view is that we were correct in stating that we didn’t currently hold any casework which would affect the site because, at the time you sent the enquiry, the Inspector’s jurisdiction had ended with the issuing of the report, and later, in Feb 2020 Wiltshire Council adopted that plan, thus placing the ball back in your half, so to speak.”

The replies from the Local Planning Authorities above confirm that the WHSAP, as adopted by Wiltshire Council on 25th February 2020, continues to be a planning trigger event in place over part of the application land, as at paragraph 4 of Schedule 1A of the Commons Act 2006, i.e. a development plan document which identifies the land for potential development is adopted under section 23(2) or (3) of the 2004 Act and therefore the right to apply to register part of the application land is extinguished and may only be revived where, in terms of the development plan document, specific and corresponding terminating events have occurred, namely:

- (a) The document is revoked under section 25 of the 2004 Act, or
- (b) A policy contained in the document which relates to the development of the land in question is superseded by another policy by virtue of section 38(5) of that Act.

The local planning authorities confirm that the WHSAP and the allocations therein, have not been revoked or superceded as at (a) or (b) as required to be a successful terminating event and it therefore remains as a trigger event over part of the application land.

The local planning authorities also confirm that Planning Application no.20/00379/OUT, although submitted in January 2020, is not yet determined, (I note from the planning website that the target date for decision is 1st April 2021), but remains as a valid and legal application and therefore forms a valid trigger event in place over part of the TVG application land, i.e. paragraph 1 of Schedule 1A of the Commons Act 2006: an application for planning permission, or planning in principle, in relation to the land which would be determined under section 70 of the 1990 Act is first publicised in accordance with requirements imposed by a development order by virtue of section 65(1) of that Act. Again, in terms of the planning application, there are specific and corresponding terminating events which would revive the right to apply as follows:

- (a) The application is withdrawn.
- (b) A decision to decline to determine the application is made under s.70A of the 1990 Act.

- (c) Where planning permission or permission in principle is refused and all means of challenging the refusal in legal proceedings in the UK are exhausted and the decision is upheld.
- (d) Where planning permission is granted and the period within which the development to which the permission relates must be begun expires without the development having begun.

Where none of the events (a) to (d) have occurred, planning application no.20/00379/OUT also remains as a planning trigger event over that part of the land.

In conclusion, given the above information, the right to apply to register the land identified at Southwick Court Fields, Southwick and North Bradley, as a TVG, is extinguished over part of the application land by the existence of two planning trigger events without corresponding terminating events in place. Therefore, the TVG application can be accepted only on part.

Janice Green
Senior Definitive Map Officer
6th May 2021